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**CITY OF PALACIOS
REGULAR CITY COUNCIL MEETING**

AGENDA

**THURSDAY, JUNE 08, 2023
6:00PM**

REGULAR CITY COUNCIL MEETING

**City of Palacios Council Chambers
311 Henderson
Palacios, Texas 77465**

CALL TO ORDER:

- a. Quorum Call.
- b. Invocation. Councilmember Donna Schulman.
- c. Pledge of Allegiance to the United States Flag.
- d. Pledge of Allegiance to the Texas Flag.
- e. Pledge of Allegiance to the Palacios Flag.

ANNOUNCEMENTS:

With respect to items not listed on this agenda, Council Members may announce community events or announce community recognitions.

1. Mayor's Announcements
2. Council Member's Announcements

CITIZEN COMMUNICATION FORUM:

The public is invited to address the City Council and speak on any matter. Please note Council Members may not deliberate on topics not included on this agenda. The presentation shall be no longer than three (3) minutes.

CEREMONY

- Swearing in of new Palacios Police Lieutenant Santos Gonzales

PRESENTATIONS

- Urban Engineering Projects Update Presented by Matt Glaze

DISCUSSION AND ACTION ITEMS

1. **Minutes** Discuss and approve the regular council meeting minutes of May 25, 2023. *Presented by Mayor Gardner*
2. **Revised Pavilion Rental Application and Security Contract** Discuss and approve revisions made to the Pavilion Rental agreement and Palacios Police Department security contract. *Presented by City Manager, Cynthia Raleigh*
3. **2023 Personnel Policy** Discuss and approve updated personnel policy. *Presented by Tammy McDonald*
4. **Appoint New Members to Planning and Zoning Commission** Discuss and approve appointing applicants to fill two vacancies for the Planning and Zoning Commission with terms ending in May of 2025. *Presented by City Manager, Cynthia Raleigh*
5. **Appoint New Members to Zoning Board of Adjustments** Discuss and approve appointing applicants to fill 5 vacancies for the Zoning Board of Adjustments and setting terms. *Presented by City Manager, Cynthia Raleigh*
6. **Accept Donation of Real Property from Ed Rachal Foundation** Discuss and approve acceptance of swimming pool and tennis court properties deeded to the City of Palacios. *Presented by City Manager, Cynthia Raleigh*
7. **Final Reading Game Room Ordinance No. 2023-O-09** Discuss and approve final reading of Ordinance No. 2023-O-09 an ordinance of the City of Palacios, Texas, placing location requirements for game rooms and amusement redemption machines; providing a penalty; and providing an effective date. *Presented by Palacios Police Chief, Tobie Bias*
8. **Commerce Street Lift Station Pump and Force Main Project Bid** Discuss and approve acceptance of construction bids. *Presented by Matt Glaze with Urban Engineering*
9. **Audit FY 2021-2022** Discuss and approve audit for FY 2021-2022. *Presented by Harrison Waldrop & Uherek L.L.P.*

ADJOURNMENT

AGENDA NOTICES:

Action by Council Authorized: The City Council may vote and act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person or appear in executive session by conference call in accordance with applicable state law.

Attendance By Other Elected or Appointed Officials: It is anticipated that members of other city boards, commissions, and committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions, and committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions, and committees of the City, whose members may be in attendance. The members of the boards, commissions, and committees may participate in discussions on the same items listed on the agenda, which occur at the meeting. Still, such in attendance will not take any action unless such item and action are expressly provided for on the agenda for that board, commission, or committee subject to the Texas Open Meetings Act.

Executive Sessions Authorized: This agenda has been reviewed and approved by the City's legal counsel, and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally addressed in the closed portion of the meeting considering public views of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c). The meeting is conducted by all participants in reliance on this opinion.

Certification of Posting: This is to certify that the above notice of a Regular Called Council Meeting was posted on the front bulletin board of the City Hall of the City of Palacios, Texas, on **June 02, 2023, before 6:00 PM**. If you have any questions concerning the above items, please contact City Manager Cynthia Raleigh at (361) 972-3605. This Notice was posted under the Texas Open Meeting Act (TEXAS GOVERNMENT CODE, Chapter 551) and recent guidelines from the Texas Attorney General.

Posting of Agenda Packet: The posting of the agenda packet on the City's website is for transparency and convenience of the public. All documents such as ordinances and resolutions are presented in draft form in the packet and are presented to City Council for use in their deliberations at the council meeting. It is not the intent of the City Administration or City Council to consider the draft documents as adopted or not subject to revision. All draft documents discussed at duly called city council meetings will be revised pursuant to action taken at the meeting and the final form of such adopted documents are subject to review by the public through the public information act.

Aleisha C. Galvan
Aleisha C. Galvan, City Secretary

This facility is accessible in accordance with the Americans with Disabilities Act. Accessible parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services, please call 361-972-3605 at least 24 hours before the meeting.

The next regular City Council meeting will
be held on JUNE 22, 2023, at 6:00 p.m.

CITY OF PALACIOS, TEXAS
REGULAR CITY COUNCIL MEETING

MINUTES

May 25, 2023

REGULAR CITY COUNCIL MEETING

A regular City Council meeting was held by the City Council of the City of Palacios on May 25, 2023, at 6:00 p.m., in Council Chambers located at 311 Henderson, Palacios, Texas 77465.

CALL TO ORDER

Mayor Jim Gardner called the City Council meeting to order at 6:01PM.

CERTIFICATION OF A QUORUM

Mayor Jim Gardner certified a quorum was present.

ATTENDANCE ROLL CALL

Mayor, Jim Gardner, Present
Councilmember Place 6, Donna Schulman, Present
Councilmember Place 5, Jason Hink, Present
Councilmember, Place 4, Margie Wier, Present
Councilmember Place 3, Chip Woolf, Present
Councilmember, Place 2, Sharon Trainor, Absent
Councilmember Place 1, Larry Glenn, Present

CITY STAFF IN ATTENDANCE:

Aleigha Galvan, City Secretary
Anne Marie Odefey, City Attorney
Tammy McDonald, HR / Finance
Tobie Bias, Palacios Police Chief and Acting City Manager
Stuart Foley, Animal Care Services
Manuel Guevara, Public Works Foreman

INVOCATION & PLEDGES

Councilmember Wier led the Council, Staff, and Citizens in prayer and pledges to the U.S., Texas, and Palacios Flags.

ANNOUNCEMENTS:

- *Mayor's Announcements ~ Mayor Gardner announced Councilmember Trainor's absence would be excused for medical leave and any future absences needed.*
- *Council Members Announcements ~ None*

CITIZEN COMMUNICATION FORUM:

- *Carissa Spradlin with Misfits and Creatures Animal Rescue and the City of Palacios pound gave a handout to Council and staff with stats of the pound including intake, adoption, transfers, fosters, and euthanasia administered.*

PRESENTATIONS:

- *Palacios Paddling Trail Presented by Barbara Shepler and Dr. Bonnie Benson. Shepler and Benson showed a PowerPoint presentation for their plans to create various paddling trails*

throughout the waters of Palacios and its surrounding areas. They plan to apply through the Texas Parks and Wildlife Department and would like the City of Palacios to partner in their plans. Shepler and Benson will return to Council on a future agenda to get approval to move forward with their plans.

- **TIRZ 101** Presented by David Pettit (via ZOOM). Pettit presented via ZOOM with information on how TIRZ works and how it could benefit the City of Palacios. City Attorney, Odefey and Council asked questions about the program with Councilmember Glenn requesting a meeting outside of Council to go over his questions and concerns.
- **Update on Meter Project** Presented by Greg Smith with Performance Services. Smith presented a PowerPoint presentation on the proposed project to replace water meters throughout Palacios. Pettit notified Council within 20 years after replacement the City would benefit from a \$600,000 profit. Pettit plans to send terms and conditions to the City Attorney for review to move forward with the process. Mayor requested new Councilmembers be provided with the original presentation given by Performance Services.

DISCUSSION AND ACTION ITEMS:

1. **Minutes** Discuss and approve the regular meeting minutes of May 11, 2023. Presented by Mayor Gardner. Councilmember Schulman made a motion to approve minutes of May 11, 2023, as presented. Councilmember Hink seconded the motion. Motion passed unanimously.
2. **Appoint Mayor Pro Tem** Discuss and approve appointing a Mayor Pro Tem to serve until the next general election. Presented by Mayor Gardner. Mayor Gardner suggested to reelect Councilmember Woolf as Mayor Pro Tem. Councilmember Glenn made a motion to appoint Woolf as Mayor Pro Tem for another year. Councilmember Wier seconded the motion. Motion passed unanimously.
3. **April Financials and Bills Paid** Discuss and approve financials and bills paid for the month of April 2023. Presented by Tammy McDonald. McDonald presented the April financials, bills paid and investment report. Council requested a copy of the reports be emailed to them. Councilmember Woolf made a motion to approve financials and bills paid for the month of April as presented. Councilmember Glenn seconded the motion. Motion passed unanimously.
4. **Second First Reading of Game Room Ordinance No. 2023-O-09** Discuss and approve second first reading of Ordinance No. 2023-O-09 an ordinance of the city of Palacios, Texas, placing location requirements for game rooms and amusement redemption machines; providing a penalty; and providing an effective date. Presented by Police Chief, Tobie Bias. Councilmember Glenn made a motion to approve second first reading of Ordinance No. 2023-O-09 with the amendment to change “coin operated machine” to read, “Gaming machine – means any electronic, electrical or mechanical contrivance or machine that is constructed or adapted for use in a game of chance, where the game is played or commenced by the insertion in a slot or other aperture of money or money’s worth in the form of cash or tokens, or by payment of money or money’s worth by any other means.” Councilmember Hink seconded the motion. City Secretary polled the votes showing Councilmembers Glenn, Wier, Hink, and Mayor Gardner voting “Yay”, Councilmembers Woolf and Schulman voting “Nay”, and Councilmember Trainor being absent. Motion passed.
5. **Ratify Agreement for On-Call Mechanic Services** Discuss and ratify an agreement between the City of Palacios, and K3 Mechanic Services to provide regular maintenance and repair services for the City of Palacios for a term of one year. Presented by Public Works Director, Ryan Adams, and Police Chief, Tobie Bias. Public Works Director, Ryan Adams notified Council that there were no other applicants to fill this bid. The contract is for one year and it is not exclusive. Contract may be terminated after 30 days if the City so chooses. Councilmember Glenn discussed things he would like to have changed, or looked into further but in the end made a motion to approve the agreement as written. Councilmember Wier seconded the motion. Motion passed unanimously.
6. **Resolution 2023-R-16 HOME Program** Discuss and approve a resolution to allow the City of Palacios to apply for the HOME Program which allows cities to administer a program that would build new homes for citizens with condemned or nearly condemned homes and mobile homes. Presented by Grant Administrator, Tammy McDonald. McDonald explained to Council what the HOME Program would cost the City to participate per house. Councilmember Woolf made a motion to approve Resolution No. 2023-R-16 as presented. Councilmember Glenn seconded the motion. Motion passed unanimously.
7. **Audit FY 2021-2022** Discuss and approve audit for FY 2021-2022. Presented by Harrison Waldrop & Uherek L.L.P. **THIS ITEM WAS PULLED BY MAYOR GARDER**

ADJOURNMENT

Meeting Adjourned by Mayor Gardner at 8:19 PM.

Jim Gardner, MAYOR

ATTEST:

Aleigha Galvan, CITY SECRETARY

CITY COUNCIL MEMORANDUM

City Council Meeting: June 08, 2023
Department: Administrative
Subject: Pavilion Rental Application and Security Contract

BACKGROUND:

The Pavilion rental application and security contract was last updated in 2018. Staff wanted to make the rental process as easy on the public as possible, allow more rental options, as well as removing some terms that no longer apply. The security fees have been updated to reflect the pay officers receive for special events.

GOALS:

To simplify the contract and allow shorter periods of time for rentals.

FISCAL IMPACT:

None

RECOMMENDATION:

Staff recommends Council review the applications and make suggestions or approve as revised.

ATTACHMENT:

2018 and 2023 Palacios Pavilion Rental Agreements

2018 and 2023 Palacios Police Department Security Contracts

CITY OF PALACIOS

311 Henderson Ave

P.O. Box 845

Palacios, Texas 77465

Phone: 361.972.3605

E-mail: portiz@cityofpalacios.org / gsanchez@cityofpalacios.org

Website: www.cityofpalacios.org



Welcome to the Palacios Pavilion!

Policies and Procedures

RESERVATIONS:

Initial _____

Reservations are booked on a first come-first served basis and can be made up to 1 year in advance of the rental date. Reservations are considered confirmed when rental deposit fees are received and a rental agreement is signed by both the renter and the Pavilion Coordinator. No verbal agreements will be honored.

Payments for deposits and rental fees may be made only in the form of cash, money orders, debit card, credit card or checks. Checks and money orders should be made payable to "City of Palacios — Pavilion" and mailed to P. O. Box 845, Palacios, TX 77465 or paid in person at City Hall, 311 Henderson St. Returned checks will be charged a \$50.00 fee and the rental may be subject to cancellation.

Partial payments for a minimum of 50% of the rental fee are accepted when the full deposit is paid sixty (60) days before the event and the remaining balance is due, in full, thirty (30) days prior to the event. The Pavilion exercises the right to create a wait list for the date of your event. If full payment is not paid in full at least thirty (30) days prior to the event, the rental will be moved to the next person on the wait list, your deposit forfeited, and you will be notified.

- If the event is cancelled less than 24 hours prior to the scheduled event, no deposit or payment will be refunded.
- If the event is cancelled less than thirty (30) days prior to the event, no deposit will be refunded; however, 50% of the rental fee will be refunded.
- If the event is cancelled more than thirty (30) days prior to the event, no deposit will be refunded; however, 75% of the rental fee will be refunded.

USE OF SPACE:

Initial _____

The MAXIMUM number of persons allowed on the upper floor of the Pavilion at any one time is 175 including the exterior deck. Rental of the Pavilion includes the use of the upper and lower floor areas including: the main room, catering kitchen, restrooms/dressing areas and upper outside deck, lower deck restrooms and open space. Renters have no access to the storage area on the upper floor. No animals are allowed on the upper floor of the Pavilion. **The Pavilion is a smoke-**

free/tobacco-free ADA facility. E-cigarettes or vape devices are not allowed for use on Pavilion property.

A wheelchair is available for renter's use and must be placed in the storage room when done.

Renters must participate in a walk-through of the premises with the Pavilion Coordinator within 24 hours after the event. **The facility must be left clean and in the same condition as it was prior to the event.** A refund of the deposit fee, less any deductions for cleaning or damage, will be mailed to the renter within thirty (30) days after the event. Misuse of the Pavilion, including any non-compliance with the Pavilion rules included in this document, could result in forfeiture of your deposit and denial of any future use.

TRASH DISPOSAL:

Initial _____

Large trash cans are available for use. **Renter is required to provide 42-gallon contractor grade trash can liners for their use in these cans.** A dumpster is available for renter's use only and all trash generated by the event should be taken out of the Pavilion and placed in the dumpster. Any large decorative items to be disposed of should be removed from the premises by the renter and NOT placed in the dumpster.

SECURITY:

Initial _____

If alcohol is served or consumed, one (1) security guard must be present at the event at all times. If more than 150 persons attend any event, two (2) security guards are required to be present at all times during the event. The bar should be confined to one specific spot, pre-arranged with the Pavilion Coordinator. Security will be provided by the Palacios Police Department. A notification must be sent to the Pavilion Coordinator at least five (5) business days before the event. If at any time the required law enforcement officer(s) is not present, the event will be cancelled immediately, and all guests will be asked to immediately vacate the Pavilion and the security deposit and rental fee will be forfeited. A Security Contract is available for renter's use.

LIABILITY:

Initial _____

The Pavilion is not responsible for any personal property left in the Pavilion, or on Pavilion property, before, during or after an event. The Pavilion is not responsible for any lost or stolen items. We reserve the right to remove all personal property from the building at the end of the rental event period. Should property or trash be left behind for Pavilion staff to remove or dispose of, the security deposit will be forfeited.

The renter agrees to defend, indemnify and hold harmless the City, its employees and agents from any and all claims, causes of action, costs and liabilities of every kind and nature whatsoever, directly or indirectly resulting from or caused by the use of occupying of the Pavilion by the renter, renter's guests, invitees, vendors or licensees.

Should a situation arise that results in the Pavilion Coordinator or other assigned employee to be present at the Pavilion before or after the agreed hours of the event, a \$50/hour fee will be assessed to the renter.

2023 RATES FOR PAVILION USE

*Rental rates are subject to change.

Select	Pavilion	Rental Rate	Please check which applies	
			*Refundable Cleaning/Damage/Security/No Alcohol Deposit	*Refundable Cleaning/Damage/Security/ With Alcohol Deposit
<input type="checkbox"/>	Hourly	\$54.00	\$250.00*	\$500.00
<input type="checkbox"/>	Half Day (6 hours)	\$324.00	\$250.00*	\$500.00
<input type="checkbox"/>	Full Day (12 hours)	\$650.00	\$250.00*	\$500.00
<input type="checkbox"/>	Holiday Calendar (see Exhibit A)	\$1,000.00	\$250.00*	\$500.00
<input type="checkbox"/>	Palacios Police Department Security Contract			\$_____

IRS-designated non-profit organizations may be eligible for \$100.00 discount on weekend rates and \$50.00 discount on weekday rates (must provide a copy of IRS designation letter).

The Pavilion is free for Educational use but a deposit of \$250.00 is required.

***NOTE: If alcoholic beverages will be served or consumed at the event, the deposit will be \$500.00.**

EVENT PLANNING:

Initial_____

Tables and chairs are for inside use only. A \$25.00 penalty will be assessed for each chair or table removed from the Pavilion's upper floor interior. Chairs should be folded and stacked on the tables by the renter after the event.

Decorations may not be placed on any exit sign marked "Emergency." No decorations may be hung from the ceilings of the Pavilion. No decorations are allowed on the walls or doors of the Pavilion. **TAPE OF ANY KIND, TACKS, PUSH PINS OR NAILS ARE NOT ALLOWED FOR USE IN THE PAVILION.**

No burning candles or fireworks are allowed. The Pavilion encourages the use of battery-operated candles.

Unauthorized use of décor or use of candles/fireworks will result in the forfeiture of the security deposit and will prohibit future use of the Pavilion.

CATERING KITCHEN, VENDORS AND DELIVERIES:

Initial _____

The Pavilion Coordinator will not provide keys to vendors/caterers or delivery personnel, nor will the coordinator accept or sign for any deliveries. **The renter must be present for all deliveries/vendors/caterers to be admitted to the site.** The renter may cater their own event or hire a caterer. Renters who use caterers are encouraged to arrange for one (1) site visit for the renter, caterer and Pavilion Coordinator prior to the event. If the renter or caterer leaves the kitchen or lower-level area unclean, including loose debris, the security deposit will be forfeited. No open-flame cooking is allowed on the upper floor of the Pavilion. An approved warmer with "sterno" cans may be used.

Deliveries from vendors may only be made during the time period of the rental. Vendors must adhere to all parking regulations and may not drive on any surface except a driveway or marked parking space. Any misuse of the property or Pavilion will result in the vendor being permanently barred from serving at the Pavilion on the day of the event or in the future.

SALES AND CONCESSIONS:

Initial _____

Renters must have written permission from the Pavilion Coordinator to provide sales or concessions during an event. All vendors must comply with the rules in this document or they will not be permitted on Pavilion property in the future.

ALCOHOLIC BEVERAGES:

Initial _____

Alcoholic beverages are allowed on the Pavilion property in non-glass containers ONLY. Kegs and frozen drink machines must remain in the catering kitchen or on the lower deck and are not permitted outside the catering kitchen on the upper floor of the Pavilion.

If the renter is providing alcoholic beverages to be sold at a cash bar, the renter is responsible for obtaining a Temporary Alcoholic Beverage Permit from the Texas Alcoholic Beverage Commission for however many days the event is held. A copy is required to be furnished to the Pavilion Coordinator prior to the beginning of the event. Failure to provide the copy of the permit will result in the renter being UNABLE to sell alcoholic beverages at the event.

Minors attending events where alcoholic beverages are being sold must be accompanied by their parent, guardian or adult spouse or they will be asked to leave the premises. The Pavilion Coordinator has the right and authority to ask anyone in attendance to show proof of identity and, additionally, has the right and authority to search all bags/purses/totes/containers of any kind.

ADVERTISING, MARKETING & SIGNAGE:

Initial _____

The Pavilion reserves the right to photograph events and decorations for marketing purposes unless renter declines, in writing, to the City. The Pavilion may feature an event marked "private" or "public" on signage located on the Pavilion property. No signs, banners or other advertising may be posted by the renter without written permission from the Pavilion Coordinator.

CONDUCT:

Initial_____

Any and all persons whose conduct is disorderly or disruptive in any manner, including, without limitation of any of the following inappropriate behaviors, may be escorted from the Pavilion property by the Pavilion Coordinator or their authorized representative, including law enforcement and/or security:

- Offensive gestures, displays, abusive/indecent or profane language
- Excessive noise
- Fighting, assault, threats against another person
- Vandalism
- Intoxication
- Nudity/indecent exposure

HOLD HARMLESS:

Initial_____

The City of Palacios shall not be liable or responsible for, and shall be saved and held harmless by_____ and _____from and against any and all claims and damages of every kind, injury to or death of any person or persons and for damages to or loss of property, arising out of or attributed, directly or indirectly, to the operations or performance under this Contract.

I, _____, on behalf of _____, fully understand the requirements of the Pavilion Policies & Procedures and agree to adhere to them as a condition of my rental of the Palacios Pavilion. On the Application for Rental, I agree to not misrepresent the purposes for which I am renting the Pavilion or the maximum number of persons who I have stated will be in attendance.

RENTER:**WITNESS:**

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Date: _____

Date: _____



Palacios Pavilion Police Officer/Security Contract Facility

Address: 693 South Bay Blvd., Palacios, TX 77465



Name or Organization Responsible:

Primary Contact Name: _____ **Date of Birth:** _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Driver License Number: _____ **State:** _____ **Expiration:** _____

Work Phone: _____ **Mobile Phone:** _____

Home Phone: _____ (Please indicate primary phone number for contact)

Type of Event: _____

Date of Event: _____ **Starting Time:** _____ a.m./p.m.

Ending Time: _____ a.m./p.m.

Number of Guests Expected: _____

I, (We) will be ☐ **serving or** ☐ **selling alcoholic beverages:** Yes _____ No _____

(If selling, it is required to attach a copy of your TABC license/permit with the submission of this application.)

TABC License/Permit attached: Yes _____ No _____

Number of Officers Required: One (1) law enforcement officer shall be always present during the **time alcohol is brought in or consumed on premise**. If **more than 150** persons attend any event, whether alcohol is served or not, **two (2)** officers are required to be always present during the event.

Renter's responsibility: It is the renter's responsibility to control the number of persons attending an event.

Security Contract: This contract is made between the renter and law enforcement officers providing security and shall be provided to the Pavilion Coordinator at least five (5) business days before the event. The officers shall remain visible inside, outside, or a combination of inside and outside. The officers are there to ensure the safety and security of life and property. If at any time the required law enforcement officers are not contracted, the event shall be cancelled immediately and all guests will be asked to immediately vacate the Pavilion and the security deposit and rental fee will be forfeited. **All officers shall be compensated upon arrival at the location.**



“The City of Palacios shall not be liable or responsible for and shall be saved and held harmless by Renter from and against any and all claims and damages of every kind, injury to or death of any person or persons and for damages to or loss of property, arising out of or attributed, directly or indirectly, to the operations or performance under this Contract.”

Renter's Signature: _____ **Date:** _____

Renter's Printed Name: _____

(Renter's signature must be witnessed by Palacios Police Department Representative)

Police Dept. Representative Title, Name, Badge Number:

Signature: _____ **Date:** _____

Rate for Palacios Police Department Personnel: \$40 per hour, per officer, with a four (4) hour minimum required.

-
- 1.) Officer Name _____
Event time: _____ am/pm to _____ am/pm \$ _____ Received _____ (initials)
- 2.) Officer Name _____
Event time: _____ am/pm to _____ am/pm \$ _____ Received _____ (initials)



Welcome to the Palacios Pavilion!

Policies and Procedures

RESERVATIONS:

Initial _____

Reservations are booked on a first come-first served basis and can be made up to 2 years in advance of the rental date. Reservations are considered confirmed when rental deposit fees are received and a rental agreement is signed by both the renter and the Pavilion Coordinator. No verbal agreements will be honored.

Payments for deposits and rental fees may be made only in the form of cash, money orders, or checks. Checks and money orders should be made payable to "City of Palacios — Pavilion" and mailed to P. O. Box 845, Palacios, TX 77465 or paid in person at City Hall, 311 Henderson St. Returned checks will be charged a \$50.00 fee and the rental may be subject to cancellation.

Partial payments for a minimum of 50% of the rental fee are accepted when the full deposit is paid sixty (60) days before the event and the remaining balance is due, in full, thirty (30) days prior to the event. The Pavilion exercises the right to create a wait list for the date of your event. If full payment is not paid in full at least thirty (30) days prior to the event, the rental will be moved to the next person on the wait list, your deposit forfeited and you will be notified.

- If the event is cancelled less than 24 hours prior to the scheduled event, no deposit or payment will be refunded.
- If the event is cancelled less than thirty (30) days prior to the event, no deposit will be refunded; however, 50% of the rental fee will be refunded.
- If the event is cancelled more than thirty (30) days prior to the event, no deposit will be refunded; however, 75% of the rental fee will be refunded.

A \$75.00 charge will be assessed and paid in full prior to renter changing any rental date to another day, which must be agreed upon by the Pavilion Coordinator.

Repeat renters may roll over a deposit from one year to another date provided the date is available, and the rental fee is paid in full at least thirty (30) days prior to the event. If the rental fee is not paid in full at least thirty (30) days prior to the event, the date will be opened for rental and the deposit fee will be forfeited.

USE OF SPACE:

Initial _____

The MAXIMUM number of persons allowed on the upper floor of the Pavilion at any one time is 175 including the exterior deck. Rental of the Pavilion includes the use of the upper and lower floor areas including: the main room, catering kitchen, restrooms/dressing areas and upper outside deck, lower deck restrooms and open space. Renters have no access to the storage area on the

upper floor. No animals are allowed on the upper floor of the Pavilion. **The Pavilion is a smoke-free/tobacco-free ADA facility. E-cigarettes or vape devices are not allowed for use on Pavilion property.**

Kitchen is CATERING ONLY (NO COOKING) and includes: serving window to main room, ice machine, food warmer, refrigerator, stainless prep tables/ sinks and dumb waiter for transporting items from below. Coolers are allowed in the kitchen area only. Fire extinguishers are available throughout the Pavilion, including the kitchen.

No golf carts are allowed on Pavilion premises. Wheelchairs are available for renter's use and must be placed in the storage room when done.

Renters must participate in a walk-through of the premises with the Pavilion Coordinator within 24 hours after the event. **The facility must be left clean and in the same condition as it was prior to the event.** A refund of the deposit fee, less any deductions for cleaning or damage, will be mailed to the renter within thirty (30) days after the event. Misuse of the Pavilion, including any non-compliance with the Pavilion rules included in this document, could result in forfeiture of your deposit and denial of any future use.

TRASH DISPOSAL:

Initial _____

Large trash cans are available for use. Renter is required to provide 42-gallon contractor grade trash can liners for their use in these cans. A dumpster is available for renter's use only and all trash generated by the event should be taken out of the Pavilion and placed in the dumpster. Any large decorative items to be disposed of should be removed from the premises by the renter and NOT placed in the dumpster.

SECURITY:

Initial _____

If alcohol is served or consumed, one (1) security guard must be present at the event at all times. If more than 100 persons attend any event, two (2) security guards are required to be present at all times during the event. The bar should be confined to one specific spot, pre-arranged with the Pavilion Coordinator. The security agreement or contract with an approved security company or law enforcement officers providing security must be provided to the Pavilion Coordinator at least five (5) business days before the event. If at any time the required security guard(s) is not present, the event will be cancelled immediately and all guests will be asked to immediately vacate the Pavilion and the security deposit and rental fee will be forfeited. A Security Contract is available for renter's use.

LIABILITY:

Initial _____

The Pavilion is not responsible for any personal property left in the Pavilion, or on Pavilion property, before, during or after an event. The Pavilion is not responsible for any lost or stolen items. We reserve the right to remove all personal property from the building at the end of the rental event period. Should property or trash be left behind for Pavilion staff to remove or dispose of, the security deposit will be forfeited.

The renter agrees to defend, indemnify and hold harmless the City, its employees and agents from any and all claims, causes of action, costs and liabilities of every kind and nature whatsoever, directly or indirectly resulting from or caused by the use of occupying of the Pavilion by the renter, renter's guests, invitees, vendors or licensees.

Should a situation arise that results in the Pavilion Coordinator or other assigned employee to be present at the Pavilion before or after the agreed hours of the event, a \$50/hour fee will be assessed to the renter.

2018 RATES FOR PAVILION USE

Usage Period	*Rental Fee	Refundable Cleaning/Damage/Security Deposit
Friday (12 hours)	\$650.00	\$250.00*
Friday & Saturday (12 hours/day)	\$1,000.00	\$250.00/day*
Friday (6 hours) & Saturday (12 hours)	\$800.00	\$250.00/day*
Saturday only (12 hours)	\$650.00	\$250.00/day*
Sunday only (12 hours)	\$500.00	\$250.00*
Saturday & Sunday (12 hours/day)	\$1,000.00	\$250.00/day*
Friday, Sat & Sunday (12 hours/day)	\$1,400.00	\$250.00/day*
Monday thru Thursday (6 hours after 4pm)	\$200.00	\$250.00/day*
Monday thru Thursday (3 hours prior to 4pm)	\$150.00	\$100.00/day*
Holidays (see Exhibit A)	\$1000.00	\$250.00

IRS-designated non-profit organizations may be eligible for \$100.00 discount on weekend rates and \$50.00 discount on weekday rates (must provide a copy of IRS designation letter).

***NOTE: If alcoholic beverages will be served or consumed at the event, the deposit will be \$500.00.**

*Rental rates are subject to change.

EVENT PLANNING:

Initial _____

Tables and chairs are for inside use only. A \$25.00 penalty will be assessed for each chair or table removed from the Pavilion's upper floor interior. Chairs should be folded and stacked on the tables by the renter after the event.

Decorations may not be placed on any exit sign marked "Emergency." No decorations may be hung from the ceilings of the Pavilion. No decorations are allowed on the walls or doors of the Pavilion. **TAPE OF ANY KIND, TACKS, PUSH PINS OR NAILS ARE NOT ALLOWED FOR USE IN THE PAVILION.**

No burning candles or fireworks are allowed. The Pavilion encourages the use of battery operated candles.

Unauthorized use of décor or use of candles/fireworks will result in the forfeiture of the security deposit and will prohibit future use of the Pavilion.

CATERING KITCHEN, VENDORS AND DELIVERIES:

Initial _____

The Pavilion Coordinator will not provide keys to vendors/caterers or delivery personnel, nor will the coordinator accept or sign for any deliveries. The renter must be present for all deliveries/vendors/caterers to be admitted to the site. The renter may cater their own event or hire a caterer. Renters who use caterers are encouraged to arrange for one (1) site visit for the renter, caterer and Pavilion Coordinator prior to the event. If the renter or caterer leaves the kitchen or lower level area unclean, including loose debris, the security deposit will be forfeited. No open flame cooking is allowed on the upper floor of the Pavilion. An approved warmer with "sterno" cans may be used.

Deliveries from vendors may only be made during the time period of the rental. Vendors must adhere to all parking regulations and may not drive on any surface except a driveway or marked parking space. Any misuse of the property or Pavilion will result in the vendor being permanently barred from serving at the Pavilion on the day of the event or in the future.

SALES AND CONCESSIONS:

Initial _____

Renters must have written permission from the Pavilion Coordinator to provide sales or concessions during an event. All vendors must comply with the rules in this document or they will not be permitted on Pavilion property in the future.

ALCOHOLIC BEVERAGES:

Initial _____

Alcoholic beverages are allowed on the Pavilion property in non-glass containers ONLY. Kegs and frozen drink machines must remain in the catering kitchen or on the lower deck and are not permitted outside the catering kitchen on the upper floor of the Pavilion.

If the renter is providing alcoholic beverages to be sold at a cash bar, the renter is responsible for obtaining a Temporary Alcoholic Beverage Permit from the Texas Alcoholic Beverage Commission for however many days the event is held. A copy is required to be furnished to the Pavilion Coordinator prior to the beginning of the event. Failure to provide the copy of the permit will result in the renter being UNABLE to sell alcoholic beverages at the event.

Minors attending events where alcoholic beverages are being sold must be accompanied by their parent, guardian or adult spouse or they will be asked to leave the premises. The Pavilion Coordinator has the right and authority to ask anyone in attendance to show proof of identity and, additionally, has the right and authority to search all bags/purses/totes/containers of any kind.

ADVERTISING, MARKETING & SIGNAGE:

Initial _____

The Pavilion reserves the right to photograph events and decorations for marketing purposes unless renter declines, in writing, to the City. The Pavilion may feature an event marked "private" or

"public" on signage located on the Pavilion property. No signs, banners or other advertising may be posted by the renter without written permission from the Pavilion Coordinator.

CONDUCT:

Initial _____

Any and all persons whose conduct is disorderly or disruptive in any manner, including, without limitation of any of the following inappropriate behaviors, may be escorted from the Pavilion property by the Pavilion Coordinator or their authorized representative, including law enforcement and/or security:

Offensive gestures, displays, abusive/indecent or profane language

Excessive noise

Fighting, assault, threats against another person

Vandalism

Intoxication

Nudity/indecent exposure

HOLD HARMLESS:

Initial _____

The City of Palacios shall not be liable or responsible for, and shall be saved and held harmless by _____ and _____ from and against any and all claims and damages of every kind, injury to or death of any person or persons and for damages to or loss of property, arising out of or attributed, directly or indirectly, to the operations or performance under this Contract.

I, _____, on behalf of _____, fully understand the requirements of the Pavilion Policies & Procedures and agree to adhere to them as a condition of my rental of the Palacios Pavilion. On the Application for Rental, I agree to not misrepresent the purposes for which I am renting the Pavilion or the maximum number of persons who I have stated will be in attendance.

Signature: _____ Date: _____

Printed Name: _____

Witness: _____

Printed Name: _____



Palacios Pavilion Police Officer/Security Contract Facility

Address: 693 South Bay Blvd., Palacios, TX 77465



Name or Organization Responsible:

Primary Contact Name: _____ **Date of Birth:** _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Driver License Number: _____ **State:** _____ **Expiration:** _____

Work Phone: _____ **Mobile Phone:** _____

Home Phone: _____ (Please indicate primary phone number for contact)

Type of Event: _____

Date of Event: _____ **Starting Time:** _____ a.m./p.m.

Ending Time: _____ a.m./p.m.

Number of Guests Expected: _____

I, (We) Will Be Serving Alcoholic Beverages: Yes _____ No _____

Number of Officers Required: **One (1)** law enforcement officer shall be always present during the **time alcohol is brought in or consumed on premise**. If **more than 150** persons attend any event, whether alcohol is served or not, **two (2)** officers are required to be always present during the event.

Renter's responsibility: It is the renter's responsibility to control the number of persons attending an event.

Security Contract: This contract is made between the renter and law enforcement officers providing security and shall be provided to the Pavilion Coordinator at least five (5) business days before the event. The officers shall remain visible inside, outside, or a combination of inside and outside. The officers are there to ensure the safety and security of life and property. If at any time the required law enforcement officers are not contracted, the event shall be cancelled immediately and all guests will be asked to immediately vacate the Pavilion and the security deposit and rental fee will be forfeited. **All officers shall be compensated upon arrival at the location.**



“The City of Palacios shall not be liable or responsible for, and shall be saved and held harmless by Renter from and against any and all claims and damages of every kind, injury to or death of any person or persons and for damages to or loss of property, arising out of or attributed, directly or indirectly, to the operations or performance under this Contract.”

Renter's Signature: _____ **Date:** _____

Renter's Printed Name: _____

(Renter's signature must be witnessed by Palacios Police Department Representative)

Police Dept. Representative Title, Name, Badge Number:

Signature: _____ **Date:** _____

Rate for Palacios Police Department Personnel: \$40 per hour, per officer, with a four (4) hour minimum required.

1.) Officer Name _____
Event time: _____ am/pm to _____ am/pm \$ _____ Received _____ (initials)

2.) Officer Name _____
Event time: _____ am/pm to _____ am/pm \$ _____ Received _____ (initials)

CITY COUNCIL MEMORANDUM

City Council Meeting: April 13, 2023
Department: Human Resources
Subject: 2023 Personnel Policy

BACKGROUND

The City of Palacios Personnel Policy was written over 15 years ago. At the time, the Personnel Policy was sufficient to the times. However, as times have changed, the current Personnel Policy is lacking updated policies.

GOALS

The goal is to have an updated Personnel Policy which applies to current situations and policies.

FISCAL IMPACT

None.

RECOMMENDATION

Presentation Only

ATTACHMENT

2023 Personnel Policy



CITY OF PALACIOS
PERSONNEL POLICY

I. Article 1. Purpose

- Section 1.01 Basic Objective
- Section 1.02 Applicability
- Section 1.03 Legal Status
- Section 1.04 Employment-at-Will

II. Article 2. General Provisions

- Section 2.01 Code of Ethics
- Section 2.02 Gifts
- Section 2.03 Political Activity
- Section 2.04 Disclosure of Religious Affiliations
- Section 2.05 Nepotism
- Section 2.06 Financial Responsibility of Employees
- Section 2.07 Outside Employment
- Section 2.08 Driver Safety
- Section 2.09 Employment Conditions
- Section 2.10 Equal Employment Opportunity Policy
- Section 2.11 Work From Home
- Section 2.12 Fitness Requirements
- Section 2.13 City Property
- Section 2.14 Law Enforcement Operations – Assigned Vehicle
- Section 2.15 Amendment and Revision of Rules
- Section 2.16 Violations of Policy

III. Article 3. Organization and Administration

- Section 3.01 Organizational Personnel
 - (a) The City Council
 - (b) The City Manager
 - (c) Department Heads
- Section 3.02 Policy on Implementation & Administration of Personnel Policies
 - (a) Implementation
 - (b) Deviations From Policies
- Section 3.03 Policy on Dissemination of Personnel Policies
 - (a) Master Personnel Policy Manual

- (b) Administration Department
 - (c) Dissemination
 - (d) Access to Policy Manuals
- Section 3.04 Personnel Records

IV. Article 4. Applications and Conditions of Employment

- Section 4.1 Basis of Employment
- Section 4.2 Recruitment
- Section 4.3 Requests for Personnel
- Section 4.4 Applicant Preference
- Section 4.5 Residence
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- Section 4.7 Application and Sections Procedures
- Section 4.8 Appointments
- Section 4.9 Physical Standards
 - (a) Medical Examinations
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- Section 4.10 Age Requirements
- Section 4.11 Standards of Conduct
- Section 4.12 Types of Positions
 - (a) Regular Full-Time Employee
 - (b) Part-time Employee
 - (c) Temporary Employee
 - (d) Evaluation and Training Employee
- Section 4.13 Disqualification for Employment
- Section 4.14 Training of New Hire
- Section 4.15 Drug Screening
- Section 4.16 Contract Personnel
- Section 4.17 Dress and Personal Appearance
 - (a) Generally
 - (b) Public Works Employees
 - (c) Office Personnel
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- (d) Procedure

V. Article 5. Attendance and Leave

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Section 5.2 Hours of Work

Section 5.3 Workweek

Section 5.4 Overtime and Compensatory Time

Section 5.5 Attendance

Section 5.6 Holidays

Section 5.7 Sick Leave

- (a) Definition and Accrual Rates

- (b) Proper Use of Sick Leave

- (c) Reporting Sick Leave Absences

- (d) Evidence of Illness

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- (b) Military Leave Allowance

- (c) Retirement System Credits

- (d) Reinstatement Upon Return from Military Leave

Section 5.9 Bereavement Leave

Section 5.10 Injuries

- (a) Injury on the Job

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Section 5.13 Leave to Attend Voting, Jury Duty, Court Subpoenas

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Section 5.18 Family and Medical Leave

VI. Article 6. Wages and Salary

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Section 6.02 Pay Rates for New Employees
Section 6.03 Employees Review Based Pay Increase
Section 6.04 Total Rate of Pay
Section 6.05 Part-time, Temporary and Seasonal Rates
Section 6.06 Pay Rates for New Positions
Section 6.07 Longevity Pay
Section 6.08 Termination Pay
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VII. Article 7. Employment Verification and Termination

Section 7.01 Resignation
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VIII. Article 8. Management Authority

Section 8.01 Management Action
 (a) General
 (b) Immediate Formal Discipline
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 (d) Specific Factors
 (e) Policy on Evaluation and Training Period
 (f) Demotion
 (g) Suspension
 (h) Notice
Section 8.02 Lay Off
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IX. Article 9. Grievance Procedures

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Section 9.02 Procedural Steps
Section 9.03 Grievances Without Basis
Section 9.04 Complaints from Non-Employees
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X. Article 10. Benefits

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Section 10.02 Uniforms

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Section 13.05 Discipline

(a) Violations

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Section 13.06 Supervisory Training

(a) Performance

(b) Behavior

(c) Procedures

Section 13.07 Confidentiality and Record Keeping

Section 13.08 Employee Assistance Program (EAP)

XIV. Article 14. Internet and E-Mail

Section 14.01 General Guidelines

Section 14.02 Privacy

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XV. Article 15. Travel Policy

Section 15.01 Per Diem

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VXI. Article 16. Reservation of Management Discretion

Section 16.01 No Implied Limitations

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APPENDIX 1

Schedule 1 – Sick Leave Pool Contribution

Schedule 2 – Request for Pool Leave

Schedule 3 – Certification of Illness/Injury

APPENDIX 2

Accident Report Form for Injuries/Property Damage

APPENDIX 3

Harassment Complaint Form

APPENDIX 4

Understanding of Drug and Alcohol Policy

CITY OF PALACIOS PERSONNEL POLICY

Article 1. Purpose

Section 1.01. Basic Objectives. The City of Palacios (City) is a political subdivision of the State governed by the Mayor and City Council. The City Manager is selected by the Council and is responsible for implementing City policies and directives. The City Manager is designated by the Council as the chief administrative officer with appointing authority for all positions of employment with the City except for those positions to be appointed by the City Council as required by the Texas Local Government Code. The City Manager hires, supervises, and terminates staff and has full authority over all staff functions and activities.

The objective of this Personnel Policy is to facilitate efficient and economical service to the public and to provide for a fair and equitable system of personnel management. While these rules and policies include precise statements of policies and procedures, they are not intended to cover every conceivable personnel situation that may arise. The City Manager will be responsible for the administration of this policy as approved by the City Council. It is expected that amendments and revisions affecting personnel policies will be made from time to time as necessary and desirable at the discretion of the City Manager, subject to approval by the City Council.

Section 1.02. Applicability. These rules shall apply to and govern all employees of the City of Palacios, except to the extent, if any, inconsistent with State or federal law. Words used in the singular shall be construed to include the plural and words used in the masculine or feminine gender shall be construed to include both genders.

Section 1.03. Legal Status. This Personnel Policy is not intended to be a contract (express or implied), nor is it intended to otherwise create any legally enforceable obligations on the part of the City or its employees, outside of what is explicitly stated.

Section 1.04. Employment-at-Will. The City is not bound by any period of employment and, in essence, follows the employment-at-will doctrine. Under the employment-at-will doctrine, the City or the employee enjoys the mutual right to terminate the employment relationship at any time, for any reason, with or without cause and with or without advance notice to the other.

Article 2. General Provisions

Section 2.01. Code of Ethics. All employees shall strive to uphold the Constitution and laws of the United States, the State of Texas, and ordinance of the City of Palacios, and all employees shall be:

- (a) Honest and trustworthy in what they say and write and in all professional and employment relationships;
- (b) Dedicated to providing quality services by being cooperative and constructive, and by making the best and most efficient use of available resources;

- (c) Fair and considerate in the treatment of fellow employees and citizens, addressing concerns and needs with equity, granting no special favors;
- (d) Prohibit from engaging in any activity, either during working or non-working hours or for personal or business relations, that might create either the appearance of or a conflict of interest from the City or for himself or herself individually;
- (e) Aware and recognize that public and political policy decisions or ultimately the responsibility of the City Council;
- (f) Aware and follow all restrictions on use and disclosure of information. This includes following all requirements for the protection of City information and ensuring that non-City proprietary information is used and disclosed only as authorized by the owner of the information or as otherwise permitted by law;
- (g) Prohibit from taking advantage of their City position to seek personal gain through the inappropriate use of City or non-public information or abuse of their position;
- (h) Must adhere to high standards of public service that emphasize professionalism, courtesy, and avoidance of even the appearance of illegal or unethical conduct;
- (i) Are required to efficiently carry out work items or tasks assigned to the best of their abilities;
- (j) Must maintain good, moral conduct; and
- (k) Maintain professional and effective relationships with fellow employees, the public-at-large, Members, customers, and local, state or federal policymakers or regulators.

Section 2.02. Gifts. An employee shall not accept any gift, gratuity or benefit from any person, contractor or vendor having contact with, doing business with, seeking to do business with, or that has within the immediate preceding twelve (12) calendar months done business with the City; provided that this section shall not be interpreted to include any pen, pencil, calendar, cap or similarly valued item distributed by any such company for advertising purposes. Employees may accept for themselves, and members of their families', common courtesies usually associated with customary business practices. These include but are not limited to:

- A fiscal limit of \$50 in value and not more than \$100 per employee each calendar year.

- Meals with vendors as long as the invitation is extended by the vendor.
- Gifts of nominal value from vendors such as calendars, pens, pads, etc.
- Gifts of perishable items such as hams, cookies, nuts, etc. that are usually given during the holidays.

Section 2.03. Political Activity.

Regarding City employees, State law and federal law restrict certain political activity. The following provisions protect employees from political pressure, prohibit use of public employees for non-public purposes, assure that personnel decisions are made based on qualifications and merit, and avoid the appearance of bias or favoritism in carrying out public policy. When on duty or in uniform, an employee of the City may not engage in any political activity relating to a campaign for any elective public office. No employee of the City shall, at any time, make, solicit, or receive any contribution to the campaign funds of any part, interest group or candidate for use in any city election; and no employee shall participate in any political activity or campaign for or with respect to any candidate in the City election.

When not on duty or in uniform, an employee of the City may engage in political activity for and with respect to political parties, candidates and elections for and with respect to governments and entities other than a City election; provided that an employee may not under any circumstance use the fact of his/her City employment to solicit campaign contributions for a candidate other than from members of an employee organization to which that person belongs; and provided further that this provision shall not be interpreted to prevent any employee of the City from making private comments to friends, family and co-workers about or with respect to any candidate for office.

An employee cannot hold an appointive or elective office of public trust where services would constitute a direct conflict with their employment with the City. Upon being elected or appointed to such an office, with a conflict of interest with the City, including as a member of the City Council, an employee must immediately resign or will be dismissed. An employee should advise the City Administrator in writing prior to announcing for public office and any such employee may consult with the City Administrator with respect to the position that may be taken by the City in the event of any such announcement.

In a City election, a City employee **MAY**:

1. Vote;
2. Express personal political opinions on issues or candidates while off duty; and
3. Display political pictures, stickers, badges, yard signs or buttons on personal time and not on City property.

In a City election, a City employee **MAY NOT**:

1. Serve as campaign manager or in a leadership or administrative role in election or campaign activity;
2. Solicit votes or contributions, assist voters at polls, circulate petitions, or help take voters to polls for a particular candidate or issue;

3. Make contributions to a campaign; wear political signs or buttons or distribute literature when working on City time or in a City uniform or in the offices of buildings of the City;
4. Become a candidate for a City office. If an employee becomes a candidate for such an elected office, it constitutes an automatic resignation of his/her position;
5. Use City equipment or supplies for political purposes;
6. Persuade or attempt to persuade any City employee to participate or to refrain from participating in any political activity relating to a particular candidate or issue; and
7. Display or fail to remove campaign materials on any City vehicle under his/her control.

Section 2.04. Disclosure of Religious Affiliations. No question on any test in any application form or in any personnel proceeding, or of any appointing authority, is intended to or shall be so framed as to attempt to elicit information concerning religious affiliations of any applicant or employee. No appointment to, or removal from, a position with the City shall be affected or influenced in any manner by any religious opinion or affiliation. Employees may decline to respond to any inquiry regarding religious affiliation.

Section 2.05. Nepotism.

- (a) No person related, within the second degree of affinity (marriage) or within the third degree of consanguinity (blood), to the Mayor or any member of the City Council or the City Manager shall be employed or appointed to any office or position or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City for six months prior to and at the time of election or appointment of the official related in the prohibited degree.
- (b) Relatives and members of the immediate family shall not be appointed to serve in positions in the same department or in the departments that work closely together unless specific written approval has been obtained from the City Manager. Department heads who believe any such appointment is justified may present to the City Manager the reason and needs which are the basis for requesting the appointment. The City Manager's written approval shall be forwarded to the City Council required to make any such appointment official and the City Council decision shall be final.

Section 2.06. Financial Responsibility of Employees. Employees of the City are expected to maintain a good credit standing in the community and to pay obligations promptly. The City shall in no way serve as a collecting agency or arbitrator and employees shall make reasonable provision for the payment of personal debts or take other appropriate action to assure such failure shall not interrupt, interfere with or be detrimental to the City services.

Section 2.07. Outside Employment. Any employee shall not engage in any activity or other employment, which will adversely affect his/her, ability to effectively carry out the duties and responsibilities of his/her job or create a real or perceived conflict of interest. Employees shall not utilize in any manner or in any way his/her office or position with the City in the

performance of any activity or other employment which would tend to obligate the City in any manner. An Employee accepting other employment which is being employed by Palacios shall notify and obtain written approval of his/her department head before beginning such work. Any injury occurring while engaged in outside employment shall be reported immediately in writing to the City Manager. An injury occurring while engaged in outside employment may reduce the benefits otherwise granted by these policies. Employees must provide a waiver release from the outside employer.

A City of Palacios employee's employment at the City shall be considered the employee's primary employment. In the event of a natural and/or man-made emergency without regard to any scheduled outside employment. Further an employee shall not work approved outside employment when the employee is absent from work due to on the job or off the job illness and/or injury.

Section 2.08. Driver Safety. Vehicle accidents are costly, but more importantly, they may result in injury to the driver or others. It is the driver's responsibility to operate the vehicle in a safe manner and to drive defensively to prevent injuries and property damage. Employees are required to obey all safe-driving traffic laws, including ensuring that you are safely and legally parked to send a text message and/or make phone calls, and as applicable for inputting information into a Mobile Data Terminal System. As such, the City endorses all applicable state motor vehicle regulations relating to driver responsibility. The following procedures are to provide guidance for driving personal vehicles (POV) while conducting City business or for driving City-owned vehicles.

Procedures:

- (a) Who drive on City business must have a valid and current State of Texas Driver's License to operate a City vehicle. When applicable, employees must have the appropriate license for driving commercial vehicles. Contractor personnel operating City vehicles must also meet this requirement.
- (b) To use an employee's personally owned vehicle ("POV") for City business, the employee must have a valid and current State of Texas Driver's License and current auto insurance with the minimum coverage as required by the State of Texas.
- (c) A copy of the State of Texas Driver's License and current auto insurance (for a driver driving their personal vehicle for business) will be provided to the HR/Grant Manager who will maintain an updated list of driver's licenses and current auto insurance (for a driver driving their personal vehicle for business) for all employees who operate City vehicles or operate their POV for City business.
- (d) Any employee who has a driver's license revoked or suspended shall immediately notify their supervisor by 8:00 a.m. on the next business day and **immediately discontinue operation of the City vehicle or the POV for City business.** Failure to

do so may result in disciplinary action up to and including termination of employment.

- (e) Drivers must report all ticket violations received during the operation of a City vehicle or while operating a POV on City business **within 72 hours** to their supervisor. Employees will be responsible for paying all fines and/fees associated with ticket violations received during the operation of a City vehicle or while operating a POV on City business.
- (f) The City Administrator or designee is responsible for reviewing records, including accidents, moving violations etc. to determine if an employee's driving record indicates a pattern of unsafe or irresponsible driving, and to determine if suspension or revocation of driving privileges for City business is warranted.
- (g) Criteria that may indicate an unacceptable record includes but is not limited to:
 - i. Three or more moving violations in a 365-day period.
 - ii. Two or more chargeable accidents within a 365-day period. Chargeable means that the driver has been determined to be the primary cause of the accident through speeding, inattention, etc. Contributing factors such as weather or mechanical problems will be taken into consideration.
 - iii. Any combination of accidents and/or moving violations.
- (h) All accidents in City vehicles, regardless of severity, must be reported to the police and to the employee's supervisor. Accidents are to be reported immediately (from the scene, during the same day, or as soon as possible if immediate or same day reporting is not possible). Accidents in POVs while on City business **must** follow these same reporting procedures. Failing to stop after an accident and/or failure to report an accident may result in disciplinary action up to and including termination of employment. Employees when involved in an accident must:
 - i. Notify the appropriate Police Department: Call 911
 - ii. Do not make any statements to anyone other than the police.
 - iii. Notify your supervisors as soon as possible.
 - iv. Have your proof of insurance and driver's license available.
 - v. Provide HR/Grant Manager with a copy of the accident report as soon as available.

Section 2.09. Employment Conditions. Subject to budgetary decisions and the discretion of the City Manager, continued employment with the City shall be contingent upon the employee's compliance with the provisions of these rules. Within thirty (30) days after the adoption of these rules and at the time of employment of each new employee, a copy of these rules shall be furnished to each employee. Employees continuing to work after the adoption of the city

policies are considered to have acknowledged and accepted the policy change(s) and failure to comply with any policy shall be grounds for disciplinary action up to and including termination.

Section 2.10. Equal Employment Opportunity Policy. Discrimination against any person in recruitment, examination, appointment, training, promotion, discipline, separation, or any other aspect of personnel administration, because of political or religious opinions or affiliations, or because of race, color, national origin, age, sex, gender, gender identity, sexual orientation, marital status, disability, pregnancy, genetic information, veteran status, other lawful basis, or other non-merit factors is prohibited. In those instances, if any, in which specific age, sex, or physical or mental requirements constitute a necessary occupational qualification for proper and efficient administration, appropriate consideration of such factors is permitted. Any applicant for employment and any employee who feels he/she has been discriminated against may process a grievance in accordance with Article 9.

Section 2.11. Work from Home.

- A. The purpose of the remote work policy is to establish guidelines for employees who at any time may work from a location other than City of Palacios Facilities(City Hall, Municipal Court, Police Department, Recycle Center, Utility Department, etc.)
- B. Remote work can improve productivity, enhance work/life balance, protect the health and safety of employees during pandemics, and allow employees to complete jobs that were not completed during work hours in order to be more efficient during working hours.
- C. This remote work policy applies to approved time by certain employees and requires approval by the department head and City Manager. It does not apply to every employee.
- D. Eligibility requirements
 - 1. Any employee required to work remotely will be on a temporary basis.
 - 2. Not all positions are appropriate for remote work.
 - 3. Positions that may be considered for remote work arrangements must be approved by the Department Head and City Manager.
 - 4. Positions that are **not** eligible for remote work include Utility Department Personnel, Sworn Police Personnel, Parks Personnel and Street Personnel.
 - 5. To request approval for remote work, eligible employees must request approval from their Department Head. If approved by Department Head, the Department Head must first receive approval from the City Manager and then notify employee if they are or are not allowed to remote work.
- E. Work expectations and schedule are that employees who work remotely are expected to:
 - 1. Come into their respective offices daily.
 - 2. Receive comp time(no overtime) for time worked from home (remotely).

3. Team members and managers should verify that employee did work on their projects when the employee asks for remote work time.

In accordance with the [Fair Labor Standards Act \(FLSA\)](#), nonexempt employees who work remotely are required to strictly adhere to required rest and lunch breaks, and to accurately track and report their time worked. Nonexempt employees must also obtain prior approval from their Department Head and the City Manager before working and receiving any comp time for remote work.

- F. The City of Palacios will provide remote employees with a laptop which is essential to their job duties. Equipment supplied by the City of Palacios is to be used for business purposes only.
- G. The City of Palacios is not responsible for expenses associated with working at home, including heat, electricity, internet, or home phone service.
- H. In the event of a work-related illness or injury, remote employees should follow normal incident reporting procedures.
- I. Remote employees are expected to take proper measures to ensure the protection of company data, proprietary information, and assets. Employees must:
 1. password-protect all equipment.
 2. not take any confidential files home with them.
- J. Compensation
No changes will be made to an employee's base compensation if they work remotely, regardless of their location. Remote employees will be eligible for comp time for time worked remotely.
- K. Failure to fulfill work requirements or adhere to policies and procedures while working remotely may result in termination of remote work, performance improvement plan (PIP), and/or termination.

Section 2.12. Fitness Requirements. It shall be the responsibility of each employee to maintain the minimum standard of fitness required for performing the individual's job. The immediate supervisor may require an employee to submit to an examination by a City-approved physician when it appears that the physical or mental condition of an employee may prohibit, or materially interfere with, the employee from adequately performing the employee's job duties, or may constitute or result in a hazard to themselves, fellow employees, citizens, or property. The employee will be required, as a condition of continued employment, to authorize the physician to disclose the results of the examination to the City Manager. The employee shall be granted administrative leave for the time required for such an examination, which shall be conducted without expense to the employee and shall be for the sole purpose of determining the employee's condition relative to the requirements of the employee's job. The examining physician shall make a recommendation as to whether the employee should be continued in the job and be

considered for leave time in which to improve the employee's condition or be transferred or otherwise not be continued in the present position. A recommendation that an employee be required to submit to a physical or mental examination at the expense of the City must be approved by the department head and the City Manager.

Section 2.13. City Property. All city employees shall be responsible for the proper use and maintenance of all tools, equipment or vehicle assigned to them by the city. No employee may take, acquire, or purchase any property of the City, of any nature or kind whatsoever, for himself or any other person. Any work-related product produced on City time and/or using City resources shall be considered City property. This property will not be removed from the workplace by any employee or used for personal use. Deliberate destruction or removal of any file, document, report, electronic data, or other City work product by an employee without prior approval of the City Manager may result in immediate dismissal and/or civil or criminal charges being filed.

Section 2.14. Law Enforcement Operations – Assigned Vehicle. To establish that Department Vehicle are assets belonging to or under the control of the City of Palacios and are provided to employees for the purpose of carrying out police duties and missions. All vehicles are allocated to the patrol division or assigned to specific personnel as assigned by the Chief of Police.

(a) Definitions.

- (1) City Vehicle – Vehicles owned or leased by the City of Palacios for the specific use of the Palacios Police Department Personnel.
- (2) Out-of-Town Travel – A destination to which it cannot be reasonably expected than an employee can travel, conduct business, and return within a normal business day or twelve (12) hours.
- (3) Take-Home Vehicle – A department vehicle assigned to an employee who, because of assignment and/or job duties, is deemed to have a perpetual need for a take-home vehicle. These employees are often assigned to an “on-call” status.
- (4) Primary-Household – A primary household is where an employee resides on a regular basis. The Primary Household is where the employee intends to return and remain even though they might have a secondary living arrangement. The Chief of Police has the sole discretion on primary household by means of weighing where the employee receives the main portion of U.S. Mail, lists on a certified tax return, address listed on their driver license, voter registration or utility bills.

- (b) **Policy:** No employee has a right or entitlement to the use of a City Vehicle. Employees, by nature of job assignment and responsibilities, will be assigned and/or allowed use of City vehicles at the discretion of the Chief of Police.

Only the Chief of Police may authorize the assignment of take-home departmental vehicles. Take-home vehicles are authorized to be used to travel to and from the primary household and for regular job-related duties. Take-home vehicles are not allowed to be kept or maintained at any secondary.

Employees are restricted to having a primary household within a thirty-five (35) mile radius of the City of Palacios Police Department for a take-home vehicle. Employees who have a secondary residence within thirty-five (35) miles of the City of Palacios Police Department are allowed to store an assigned take-home vehicle at that secondary address only when they are occupying that residence. Employees who are assigned a Take-home vehicle will store that vehicle at the Palacios Police Annex when the employee returns to their primary resident to stay.

Section 2.15. Amendment and Revision of Rules. Recommendations for amendment and revision to these rules may be made by the City Manager to the City Council for its approval. These rules and any subsequent amendments thereto may be amended from time to time at the discretion of the City Manager; provided only that no such amendment shall be effective until approved by the City Manager.

Section 2.16. Violations of Policy. Any employee who violates any personnel policy of the City of palacios may be subject to disciplinary measures up to and including termination, which disciplinary measures will be taken pursuant to Section 8.01, below. Consideration may be given to the individual circumstances of a particular violation (including but not limited to repeat offenses or the nature of the violation) when determining the disciplinary actions to be taken.

Article 3. Organization and Administration

Section 3.01. Organization of Personnel

- (a) **The City Council.** The compensation of all appointive officers and employees is provided by the City Council through the budget process.
- (b) **The City Manager.** The City Manager will advise the City Council on personnel matters and approve changes in the personnel policies, rules and regulations, the compensation rates of appointive officers and other City employees, and any other changes which the City Manager may deem necessary or expedient. The City Manager is responsible for the administration of the personnel program of the City. The City Manager may establish policies for the day-to-day management of the City which are not inconsistent with this Policy Manual and may discipline any employee of the City up to and including termination. No classification of employees or changes in employee pay grade may be made without the written approval of the City Manager. The City Manager

may in writing authorize department heads to appoint and remove any employees of their respective departments.

(c) **Department Heads.** Department heads are expected to effectively supervise their employees and to maintain proper working relationships and to ensure employee compliance with this manual and all other policies or procedures of the City. To that end, department heads

(i) May adopt and enforce departmental regulations, with the City Manager's approval, that are not inconsistent with these rules and regulations and shall not supersede the policies approved by City Manager.

(ii) shall report on the efficiency of their subordinates and notify the City Manager of changes in the duties of the employees, in order that the City's classification plan may be maintained;

(iii) will recommend to the City Manager step increases for their employees;

(iv) shall set the example for all subordinates on behavior and compliance with the policies and procedures of the City and be subject to discipline by the City Manager for such actions as failure to comply with the policies, rules and procedures including failure to adequately supervise personnel in the department such department head supervises;

(v) shall notify City Manager prior to all disciplinary matters and coordinate discipline actions with the City Manager; and

(vi) have the power of appointment and removal in their departments, including the power to appoint foreman and supervisors subject to the written approval of the City Manager. The appointment of new employees by department heads will be made only from eligible applicants. Transfers and reclassifications should be consummated only after consideration of information contained in the individual's file and approval of the City Manager.

Section 3.02. Policy on Implementation & Administration of Personnel Policies.

(a) **Implementation.** The City Manager and each Department Head shall administer and implement the personnel policies of the City of Palacios.

(b) **Deviations From Policies.**

(i.) Subject to the right of the affected employee to appeal to the City Manager, the department heads may deviate from these policies with respect to the assignment, discipline, or termination of any employee when, in the judgment of the City Manager, such deviation is in the best interest of the City.

- (ii.) If circumstances made it advisable to deviate from any of the personnel policies, the department head responsible for overseeing the department involved may provide a written report to be filed with the City Manager. This report should be completed and approved before a deviation is completed. The report should provide:
 - (1) Details of the action taken which deviated from the existing policy;
 - (2) A description of the circumstances resulting in the recommendation to a deviation from the existing policy; and
 - (3) A statement of why the deviation was in the best interest of the City and/or other parties involved.
- (iii.) Amendments of the Personnel Policy Manual need to be approved by the City Manager.

Section 3.03. Policy on Dissemination of Personnel Policies.

- (a) **Master Personnel Policy Manual.** A Master Personnel Policy Manual, which contains the original of all personnel policies in effect for the City of Palacios, shall be maintained in the office of the City Secretary.

- (b) **Administration Department**

- (i.) The Administration Department shall consist of the City Manager, Office/Finance Manager, HR/Grant Manager and City Secretary. The HR/Grant Manager, in addition to the duties identified herein, shall serve as the City's Personnel Policy Coordinator.
- (ii.) The duties of the Personnel Policy Coordinator shall include:
 - (1) Updating the manual whenever a change, addition or deletion is made in the City's personnel policies.
 - (2) Providing each department head with copies of new or changed policies and information when policies are deleted so that the department head will be able to update the department's copy of the Personnel Policy Manual when a change, addition or deletion is made;
 - (3) Coordinating recommendations for additions, deletions and changes in personnel policies;
 - (4) Developing and implementing a system for notifying all City employees whenever a change, addition or deletion is made in the City's personnel policies; and

- (5) Conducting an annual review of all personnel policies to determine if they are consistent with actual practices and in compliance with legislation relating to the personnel function and the relationship between the employer and employee.
- (iii) If amendments to this policy are advisable and recommended by the City Manager, they will be forwarded to the Employees.
- (c.) **Dissemination.** Each department head shall:
 - (i.) Ensure that each employee receives a copy of the Personnel Policy Manual/amendments and sign an acknowledgment indicating such receipt.
 - (ii.) Inform each employee that he or she should be responsible for being familiar with the policies.
 - (iii.) Take active steps to see that each employee has the opportunity to become knowledgeable on the policies; provided, however, the responsibility for being and remaining knowledgeable about these policies shall be the duty and obligation of the employee.
- (d.) **Access To Policy Manuals.** All employees are responsible for becoming familiar with the Personnel Policy Manual. Employees have the right to review the Master Personnel Policy Manual, or the copy of the Personnel Policy Manual found in their departments, during the normal workday. The City Secretary shall be responsible for maintaining the Master Personnel Policy Manual.

Section 3.04. Personnel Records

- (a) With the exceptions of TCOLE requirements, the HR/Grant Manager shall be responsible for the proper maintenance and updating of all personnel files and records. A separate medical file shall be maintained for all employees as required by law.
- (b) Department heads of the Police Department shall be responsible for the proper maintenance and updating of the personnel files for TCOLE requirements of the Commissioned Employees in their department.
- (c) Each employee has the right of access to review his/her official personnel file at any time during the HR/Grant Manager's normal office hours. Employees shall not alter, remove, or add any information of any kind to his/her records during the review process.

- (d) Each employee shall be responsible for reporting any changes in his/her personal status to the HR/Grant Manager (i.e. name, address, telephone number, marital status, dependents, beneficiaries, emergency phone number.)

Article 4. Applications and Conditions of Employment

Section 4.01. Basis of Employment. All initial employment and future promotional or lateral transfers with the City shall be based on job related qualifications, including but not limited to, knowledge, skills, ability, physical fitness and required licenses, as determined under the authority of the City Manager based upon:

- (a) Education, training, and work experience as reflected by the application form, plus other documentary evidence as to certification, registration, licenses, etc.
- (b) Job related written and/or performance tests.
- (c) Post-offer job related physical examination and drug screening test as applicable and in compliance with the laws related to safety sensitive positions.
- (d) Post-offer background check for conviction of crimes involving moral turpitude and (in connection with jobs involving the operation of motor vehicles) moving traffic violations. Conviction of crimes will be considered on a case-by-case basis depending upon the type and number of conviction(s), the length of time since the conviction and the job requirements.
- (e) Mandatory reference checks made by the department head of the department concerned.
- (f) Specific positions may have additional basis of employment standards defined in the job description and application criteria posted by the department head.

Section 4.02. Recruitment. The HR/Grant Manager is responsible for recruitment of all regular full-time, part-time, temporary, and seasonal employees, and maintenance of all applications. Recruitment occurs through personal contact, through employment agencies, and/or by way of advertising. The Department head will conduct the initial recruiting. All applications will be referred to the appropriate department supervisor for screening interviews and possible employment. The department head of the department for which the vacancy exists, or, in specific instances, another officer of the City designated by the City Manager, shall be responsible for recruitment.

Section 4.03. Requests for Personnel. When the department head submits a request to the HR/Grant Manager for persons to fill vacancies, such requests shall include the title of the position to be filled, contemplated initial salary or wages, desired training and/or experience qualifications as per the job description and such other pertinent information as may be needed to enable the HR/Grant Manager to most satisfactorily find the personnel being sought by the department. Requests for personnel should be made in a reasonable period of time in advance of actual need.

Section. 4.04. Applicant Preference. Other qualifications being equal among applicants, departments will give hiring preference to persons currently employed by the City.

Section 4.05. Residence. Within six months of employment, employees who are required as part of the employee's duties to be "on call" for the purpose of responding to civil emergencies will be expected to reside within a reasonable response time of the office as reasonably defined by the Department Head and as approved by the City Manager.

Section 4.06. Announcements. Except as otherwise provided for specific positions by departmental policy approved by council, such as for the Police Department, or as provided from time to time by a waiver issued by the City Manager, all positions will be open to current city employees and should be posted for at least fourteen (14) days. If a shorter publication period is requested, written justification should be included with the requisition and must be approved by the City Manager. Positions will be posted in the paper of record and TML and applications will be accepted from applicants both within and outside of the city organization. Internal Posting only options may be provided at the discretion of the City Manager. Positions that are approved for internal posting only will not be advertised in the newspaper unless the position is not filled by a then current employee of the City. (Internal posting notices will be posted at City Hall).

Section 4.07. Application and Selection Procedures. All persons seeking initial employment or re-employment will be required to complete, sign and file a City approved application with the HR/Grant Manager. Application forms will be secured from and returned to the HR/Grant Manager prior to the posted deadline. Referrals will be made from the City's applicant pool. Suitable and eligible candidates will be selected according to the requirements the department places on the requisition, which will include education, skills, experience, and duties, etc. All full-time applicants must have a high school diploma or equivalent. Candidates will be required to complete an interview. If the interviewer determines that a candidate is acceptable, the Department Head will then check references. If references pass candidate, HR/Grant Manager will complete a background check on the applicant and, subject to such information being found satisfactory, extend a preliminary job offer and schedule the candidate for a pre-employment physical examination and drug screening.

Section 4.08. Appointments. No formal job offers are to be extended prior to completion of the entire recruitment process without the approval of the City Manager. The final employment of any applicant may be subject to such applicant passing a physical exam and drug screening. The interviewer shall notify the HR/Grant Manager of the preferred candidate and the date the interviewer would like to have the candidate begin employment by completing an Employee Change form. The selection shall be reported to the City Manager for approval. The Department

Head shall schedule an appointment with the preferred candidate for online enrollment. If no candidate possessing the minimum qualifications is located or approved, the budgeted position may be filled by a lesser qualified person at a lower job classification.

Section 4.09. Physical Standards.

- (a) **Medical Examinations.** All new employees may be subject to undergoing a prescribed medical and physical examination to be made by some officially designated medical authority. Prior to requiring a medical examination, a conditional offer of employment must be made. Those positions specifically identified and designated by the City Manager as positions requiring medical and physical examinations shall undergo a prescribed medical and physical examination to be made by the officially designated medical authority. The purpose of the examination will be the determination and certification of physical fitness and ability to perform the duties of the position to which appointment is being considered. Such examinations are to be made as near the effective date of employment as possible. The HR/Grant Manager has the responsibility of making appointments and arrangements for obtaining the examination, and matters concerning the initiation and completion of the requirements should be taken up with the HR/Grant Manager.
- (b) **Exceptions.** Physical standards and requirements will vary somewhat in accordance with the duties and working conditions as generally set forth in the specifications for various positions and also as to anticipated length of employment. The City Manager will advise the examining medical officer regarding any special or unusual requirements of this nature. The opinion and recommendation of the examining medical officer will determine the acceptability of any person for employment, to perform the required duties of the position. The examining medical officer will complete and forward to the City Manager the prescribed form indicating specific recommendations. Any discrimination based on disability is prohibited. All applicable ADA (Americans With Disabilities Act) guidelines will apply.
- (c) **Police.** Performance exams will be required for police officers.

Section 4.10. Age Requirements. Within statutory limits and the restrictions of State or Federal law, minors may be considered for employment in positions of a non-hazardous nature. In all instances, the parents of such minors shall be required to execute a waiver and release form provided by the City Manager. Any related questions which cannot be satisfactorily solved by the City Manager will be referred to the City Attorney, whose ruling shall be final. The employment of any person less than eighteen (18) years of age, in a full-time position, shall require the review and approval of the City Manager.

Section 4.11. Standards of Conduct. Employees of the City are the “Good Will Ambassadors” of the City, and such status involves a degree of duty and obligation regarding public and private conduct above and beyond other classes of employment. City employees should at all times

promote the goodwill and favorable attitude of the public toward the City Manager and its program and policies.

Section 4.12. Types of Positions.

(a) Regular Full-Time Employee. Regular full-time employees are those employees that have completed the evaluation and training period, and that meet the other requirements of this section. Police Officers shall be considered regular full-time employees if the position is budgeted for eighty (80) or more hours per two-week period for fifty-two (52) weeks per year. Regular full-time employees may be considered exempt or non-exempt. Exempt employees shall have the same meaning as provided in the Fair Labor Standards Act. Non-exempt employees are paid by the hour and are eligible for overtime compensation. Employees in regular full-time positions shall be eligible to participate in group insurance programs and be paid holidays and accrue vacation and sick leave.

(b) Part-time Employee. A part-time employee is an employee serving in a position that is budgeted for, or regularly scheduled to work no more than thirty hours per week and no more than 1,000 hours per calendar year. Police personnel working less than the normal cycle are considered part-time employees.

Part-time employees are not eligible for benefits. Part-time employees shall not be eligible for vacation leave, sick leave, holidays, or be able to participate in any benefit program, including group insurance programs and other special benefit programs, unless specifically provided for in these policies, or required by State or Federal law.

(c) Temporary Employee. A temporary employee is a part-time or full-time employee that is appointed for a specific period of time, with an anticipated date of termination indicated at the time of appointment. Temporary employees are not eligible for benefits.

Temporary employees shall not be eligible for vacation leave, sick leave, holidays, or be able to participate in any benefit program, including group insurance programs and other special benefit programs, unless specifically provided for in these policies, or required by State or Federal Law.

(d) Evaluation and Training Employee. All newly hired or re-hired employees shall be subject to a ninety-day evaluation and training period, or longer if extended.

All employees shall be subject to being placed on probationary status for disciplinary reasons for a term to be determined in writing at the time the probationary status is instituted. Employees may be discharged with or without cause for any reason during the evaluation and training period or anytime thereafter.

Section 4.13. Disqualification for Employment. The City Manager or the department head of the applicable department may reject any application, which indicates on its face that the applicant does not possess the minimum qualifications required for the position or if:

- (a) the applicant does not meet the experience and/or education requirements of the job description for the position to which the applicant seeks appointment;
- (b) The applicant appears to have made false statements in the application or in the examination or appears to have practiced or attempted to practice deception or fraud in connection with such application;
- (c) The applicant tests positive for drug use;
- (d) The position is one requiring more than 20 hours per week and the applicant is receiving pension benefits under a retirement plan of the City;
- (e) The applicant refuses to participate in a retirement system or social security program required by this policy; or
- (f) For any other grounds set forth in these policies, rules, and regulations.

Section 4.14. Training of New Hire. When the employee first reports for work, the employee shall be notified of the fact that the employee may be in training for several days or months (refer to Article 8, Section 8.01 (d)). During this time, the supervisor shall observe the employee's work with particular care, train, and advise the employee in the performance of his/her duties, and let the employee know if the employee is progressing satisfactorily.

Section 4.15. Drug Screening. The City may perform pre-employment, post-accident, and reasonable cause drug screening of all employees in positions that mandate such screening. Random drug testing is also performed with respect to all employees. All drug tests shall be done in accordance with Section 13.04.

Section 4.16. Contract Personnel. A relative of an elected or appointed office of Palacios shall not be hired on a contract basis unless the following criteria are met and the City Council gives approval:

- (a) All reasonable efforts were made to get contract bids from other qualified individuals in the area;
- (b) The cost/quality ratio of the work expected from the individual is the most favorable of all bidders; and

- (c) The relationship created by the contract is not detrimental to the interests of the City and is, in fact, determined by the City Council to be the best interest of the City.

Section 4.17. Dress and Personal Appearance.

(a) Generally:

- i. All city employees from time to time have contact with citizens and the general public; therefore, suitable dress and personal hygiene must be observed at all times.
- ii. It shall be the duty of first-line supervisors to enforce the provisions of this policy in an equitable manner.
- iii. In conjunction with special community or area events and activities, supervisors may authorize a more relaxed dress for such events or activities.
- iv. Suitable dress is a prime requirement for safe and efficient work. The type of dress required depends on the location and nature of the work performed.
- v. Office personnel shall be permitted to wear business casual work attire. The prohibitions contained in sub-section (i), above shall be continued, except that blue jeans may be worn Monday through Friday.

(b) Public Works Employees:

- i. The City provides uniforms and patches which provide proper public identification for employees. These uniforms are the property of the City and should be worn at all times when in duty with the City and in accordance with the City Uniform Policy.
- ii. Employees must properly care for these uniforms, patches, and hats. Should they become unsuitable for use, they should be returned to the uniform company for replacement with suitable attire.
- iii. Wearing City uniforms, patches, or hats after hours, or when not assigned to official city responsibilities is not permitted unless approved by the supervisor.
- iv. Employees are to be clean-shaven at all times while on duty unless they are wearing a mustache or beard. If a mustache or beard is worn, it must be kept clean, trimmed, and neat, when representing the city.

- v. Hair must be appropriate for the public exposure and not a safety hazard as determined by the supervisor.
- vi. All safety equipment, protective clothing, and foot apparel, such as hard hats, gloves, eye protection, hearing protections, safety toe foot apparel, etc., issued or required by the City must be worn and used. If such equipment becomes defective, it must be returned to the employee's supervisor.

(c) Office Personnel:

- i. Employees must present a neat, business-like appearance at all times during regular working hours. Business casual apparel and attire suited for contact with the public is required to be worn at all times. The following items are examples of "unsuitable apparel" and are not authorized: shorts, thongs, halter tops, tank tops, short hemlines, low-cut dresses, or high cut skirts. Shorts may be allowed for other personnel not located in City Hall.
- ii. Hair, grooming, makeup, jewelry, and accessory apparel must be business-like and appropriate for contact with general public.
- iii. Employees are to be clean-shaven at all times while on duty unless they are wearing a mustache or beard. If a mustache or beard is worn, it must be kept clean, trimmed and neat, when representing the City.

(d) Police Department:

- i. Uniformed members of the police department shall adhere to the City uniform policy and the Police Department Rules & Regulations.
- ii. Non-uniformed members of the police department and uniformed members who have been properly authorized to wear "civilian clothes" shall adhere to the Dress and Appearance Policy for Office Personnel.

Section 4.18. Palacios Police Department Personnel Employee Selection Process

(A) Purpose. To develop/maintain an efficient, effective, and fair selection process that results in the appointment of those individuals who best possess the skills, knowledge, and abilities necessary to meet the needs of the Palacios Police Department and the Palacios Community; and to ensure that candidates are evaluated by a selection process that measures traits or characteristics that are a significant part of the job.

(B) Definitions.

- (1) ADA refers to the Americans with Disabilities Act, which is a federal law prohibiting discrimination against a qualified candidate based upon a physical or mental disability (Effective January 26, 1990).
 - (2) Disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual.
 - (3) EEOC refers to the Equal Employment Opportunity Commission, which is the official federal agency having the authority and power to establish operational guidelines that regulate the pre-employment selection process in regard to discrimination by race, color, religion, sex, ethnic origin, age, and disabilities.
 - (4) Essential Job Functions means the fundamental job duties (skills, knowledge, abilities, and traits) of the employment position that the individual with a disability holds or desires, as established by the employer and contained within the written job descriptions.
 - (5) A qualified individual with a disability means an individual with a disability who, with or without reasonable accommodations, can perform the essential functions of the employment position that such individual holds or desires.
 - (6) Reasonable Accommodation may include-making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified reader or interpreters, and other similar accommodations for individuals with disabilities.
 - (7) Undue Hardship means an action requiring significant difficulty or expense, when considered in light of such factors as the nature and cost of the accommodation, the overall financial resources and the type of operations of the employer.
 - (8) TCOLE: The Texas Commission on Law Enforcement is the official state regulatory agency, created in 1965 by the 59th Texas Legislature, having the authority and power to establish minimum standards that regulate the licensing and training of peace officers in the State of Texas.
- (C) Policy: The Palacios Police Department “*selection process*” is designed to allow the agency to obtain qualified personnel, while filling specific agency needs. It is a critical step in determining the operational effectiveness of the Palacios Police Department. To adequately address professional and legal requirements, a comprehensive set of pre-employment selection procedures have been adopted, describing all components of the selection process, including standardized application forms, background investigations, oral interviews, medical examinations (including drug screening), psychological fitness examinations, and a six-month probationary period.

The City of Palacios is “*AN EQUAL OPPORTUNITY EMPLOYER*”. This administration will not tolerate any discrimination concerning applicants due to race, sex, religion, ethnic origin, age, disability, or sexual orientation. The selection

process will be conducted in strict compliance with all applicable local, state, federal laws, as well as agency policy.

- (1) The authority and responsibility for administering the selection process is vested with the Chief of Police, who retains final authority in the hiring of all police department personnel, both sworn and non-sworn.
- (2) The Chief of Police shall be appointed by the City Manager, from within or outside the agency, in accordance *with City Charter [Sec. 3.23]*, subject to the approval of the City Commission.
 - (a) The Chief of Police shall be vested with the authority to promote Captains, Lieutenants, Sergeants, and Corporals in accordance with agency policies, relating to promotions.
 - (b) All personnel, both sworn and non-sworn, shall be appointed by the Chief of Police in accordance with city and agency policy. **APPLICANTS FOR SWORN POSITIONS MUST COMPLY WITH ALL APPLICABLE TCOLE MINIMUM STANDARDS, AS WELL AS, ANY LEGAL MANDATES!**
 - (c) All elements of the selection process shall be administered in a fair and consistent manner and must be job-related and non-discriminatory.
- (3) All elements of the selection process for all personnel will be administered, scored, evaluated, and interpreted in a uniform manner within the classification.
 - (a) Operational elements of the selection process-time limits, oral instructions, practice problems, answer sheets, and scoring formulas-will be clearly set forth and consistently applied to all applicants.
 - (b) Applicants may be requested to demonstrate accepted job performance of essential functions, with reasonable accommodation approved by this administration.
 - (c) *Essential Job Functions* have been established for each respective position and documented in the form of a written job description, which shall be available upon request to any potential applicant for review or evaluation.
- (4) The Chief of Police shall ensure that the validity of the selection process is maintained by complying with professional and legal requirements as established by local, state, and federal laws, including – TCOLE, EEOC, & ADA.

- (5) Generally, applicants will be allowed to reapply and retest for future vacancies. Before further consideration, the applicant is responsible for updating his/her formal application, including the signing of a current liability waiver form, allowing the release of information.

(D) Procedure: The Chief of Police shall be responsible for the selection of qualified personnel with the Police Department, both sworn and non-sworn. The selection process shall include, but not be limited, to the following:

- (1) When a vacancy exists within the police department, the following should be accomplished:
 - (a) Notification shall be made to the City Manager and HR/Grant Manager to announce and advertise the vacancy as provided by City policy.
 - (b) Applicants may obtain a formal application from the City HR/Grant Manager and/or apply on-line. At the time of their formal application, applicants, both sworn and non-sworn, shall be informed of all elements of the selection process, to include the requirement that, within six (6) months of being hired by the City, the applicant must reside within a thirty-five (35) mile radius of the Palacios Police Department.
 - (c) Formal applications, including pertinent documents, will be delivered to the Chief of Police, who will be responsible for tracking each applicant, and assigning a qualified investigator to conduct a comprehensive “*background investigation*”.
 - (d) Upon completion of the selection process, all personnel selection materials will be forwarded to the Chief of Police who will be responsible for the secure storage, as well as, the disposition of selection materials to prevent disclosure of the confidential information.
- (2) While the City Personnel Department shall function as the quality control arm, regarding job vacancy notices and the distribution of employment applications, the Chief of Police or his designee is responsible for administering the following selectin process, if applicable:
 - Background investigation
 - Oral interview
 - Medical examination, with drug screening
 - Psychological examination
 - Six-month probationary period

(3) Entry Examinations: The City of Palacios does not have adequate resources to provide entry-level training. Therefore, the city must rely upon professionals from outside agencies to provide such services as entry-level testing, medical, and psychological examinations.

(4) Background Investigations: A background investigation of each candidate for all positions is conducted prior to appointment to probationary status, and includes:

- Verifying applicant's qualifications
- Checking for any criminal history; and
- Verifying at least three personal references.

(5) Oral Interviews: Oral interviews are an important part of the selection process in evaluating a potential candidate. They provide each candidate with the opportunity to convince the oral board that he/she is the best qualified person for the job. They also give the candidate the opportunity to demonstrate his/her communication and interpersonal skills.

- (a) An Oral Interview Board, which will be representatives of the Police Departments, will be impaneled at the direction of the Chief of Police.
- (b) Each candidate will respond to a "structured" interview, but clarifying questions related to each person may be asked.
- (c) Members of the Oral Board should refrain from asking questions that are irrelevant or not related to the job requirements. They should also avoid any questions regarding an applicant's disabilities, in accordance with ADA.
- (d) The Oral Interview Board is responsible for evaluating a candidate's traits, such as appearance, dependability, initiative, communication, and interpersonal skills.

(6) Medical and Psychological Examinations:

- (a) Prior to appointment to probationary status, sworn applicants must submit to a medical examination to certify the general health of the candidate. In addition, both sworn and non-sworn applicants must undergo drug testing, in compliance with TCOLE regulations.
- (b) Prior to appointment to probationary status, sworn applicants must submit to a psychological examination to ensure emotional stability and to screen out unsuitable candidates.

(7) Probationary Period: As a final step in the selection process, the city required a probation period to ensure an orientation period for the new employee.

- (a) In compliance with city policy, all personnel, both sworn and non-sworn, must successfully complete a six-month probationary period before candidate's are granted permanent status as employees.
 - (b) As part of the probationary period, sworn personnel must successfully complete their field training program.
 - (c) As part of the probationary period, sworn personnel are reminded that they are required to have a primary household within a thirty-five (35) mile radius of the Palacios Police Department within six (6) months from the date of hire.
- (8) Ineligible Applicants: If an applicant cannot successfully perform one of the required essential job functions, the applicant will become ineligible for employment consideration.
 - (a) The applicant may claim a disability under ADA. If so, the Chief of Police shall evaluate the applicant's eligibility in light of ADA regulations, making reasonable accommodations, if warranted. If the disability places an "*undue hardship*" upon the City of Palacios, the applicant should be rejected. Above all, officer safety cannot be compromised.
 - (b) Ineligible applicants may request a meeting with the Chief of Police to discuss their pre-employment status and/or the hiring decision.
- (9) Eligibility List: The Chief of Police, at his discretion, may establish an eligibility list of qualified candidates to fill future entry-level vacancies. The eligibility list shall not exceed six months.
- (10) Disposition of Selection Records of Applicants: This administration will strive to comply with all applicable local, state, and federal requirements in the maintenance of such records, regarding the privacy, security, and disposal of candidate's records.
 - (a) Only authorized personnel shall have access to an applicant's records, which shall be secured with the City Personnel Director. Access will be restricted to a need-to-know basis.
 - (b) Applicant's records will be purged at the direction of the Chief of Police, consistent with the CITY OF PALACIOS RECORDS MANAGEMENT PLAN, adopted by the Palacios City Council in compliance with state law.
- (11) Return Applicants to HR – All applications must be returned to the HR Department at the end of the process. They will be kept on file for six months and

may be considered for any opening the applicant is eligible for during that time. Department Heads should contact all interviewed applicants either verbally or in writing to notify them that the position has been filled.

Article 5. Attendance and Leave

Section 5.01. Vacation Leave. Vacation leave is earned by regular full-time employees according to the schedule set forth in paragraph (a) below. No vacation or other annual leave will be earned by temporary or part-time employees.

- (a) Regular full-time employees, who have completed their initial ninety days, shall be eligible for vacation leave as scheduled with the approval of the department head or, as applicable, City Manager, to the extent of leave accrued and credited to the employee. Part-time employees shall not be eligible for vacation leave. A new employee shall accrue vacation but is not able to use vacation until after their 90 day probationary period is completed. Vacation leave shall accrue for all employees as follows:

- 1 month to 4 years 11 months of service – 10 days per year (6.67 hours monthly)
 - 5 years to 9 years 11 months of service – 13 days per year (8.67 hours monthly)
 - 10 years to 14 years 11 months of service – 15 days per year (10 hours monthly)
 - 15 years plus – 20 days per year (13.33 hours monthly)

- (b) It shall be the duty of the respective department head to monitor vacation schedules to ensure that an adequate work force is available. All employees completing a request for leave on the computer will be notified when the department head approves or denies their time. If the request is not submitted in a timely manner, or the employee does not have the requested time, the request may be denied and returned with an explanation to the employee.
- (c) No employee shall carry over on January 1st of each year vacation leave in excess of 120 hours. Employees have the option of using their vacation before December 31st, with department head approval, or receiving a payout for their unused vacation.
- (d) Employees may cash out up to eighty (80) hours of vacation time in the event of a hardship. Hardship requests must be approved by the City Manager.
- (e) Except as specifically provided, vacation shall be credited to regular full-time employees on a pro-rata basis each month. Vacation leave needs to be taken at the minimum of ½ hour period.
- (f) Any employee not completing six months of time with the City of Palacios will not receive a vacation payout.

- (g) In the event that an employee resigns, dies or is terminated after the satisfactory completion of six months, accrued vacation time up to the maximum permitted in (c) above will be paid to the employee or the employee's designated survivor.

5.02 Hours of Work. All offices of the City, except those for which special regulations are established, shall be open from 8:30 a.m. to 4:30 p.m. Monday through Friday. Employee work hours shall be 8:00 a.m. to 5:00 p.m. Monday through Friday. The scheduling of employee meal period shall staggered Monday through Friday. Offices working special regulation hours shall have meal period determined by the department head or his/her designee to facilitate the serving of the public and permitting efficient department operations.

Section 5.03. Workweek.

- (a) All full-time employees will work forty (40) hours per week; provided that all full-time Police Officers will work eighty-five and a half (85.5) hours per fourteen (14) day work cycle, except in circumstances where a different schedule is required or management directs otherwise, and all regular full-time employees shall accrue all employee benefits as described herein. The City Manager and designated employees will be subject to callouts 24 hours a day.
- (b) Except as specifically directed by the City Manager from time to time for the accomplishment of City business, all offices and departments of the City will be closed on Saturday and Sunday except the Police Department, which must remain operating to continue service. Employees necessary to operate departments not closed on Saturday and Sunday will be chosen by the department head on a rotating basis.
- (c) Part-time employees will only receive pay for the time actually worked, which time must be verified by the appropriate department head. Part-time employees are not eligible for retirement, group insurance, or other similar benefits, including vacation or sick leave benefits.
- (d) Temporary employees will only receive pay for the time actually worked, which time must be verified by the appropriate department head. Temporary employees are not eligible for vacation, sick leave, retirement, group insurance, holiday pay, or other similar benefits.

Section 5.04. Overtime and Compensatory Time. When necessary, in order to maintain the proper City services, employees may be required to work "overtime," which includes all hours worked over forty (40) hours in a workweek. Non-exempt employees may receive overtime compensation as described in this section, or if the employee requests and the department head approve prior to the performance of work for which the employee would otherwise receive

overtime compensation, the employee may accrue compensatory time. All non-exempt employees required to work overtime shall be compensated on one and one-half times their regular rate of pay. Information on all overtime requests is to be turned over to the HR/Grant Manager at the end of each pay period. The requests are to be signed by the employee and the department head before payroll is distributed. When pre-approved by supervisors, compensatory time will be accrued at a rate of one and one-half hours per hour worked, unless otherwise specified.

The maximum amount of compensatory time that employees of the City shall accrue is 80 hours.

- (a) All compensatory/overtime must be pre-approved by supervisors and will be allowed when deemed absolutely necessary to finish a project. Compensatory/overtime will only be paid after the employee has worked forty (40) hours in that work week, or if the employee is a non-exempt police officer who worked in excess of eighty-five and a half (85.5) hours in a bi-weekly period, or those who are eligible under FLSA. Vacation, holiday, compensatory, and sick leave do not count toward hours worked for the purpose of calculating either the hours worked prior to the overtime or for calculating the overtime hours.
- (b) When ordered for the maintenance of essential City functions, compensatory/overtime shall be allocated as equitably as possible amount all non-exempt employees qualified to do the work.
- (c) The employee shall be required to log all hours worked for the City, including but not limited to overtime/compensatory time hours worked. Supervisors will approve all compensatory/overtime on the employee's time sheet.
- (d) Department heads are charged with authorizing the use of compensatory/overtime and likewise with assuring non-abuse of overtime or compensatory time and the inadvertent use of such by non-exempt employees.
- (e) Exempt employees shall not be eligible for compensatory/overtime; provided that the City Manager may grant limited compensatory time as appropriate in instances where an exempt employee has been required to work excessive hours over an extended period of time.
- (f) An employee shall be permitted to use compensatory time within a reasonable period after making the request, if doing so does not unduly disrupt the operations of the employer.

Section 5.05. Attendance. Employees shall be in attendance at their work in accordance with the rules and schedule regarding hours of work, holidays and leaves established by their supervisor from time to time. If an employee has an unexpected absence, the employee shall call

or notify his/her supervisor within the hour prior to when the employee is to report to work. Failure to notify the supervisor may result in disciplinary action. Excessive tardiness, neglect of duties, or unauthorized absences will be grounds for dismissal. If the immediate supervisor is not available to report an unexpected absence, the employee shall report to the City Manager, or designee, directly. All department heads shall report all expected absences for training, vacation and other planned leave as soon as known but not later than two weeks prior to such leave, unless good cause exists for less notice. All department heads shall report to the HR/Grant Manager, or designee, any sick leave to be taken as soon as such is known. The department head shall ensure adequate supervision of the department in the absence of the department head. If no other supervisor exists for the department, the City Manager, or designee, shall supervise the attendance of the department in the department head's absence and designate a supervisor of such department. All department heads shall keep daily attendance records of employees and all absences shall be reported in the computer and approved by the department head. Department heads shall be responsible for making sure that true and accurate attendance records for each employee are recorded and ensure each employee's attendance is in compliance with this policy manual. The HR/Grant Manager, or designee, may check time for any department for accuracy.

Section 5.06. Holidays. The City Council shall select the holidays in accordance with the City's budget process. There will be no fewer than twelve (12) City holidays each year. The actual day of observance will be set each year by the City.

The following provisions shall apply to holidays:

- (a) As many employees as reasonably possible, at the discretion of the City Manager, shall be given each holiday off consistent with the maintenance of essential municipal functions.
- (b) Regular full-time employees shall be entitled to a paid holiday equal to eight (8) hours of such an employee's regular rate of pay. No hours worked will be reflected on the employee's time for holidays for which the employee is paid and does not work. Holiday leave time taken will not be included in the calculation of overtime.
- (c) In the event any regular full-time employee of the City is required to work on a City holiday, regardless of whether the employee was scheduled or not to work, such employee shall be paid holiday time of eight (8) hours and be paid for the actual hours worked. Holiday leave time taken will not be included in the calculation of overtime.
- (d) For all employees, if a holiday falls on Sunday, the holiday will be observed the following Monday. If a holiday falls on a Saturday, the holiday will be observed the preceding Friday.

- (e) Temporary, part-time, and seasonal employees may be given holidays off without pay. The exception to this rule is permanent part-time employees who will be paid holiday pay for the normal hours they would have worked that day.
- (f) An employee absent without leave on a workday immediately preceding or immediately following a holiday shall forfeit pay for the holiday and the other days off without leave, and may be subject to disciplinary action.
- (g) Holidays falling within an employee's approved vacation period or within a period of absence approved for sick leave shall not be charged against the vacation or sick leave and will receive holiday pay.
- (h) An employee desiring to observe a religious holiday other than a listed City holiday, may, with the advance approval of the City Manager and department head, be given time off without pay or may use accrued vacation leave.
- (i) No holiday pay will be granted to an employee who is out on an occupational injury.

Section 5.07. Sick Leave.

- (a) **Definition and Accrual Rates.** Sick leave is defined as fully compensable absence from work arising from any illness, sickness, off the job accidental injury, or on the job injury as defined or allowed by Section 11 of this Article. All regular full-time employees shall accrue 6.67 hours of sick leave monthly, or ten (10) working days per twelve (12) calendar months of employment. There is no maximum amount of sick leave that may be carried over yearly. Sick leave will commence with the first full month of employment. Temporary and part-time employees shall not accrue sick leave.
- (b) **Proper Use of Sick Leave.** Sick leave shall not be considered as a right which an employee may use at the employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability of the employee, the employee's spouse, a dependent child, mother or father of the employee or the employee's spouse, or other legal dependent of the employee or the employee's spouse; provided that the City Manager may authorize the use of sick leave in appropriate circumstances in which a non-dependent child, mother, father, or a spouse's child, mother or father require medical procedures or temporary care.

Employees who consistently use their sick leave as it is earned or who fail to accumulate sick leave may be required to submit a doctor's statement in support of illness. Failure to present same, if requested by department head, may result in such absence being recorded as "leave without pay" and may subject the employee to adverse action under Article 8. Minor ailments which would not affect the safety or

health of the employee or other persons or property while performing job duties do not qualify an employee for sick leave.

- (c) **Reporting Sick Leave Absences.** In order to receive compensation while on sick leave, an employee shall notify the employee's immediate supervisor within the hour prior to the time set for the employee to begin the employee's daily duties. If the employee is unable to contact his/her supervisor, the employee shall notify the supervisor's designee. Failure to give such notification, except in emergency or unusual circumstances, will cause an employee's absence to be charged as "leave without pay", and shall subject the employee to disciplinary action.
- (d) **Evidence of Illness.** An employee claiming absence due to illness or injury for more than twenty-four (24) work hours may be required to produce a doctor's statement supporting the time of absence, and a release from the doctor in writing when able to return to work. Failure to provide such a doctor's statement may result in disciplinary action. Supervisors and/or Department heads may require a doctor's note for absences of less than 24 hours when, for example, abuse of sick leave is suspected.
- (e) **Unused Sick Leave.** No cash payment for unused sick leave shall be made upon termination/retirement of employment. A person terminating/retiring may donate their sick leave to the Sick Pool as described in below section under (f)(vii).

(f) **Leave Donation.**

- (i.) The City will allow for a regular full-time employee ("donor") to donate some of their accumulated sick leave to a designated regular full-time employee ("recipient") who has depleted their leave. Donated leave is to be used for a Family and Medical Leave Act (FMLA) qualifying event.
- (ii.) Eligibility of Recipients
- A recipient must be a regular full-time employee and have completed the probationary period as defined in the Employee Manual.
 - The recipient must have exhausted all accumulated leave.
 - A recipient must not be receiving or be eligible to receive compensation for absence from work under the Worker's Compensation benefit plan.
 - A recipient must not be receiving Social Security disability benefits or long-term disability benefits for his or her absence from work.
 - A recipient must not be under any pending investigation or disciplinary action.
- (iii.) Restrictions
- While using donated leave, recipients shall not:
 - Accrue Vacation or Sick Leave; or
 - Receive paid holidays.

- Once leave has been donated to the eligible employee, neither the donor nor the eligible employee may revoke this transaction.
- A maximum of 120 hours *per rolling 12-month period* may be received by any eligible employee.
- Upon returning to full duty, the employee may not receive additional donations.
- Employees may not donate leave hours upon notice of termination of employment to an individual, but they may donate to the Sick Pool.
- Employees are prohibited from soliciting, offering, or receiving monetary or any other compensation or benefits in exchange for donating leave hours.

(iv.) Administration

- A donor must have a remaining balance of at least 40 hours of sick leave **after making** the leave donation.
- Donors must complete and submit a donation form and specifically designate the recipient(s) of the leave donation before donated leave is made available to the recipient.
- Donations must be made in one-hour increments and will be transferred on an hour-to-hour basis at the recipient's regular hourly rate of pay.
- Donated leave will be paid to the recipient on the regular payroll schedule and normal payroll deductions will be withheld.
- Donated leave will be reflected on the recipient's W-2 form.
- Donated leave is not tax deductible to the donor because it is not a gift to a recognized charity.
- All donated leave will be pooled for use by the approved recipient.
- Under no circumstance will donated leave be banked for future use.
- Employees receiving donated leave will continue to be eligible for employment benefits and Family Medical Leave as applicable.

(v.) Application Process for Donated Leave

- The City Manager or designee must receive:
 - A completed application for FMLA Leave or Leave Without Pay;
 - An Application to Receive Donated leave form; and
 - A Certification of Health Care Provider Form (completed by attending physician).
- The City Manager or designee will determine if the employee qualifies for leave donation.
 - If an employee does not qualify for leave donation, a copy of the application form will be returned to the employee with an explanation for denial of benefits.
 - If the employee does qualify for leave donation, the City Manager shall approve the leave.
 - If approved by the City Manager, the request shall be submitted to payroll for processing.

- All forms must be completed and received by the City Manager or designee before donated leave can be used by the employee.
- If there is a lapse of time between the request for leave and the approval and processing of the donated leave, the donated leave will be paid retroactively to cover the days between the request approval and the recipient's unpaid time off.
- Once an employee is designated as eligible to receive donated leave, the employee shall indicate whether a notice announcing the need for leave donation will be posted in all City departments, only the employee's department or no posting at all. The recipient's name and nature of illness, as well as the number of leave hours donated by one employee to another will be classified as confidential information and will not be divulged.

(vi.) Termination of Donated Leave

The City Manager or designee shall be immediately notified, and use of Donated Leave shall be terminated if:

- The designated employee uses the maximum number of Donated leave hours.
- The designated employee returns to full-time duty after being released by a physician.
- The designated employee qualifies for Social Security disability, Long-Term Disability Insurance, or Retirement.
- The designated employee resigns, or employment is otherwise terminated.

(vii.) Sick Pool

- When an employee resigns, retires, or terminates from the City of Palacios they may donate their remaining sick hours to the City of Palacios Sick Pool.
- The Sick Pool is established for full-time employees with twelve (12) months or more continuous employment with the City and who have exhausted all accrued leave by virtue of a catastrophic injury or illness.
- Current employees may contribute to the Sick Pool beginning on October 1 and ending on October 31 of each fiscal year hereafter if they have satisfied the following criteria:
 - Completed twelve months of continuous employment with the City of Palacios;
 - Donate at least eight (8) hours of sick time;
 - Have at least forty (40) hours of sick leave available at the time of donation;
 - Do not wish to stipulate who receives the donated hours; and
 - Employee donating leave must complete a City Sick Leave Pool Contribution Form.
- Sick leave donated to the Sick Pool becomes the property of the City and can only be withdrawn by eligible employees for catastrophic purposes as defined in this Policy.

- An employee who has contributed to the Sick Pool may not withdraw donated time unless such employee becomes eligible to withdraw leave from the Pool pursuant to this Policy and is approved under the terms hereof.
- To be eligible for a transfer of time from the Pool, an employee: (i) must suffer a verifiable catastrophic illness or injury; (ii) must have twelve (12) or more months of continuous employment with the City and must have exhausted all accrued paid leave including sick leave, compensatory time and vacation time. An employee using Pool Leave is not required to pay back any Pool Leave used.
- Catastrophic illness or injury is considered to be any personal illness, injury or physical or mental condition suffered by the employee or a member of the employee's immediate family that involves continued treatment by a medical care provider for chronic or long-term medical conditions resulting in the exhaustion of the employee's accrued vacation, compensatory time and sick leave.
- Immediate family is defined as the employee's spouse, mother, father, brother, sister, son, daughter or any other relative who is living with the employee and is dependent upon the employee for supervision and care and includes step-parents and step-children as well as foster children certified by the Texas Department of Child Protective and Regulatory Services and further includes Immediate Family as defined in this manual.
- A catastrophic illness, injury, or physical or mental condition may include complications involving the following: inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such care; permanent/long term incapacity requiring supervision due to a condition for which treatment may not be effective (Alzheimer's disease, a severe stroke, the terminal stages of a disease); and/or multiple treatment by a medical care provider for non-chronic conditions (including recovery therefrom), such as cancer (Chemotherapy, radiation) or organ transplant.
- The following are **not** classified as catastrophic injury or illness: elective surgery; injuries or illnesses which are sustained while in the course of employment for an organization other than the City of Palacios; a result of or acquired in the commission of a felony, while participating in a riot, or an act of war; or voluntarily self-inflicted injuries; and/or uncomplicated delivery of a child at the conclusion of a pregnancy.
- Employees currently receiving Worker's Compensation benefits for an injury sustained in the course of work for the City of Palacios, may not receive Sick Pool hours.
- Illness or injury must be verified by a currently licensed medical care provider, defined as a Doctor of Medicine, osteopathy, or psychology, who is licensed to practice medicine and/or surgery in the State of Texas.
- To apply for Sick Leave the employee must complete a Request for Pool Leave Form and have their doctor complete the Certification of Illness/Injury Form and return to the HR/Grant Manager. Once reviewed

by the HR/Grant Manager and City Manager the employee will be notified in writing of approval or denial of their request.

- Upon approval of request, the employee's sick leave balance will be increased by the amount approved by the City Manager, and the Pool balance will be decreased by the corresponding amount. The HR/Grant Manager will maintain the original request forms on file.
- The maximum amount of Pool Leave that can be used by any one (1) individual employee per request shall not exceed one third (1/3) of the balance of hours in the Pool. The City Manager shall determine the exact amount of Pool Leave that an eligible employee may use.
- Granted approved leave will revert to the Pool in the event of return to work, retirement, or employee's death. The estate of a deceased employee is not entitled to payment for unused Pool Leave.
- An employee in Pool Leave is treated as if on earned sick leave but will not continue to accrue vacation leave, sick leave or paid holiday leave.
- All medical information obtained pursuant to the Palacios Pool Leave will be maintained as confidential information by the City to the extent allowed by law.
- The Mayor and City Council are not eligible to contribute to the Pool, nor to withdraw sick leave time from the Pool.
- The Palacios Sick Pool Policy is effective immediately upon adoption by the City Council.
- See attached Sick Leave Pool Contribution Form, Request for Pool Leave Time Form, and Certification of Illness/Injury Form.

Section 5.08. Military Leave. Military leave with pay shall not exceed fifteen (15) days during any calendar year and will be granted to regular full-time employees of the City who attend regular annual military training duty, and meet the requirements listed below. The leave must be scheduled with the department head and City Manager and shall be granted without loss of time or efficiency rating. Supporting documents and leave orders should be furnished to the department supervisor prior to taking leave. Such documents shall be placed with the time records.

(a) **Leave Credit.** No credit for vacation leave or sick leave shall accrue during military leave that extends more than 15 days in any one year. The employee's health, dental, and life insurance provided by the City at the time the military leave is taken will remain in effect during the time on leave for up to twelve (12) calendar weeks.

(b) **Military Leave Allowance.** Military leave will be permitted as required by 431.005, Tex. Gov. Code, which provides in part as follows:

- (1) All officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities, who shall be members of the State Military Forces, or members of any of the Reserve Components of the Armed Forces, shall be entitled to leave of absence from their respective duties without

loss of time or efficiency rating or vacation time or salary on all days during which they shall be engaged in authorized training or duty ordered or authorized by proper authority, for not to exceed fifteen (15) days in any one calendar year.

- (2) Members of the State Military forces, or members of any of the reserve components of the Armed Forces who are in the employ of the State of Texas, who are ordered to duty by proper authority shall, when relieved from duty, be restored to the position held by them when ordered to duty.”
- (c) **Retirement System Credits.** Employees who leave their deposits with the retirement system while on military leave shall retain their membership in the retirement system. The rules and regulations of the retirement system and federal law shall be applicable and controlled.
- (d) **Reinstatement Upon Return from Military Leave.** All employees who have been granted a military leave of absence, and who apply for reinstatement with the City not later than thirty (30) days after being discharged or separated from the Armed Forces, will be re-employed in the same position or a position of like seniority and status at the then current rate of pay; provided that such employee is physically and mentally qualified for reinstatement. If, upon termination of such leave of absence, an employee is physically or mentally incapacitated and not qualified to perform the duties of the position held at the time of commencement of such absence, the employee shall be eligible for placement in such other position for which the employee may qualify. In the event two or more employees have occupied the same position and have been called into service, the first employee occupying and leaving such position after the effective date of this policy shall have first priority on reinstatement, the second person occupying and leaving such position shall have second priority, etc.

Section 5.9. Bereavement Leave. All regular full-time employees may be granted emergency leave with pay for a period not to exceed three (3) days if in state or five (5) days for out of state in case of death of a husband, wife, father, mother, son, daughter, brother, sister, grandchild, grandparent, aunt, uncle or first cousin of the employee or employee’s spouse, or with the discretion of the City Manager. Part-time and temporary employees may be granted leave of absence without pay in such cases. Time extensions may be granted with department head and City Manager approval.

Section 5.10. Injuries.

- (a) **Injury on the Job** (Leave and Compensation). Injury leave is defined as compensable absence from work arising from an on-the-job accidental injury. When an employee is injured on the job, such injury shall be immediately reported to the employee’s supervisor, who shall take the steps the supervisor feels necessary to secure proper first aid or other treatment for the injured employee. The employee shall also complete an accident report and forward copies to the HR/Grant Manager

within twenty-four (24) hours of the accident. All employees that are injured on the job may be required to get a drug test immediately and may also be subject to safety training. The department head shall, to the extent the department head is aware of the injury, be further responsible for causing the report to be promptly completed and delivered to the HR Manager.

An employee injury on the job shall be granted injury leave, without pay except as listed below, for the period of time the employee is unable to perform the duties of the job. A doctor's statement that the employee is unable to return to work shall be requested for an employee to receive injury leave. The continuation of injury leave so granted shall be in the discretion of the City Manager and, subject to these policies and applicable law, may be terminated at any time. No employee injury on the job who is unable to return to work after fifteen (15) days shall accrue vacation leave or sick leave during the time away from work. While the employee is off work, and when physically able to do so, the employee shall make routine trips to visit with the Department Head or City Manager on a weekly basis. Once the employee is released by their physician to return to work and actually returns to work, the employee will begin accruing vacation leave and sick leave as determined by the employee's years of service.

Any employee so injured on the job shall be covered by and entitled to the benefits provided under the Texas Worker's Compensation Act. Such employee's fitness and duty to return to work shall be determined under the provisions of the Worker's Compensation Act. During the period of such injury leave, the employee's compensation will be made up from:

- (1) The weekly benefits payable under Worker's Compensation;
- (2) The disability benefits, if any, payable under the City group health and accident insurance program; and
- (3) Sick leave pay, from sick leave accrued prior to the injury, if any, in an amount that when combined with other benefit payments may equal but shall not exceed the employee's regular salary.

An employee shall forfeit all rights to injury leave, as distinguished from employee's rights under the Worker's Compensation Act, if the employee:

- (1) Is found to be working on a self-employed basis or for any other employer during such period of leave, either part-time or full-time, for financial gain,
- (2) Resigns from City employment,
- (3) Is discharged or retires,

- (4) Fails or refuses to comply with or follow, or disregards or violates the treating physician's instructions regarding treatment and/or rehabilitation of the injury,
 - (5) Refuses to perform light, partial, or part-time duty when offered by the department head and which does not require the employee to perform activities which are restricted by the treating physician,
 - (6) Falsifies or misrepresents his/her physical condition or capacity;
 - (7) Refuses to return to duty on the working day the employee has been released to duty by the treating physician.
 - (8) Fails to submit an acceptable physician's statement when requested by the employee's supervisor. A written release from the treating physician shall be required before the injured employee shall be allowed to return to work for either light duty or regular duties.
- (b) **Non Job-Related Injury** (Leave and Compensation). An employee injured or becoming ill off the job shall have the resulting absence from work, if any, charged against the employee's accumulated sick leave at a rate of one full hour for each full working hour's absence. During the period of such absence from work the employee's compensation will be made from:
- (1) The benefits payable under the city group health and accident insurance program, if any;
 - (2) Any compensation which may be received as a result of employment by an outside Insured employer, if any, provided that if such compensation is wages for time worked, the continuing compensation of the employee by the city will be subject to the City Manager's approval; and
 - (3) Payment from the City so as to make the total income equal to (but never in excess) of the employee's regular salary. Such payments by the City under (b) above, shall be made only for such sick leave time as the employee may have accumulated to the employee's credit.

After the expiration of the employee's sick leave time, employee may utilize any vacation leave available. After the expiration of both sick and vacation leave, all compensation payment by the City will cease and the employee will draw compensation benefits only from the disability benefits, if any, payable under the City

group health and accident insurance program at the rates and in the amounts prescribed by the applicable insurance policies involved.

- (c) **Accidents Involving Motorized Equipment.** If an employee is injured while operating motorized City equipment or if an auto accident in which the employee is injured occurs while the employee is on duty, a motor vehicle accident report form, as provided by the State, may be prepared by the City's Police Department. The City Manager and department head shall be immediately notified, and the department head shall respond to the scene of the accident. If able to do so, it shall be the employee's duty to notify the department head. It is the department head's responsibility to notify the City Manager. A copy of the Police Department's accident report, and, to the extent possible given the employee's injuries, an accident report completed by the employee and the department head, shall be filed with the City's HR Manager within 24 hours. If able to the employee will report to the appropriate medical facility, with the department head, to give a drug screen test.

Section 5.11. Neutral Absence Control Policy. With the sole exception being leave under the City's Military Leave policy, leave resulting from or necessitated by any cause, including injury and/or illness, shall not exceed 180 consecutive calendar days. Leave for more than 180 consecutive calendar days constitutes an unusual hardship on the City and may result in termination of employment. The City will have the right to follow the usual procedure to fill any position previously held by an employee than has been on leave for more than 180 days. All accidents and injuries must be reported on the form provided in Appendix 2.

Section 5.12. Professional Leave with Pay. Department heads may grant employees special leave with pay and actual expenses to attend professional conferences, conventions, or short courses or to visit other cities in the interest of the City, as authorized by the City Manager. The City Manager shall also determine whether or not an employee attending any such training will use a city vehicle or be reimbursed for mileage for use of a personal vehicle.

Section 5.13. Leave to Attend Voting, Jury Duty, Court Subpoenas. All employees will be allowed time off to attend the civic duties of voting in elections, serving as members of jury panels, or appearing before any tribunal by virtue of subpoena or summons resulting from the city employment. All employees receiving a call to jury duty must promptly notify their supervisor. Regular full-time employees on jury duty shall be excused from duty without loss of pay. Should jury duty fall within a scheduled vacation period, the vacation period may be extended by a corresponding number of days, or the employee may schedule that number of days at another time. All employees who are requested to testify by the City, or who are subpoenaed as witnesses for the City or as a result of their employment with the City, shall appear in court, without loss of pay. Employees appearing in any matter unrelated to their City employment or appearing voluntarily as an adversary witness against the City, shall not receive wages for answering a subpoena or testifying in court. Employees attending any administrative or judicial proceeding for personal business may use any vacation accrued to their credit for such purpose.

Section 5.14. Leave of Absence.

- (a) Department heads may grant leaves of absence without pay to any employee, with the approval of the City Manager, not to exceed thirty (30) days in duration. Requests for such leave shall be in writing and submitted well in advance of the date the employee will commence such leave. Leaves of absence without pay may be granted for any legitimate purpose; however, employees will be obligated to show that the granting of such leave will not materially affect productivity of the Department. Leaves of absence without pay in any case shall not exceed thirty days, except as allowed under the Family Medical Leave Act or similar federal and state laws.
- (b) Department Head or City Manager may place an employee on leave with or without pay while conducting an investigation of the employee for alleged violations of the Personnel Policy Manual.

Section 5.15. Absence Without Leave. No employee may absent himself from duty for a day or any part of the day without permission of the employee's department head. Any such absence will be without pay and will subject the employee to disciplinary action.

Section 5.16. Physical Incapacity to Perform Assigned Work. Once it is determined by the department head or the department head's designee, based on the assessment of a licensed medical doctor, that an employee is not able to perform the required physical duties or tasks of the present position (regardless of whether the incapacity is due to on-the-job injuries, off the job injuries, or illness), will not be returned to full duty with the City until a medical doctor states in writing that the employee is able to perform all the required physical tasks or duties of the position. Wherever possible, the City may provide temporary, light or modified duty to an employee who has been released by a physician to return to work in a limited capacity.

Under this policy, light duty is construed to mean a temporary modification of the employee's regular duties on a full or part-time basis or assignment within the department or within another City department to a funded position which is compatible with the employee's current physical capabilities as determined by the employee's treating physician. The department head may identify and determine the availability of light duty positions within the department.

Section 5.17. Fitness for Duty/Return to Work Policy. Employees returning to work following an injury (as described above) or following the employee's serious health condition under the FMLA, an employee may be required to submit an applicable release to return to work from the employee's health care provider that certifies that the employee can perform all of the essential functions of his or her position, with or without accommodations. Additionally, while some minor absences from work for medical reasons may not require such a medical release, the City reserves the right in all circumstances, consistent with applicable law to determine whether such a release is necessary, and if so, require such a release. The City will consider request for modified or light duty, or any other restrictions provided by the employee's physician in accordance with its obligations under the Americans with Disabilities Act (ADA). This policy is not intended to supersede or modify the procedures applicable to employees eligible for reasonable accommodation under the ADA or leave benefits under the FMLA.

Section 5.18. Family and Medical Leave. In accordance with the Family and Medical Leave Act of 1993 (FMLA), an employee may be eligible to take up to twelve (12) weeks of unpaid family and medical leave during a rolling twelve (12) month period for FMLA-qualifying leave, as provided in this policy. An eligible employee is one who has worked for the City for twelve (12) months and has worked at least 1,250 hours during the twelve (12) months preceding the first date leave is to be taken.

FMLA-Qualifying Leave: Leave may be taken under this policy for (1) a serious health condition (as that term is defined in the FMLA) that makes the employee unable to perform the essential functions of his/her position; (2) to care for the employee's spouse, child, or parent who has a serious health condition; (3) a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on covered active duty; (4) the birth of a child (including to care for the newborn child within one year of birth; or (5) the placement with the employee of a child for adoption or foster care (including to care for the newly placed child within one year of placement).

Twelve Month Period: The twelve (12) month period for counting family and medical leave is a "rolling" 12-month period measured backward from the date an employee requests or is placed on FMLA leave. Each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months, or 26 weeks provided in certain circumstances.

Employee Notification: An employee must give at least thirty (30) days' advance notice for the need to take family and medical leave, unless the need is unforeseeable, in which case, as much notice as is practicable should be given. A form for requesting family and medical leave is available with the City HR Manager. If it is determined that the need for family and medical leave was foreseeable, the leave may be delayed until at least thirty (30) days after the date that the employee provides notice to the City.

Department Notification: Each department head is responsible for notifying the City Manager immediately when an employee is away from work for a family and medical leave qualifying event (if family and medical leave has not been approved), even if the employee is utilizing paid vacation, sick or personal leave, or is out due to a work-related injury. An employee using sick leave should be reported to the City Manager if it is anticipated that the duration of the illness will be three (3) more days, or once the employee exceeds three (3) days.

Paid Leave Used Concurrently: An employee utilizing this policy shall be required to use all accrued sick and/or vacation and any other applicable paid leave concurrently with use of FMLA leave under this policy.

Medical Certification: The City requires medical certification from a health care provider to support a claim for leave to care for a seriously ill child, spouse, or parent, or for the employee's own serious health condition. Medical certifications must be returned to the City Manager within fifteen (15) working days of when the employee is provided the medical certification. Recertification may also be required every 30 days. For leave to care for a seriously ill child, spouse, or parent, the certification must include an estimate of the amount of time the employee

is needed to provide care. For the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of the position and expected duration.

Employees on an extended FMLA leave must check in every month by phone or email with the Human Resources Manager or supervisor. Employees may not work a second job if they are utilizing leave under this policy.

Effect on Married Couples: If a City employee is married to another City employee and either or both employees request family and medical leave for the birth or placement of a child with the employee for adoption or foster care, the total time allowed shall be limited to no more than twelve (12) weeks combined during any rolling twelve (12) month period.

Intermittent Leave: When medically necessary, an employee may take family and medical leave on an intermittent basis or work a reduced schedule. Arrangements should be made with the employee's immediate supervisor and Human Resources, so that the operations of the department are not unduly disrupted. An employee taking intermittent leave or leave on a reduced schedule may be temporarily assigned to an alternative position with equivalent pay and benefits if it better accommodates the needs of the department.

Military Family Leave Entitlement:

Military Exigency Leave – Employees who are otherwise eligible for FMLA and have a spouse, child, or parent on covered active duty (deployed to a foreign country) or called to cover active duty status in the National Guard or Reserves (deployment to a foreign country or in support of a contingency operation) may use their 12-week leave entitlement to address certain qualifying exigencies including eligible; short-notice deployments; attendance at military events and related activities; childcare and school activities; addressing financial and legal arrangements; attending counseling sessions; attending post-deployment activities; up to 15 days of rest and recuperation; and parental care.

Military Caregiver Leave – Employees who are the spouse, parent, child or next of kin of a service member who incurred a serious injury or illness while on active duty in the Armed Forces and is undergoing medical treatment, recuperation, or therapy, may take up to 26 weeks of leave to care for the injured service member in one 12-month period. The covered service member must be a current member or eligible veteran of the Armed Services (including a member of the National Guard or Reserves) with a serious injury or illness incurred in, or aggravated by, service in the line of duty on active duty that may render him/her medically unfit to perform his/her duties.

Article 6. Wages and Salary

Section 6.01. Application of Rates. All employees occupying a position that is exempt from the overtime pay requirements shall be paid a biweekly salary or wage within the range currently set for that position's class under the pay plan approved by the City Council. All hourly or non-exempt employees must clock in and out and the start of the workday or shift, out at lunch start, in at lunch end, and out at the end of the day. Falsifying another employee's time or any other

financial document may include disciplinary action up to and including discharge. All employees must participate in direct deposit of their paycheck directly into their personal bank account. The only checks that will not be direct deposited into the employee's personal account are reimbursement checks which are paid through account payables. If an employee begins service in the middle of a pay period, the employee will be paid at the equivalent hourly rate for the total hours worked during that pay period. It shall be the responsibility of the HR/Grant Manager to maintain an approved classification plan which, to the extent feasible, accurately classifies every regular position in the City service. Toward that end, the City Manager may make surveys of whole departments, of occupational groups located in various departments, or may audit individual positions. Such classification reviews may be initiated by the City Manager independently. However, it is the responsibility of the department heads to request such reviews when it comes to their attention that one or more positions under their jurisdiction are improperly classified. An employee may request a review of his or her position by pursuing the regular grievance procedures outlined elsewhere in these policies. All requests for classification review must be responded to with reasonable promptness by the City Manager.

Section 6.02. Pay Rates for New Employees. Pay rates for new employees will normally be at the minimum hourly or bi-weekly step in the salary range established for the position which the employee is occupying.

Section 6.03. Employees Review Based Pay Increases. Pay increases for employees shall not be automatic but shall be based on annual evaluations per Section 6.08. After each annual satisfactory evaluation an employee will move to the next step in grade and paid accordingly. Evaluation based pay increases may be granted only by the City Manager on recommendation of the department head. Salary increases are subject to budget approval, depend upon competing department needs, and are not guaranteed.

Section 6.04. Total Rate of Pay. No employee shall be paid, and no salary advancement shall be made, which would compensate an employee at a higher rate than the maximum or highest step established in the salary range and compensation plan to which that employee's position has been assigned. However, any employee receiving a salary rate in excess of the employee's maximum step in the employee's salary range on the effective date of the adoption of these rules shall continue to receive that rate unless such rate is reduced as otherwise provide in these rules. An employee whose job was downgraded by reclassification or reorganization through no fault of the employee, may continue to receive his or her formal rate of pay upon approval by the City Manager until a rate on the new salary range equals or surpasses the old rate. If the exception is not granted by the City Manager, the employee shall be compensated within the guidelines of the compensation plan approved.

Section 6.05. Part-time, Temporary and Seasonal Rates. An employee who works regularly at less than the established workday or work week shall be paid by the hour or at a salary proportional to the amount of time worked. The hourly or bi-weekly rates for part-time, temporary, or seasonal employee shall be established by the city pay scale that is approved as party of the annual budget by the City Council. Part-time, temporary, and seasonal employees shall not receive retirement benefits, health, dental or life insurance, vacation leave sick leave or military leave pay.

Section 6.06. Pay Rates for New Positions. Whenever a new position is created the City Manager shall, with the department head, study the duties and responsibilities of the new position in light of the existing positions and fit it into the city pay scale.

Section 6.07. Longevity Pay. Longevity Pay will be paid once a year on the first paycheck in December. Full Time Employees will receive \$10 per month of service to the City of Palacios. If your start date is between the 1st-15th of the month you will receive full credit for the month started when calculating longevity pay. If your start date is the 16th – last day of the month, you will not receive credit for that month when figuring longevity pay.

Section 6.08. Termination/Severance Pay. All employees who voluntarily or involuntarily terminate their employment relationship with the City shall receive all pay which may be due, subject to the following qualification:

- (a) Regular full-time employees who have satisfactorily completed their probationary period and worked for the City for at least six (6) months prior to termination will be paid for accrued vacation leave up to 120 hours and;
- (b) If an employee voluntarily or involuntarily terminates the employment relationship before the end of a pay period, the employee will be paid for the total hours actually worked through the employee's termination/severance date at his/her calculated hourly rate.

Section 6.09. Performance Appraisal System. The purpose of the system is to improve employee productivity, to provide better communications between supervisors and those they supervise, to identify needs for training or other remedial actions among the workers, to provide the cultivation of skills and abilities, and to further the City service as a great place to work.

- (a) Evaluations shall be used as aides in recommending employees for performance pay increases, in considering dismissal and/or other disciplinary actions based on job performance, in attempting to avoid any influence of personal bias or prejudice in offering promotions to employees, and in other personnel matters. Salary increases are subject to budget approval, depend upon competing department needs, and are not guaranteed.
- (b) Evaluations shall be performed by the immediate supervisor of the employee being evaluated but the evaluations may be reviewed and revised by department heads or the City Manager before becoming final. Evaluations of supervisory employees shall take into account the skill and judgement shown by such supervisors in the rating of those responsible to them.
- (c) An evaluation of all employees should be completed at least once each year; provided that a delay in the evaluations, or the approval of an evaluation, shall not be a violation of this policy.

- (d) An evaluation of an employee may also be conducted at any other time at the option of the employee's supervisor(s); such specific evaluations are appropriate if the employee is being considered for promotion, is in need of remedial action, or is to be warned of, or subjected to, possible disciplinary action.

Article 7. Employment Verification and Termination

Section 7.01. Resignation. An employee who wishes to leave the employment of the City should give at least two (2) weeks' notice to the employee's supervisor before the effective date of the resignation. Such notice shall be in writing and may state the reasons for such resignation. The department supervisor shall immediately notify the Administration Staff and City Manager of such resignation and indicate the reasons. In no case shall an employee be allowed to take vacation leave during the last two (2) weeks of employment unless approved by the City Manager and the department head. Vacation hours taken during the last two weeks of employment will be deducted from the employees' accrued vacation hours.

Section 7.02. Retirement. All regular full-time employees are required to become members of the Texas Municipal Retirement System (TMRS). Enrollment shall be accomplished in accordance with the TMRS guidelines. Members contribute a percentage of their gross salary (7%) each pay period toward retirement. The employee's and the City's percentage of contribution to TMRS is determined from time to time based on the City's level of participation in TMRS.

TMRS provides eligible employees with retirement benefits. The City has a five (5) year vesting plan with retirement at or after age 60, or at any age after 20 years of participation in the TMRS plan. Accidental death and disability benefits are also incorporated into this retirement plan should an employee become qualified for disability benefits prior to retirement. Funds contributed by the employee may only be withdrawn upon retirement or resignation. Only the employee's contributions plus interest is refunded when an employee resigns or retires and elects to withdraw his/her contribution. Details of the retirement plan are outlined in the TMRS handbook available from the HR Manager.

The TMRS participates in the proportionate retirement program provided for by state law. Proportionate retirement permits a member of TMRS and certain other pension plans to receive benefits based on years of membership with two or several participating plans, e.g. Counties, the State and certain cities that are not TMRS members. Prior service credit will be granted to employees for services performed for specific, various public entities, with the submission of proper paperwork in order to qualify an employee for benefits and a separate benefit from each entity.

Section 7.03. Requests for Employment Verification. Information regarding the employment of all current and former City employees shall be verified upon written request made to the HR Manager. The designated representative of the Police Department in charge of providing information to the State for Peace Officer licensing shall be permitted to provide all relevant

information to that agency concerning Police Officers that is required by the State. In the absence of a written request signed by the current or former employee, the HR Manager shall be authorized to verify only the following information:

- (a) The date the employee began employment with the City;
- (b) The date the employee ended employment with the City;
- (c) The employee's salary when beginning employment with the City and such salary when employment with the City ended;
- (d) The positions held while employed by the City; and
- (e) The department(s) to which the employee was assigned while employed by the City.

No person other than the HR Manager, the City Manager or their designee shall be authorized to act on behalf of the City with respect to the verification of employment information.

Article 8. Management Authority

Section 8.01. Management Action. The City may deny or reject any appointment or promotion, or suspend, demote, or remove any employee, at any time that the City Manager or the City Manager's designee determines that such action will promote the efficiency of the City's service.

- (a) **General.** In determining whether its action with respect to any employee will promote the efficiency of service, the City shall consider the following:
 - (1) Whether the prior history and conduct of the individual evidences that the individual may reasonably be expected to interfere with or prevent effective performance in the position applied for or employed in;
 - (2) Whether the prior history and conduct of the individual evidences that the individual may reasonable be expected to interfere with or prevent effective performance by the employing department or co-workers of the co-worker's respective duties and responsibilities;
 - (3) Whether the prior history, conduct, work related experience or performance of the individual evidences that the individual may not reasonably be expected to perform the job duties at an acceptable level of performance.
- (b) **Immediate Formal Discipline.** While it is desirable to counsel with an employee prior to initiating formal discipline, this policy shall not be interpreted to prevent immediate

formal action including involuntary separation whenever the best interest of the City and its effective operation require it.

- (c) **Progressive Discipline.** The general discipline progress that a department head shall normally take is set forth below. These steps will be taken after initial informal counseling sessions fail to produce the results desired. However, in instance where the nature of the action is severe enough or the employee has repeatedly fallen below the set standard, a department head may eliminate the lower steps in the discipline process and impose a higher level of discipline. The City's decision to use progressive discipline in no way alters the at-will employment relationship.

- (1) Formal verbal warning – records of such warning shall be retained by the department head but not be placed in the employee's personal records unless the discipline process goes to the next step.
- (2) Written reprimand – a copy of the written reprimand shall be transmitted to the employee's personal file through the City Manager.
- (3) Suspension – suspension without pay for up to fifteen (15) days may be given with the approval of the City Manager.
- (4) Demotion – demotion may be given with the approval of the City Manager.
- (5) Involuntary Separation – involuntary separation is the final step in the progressive discipline process must be approved by the City Manager.

- (d) **Specific Factors.** Among the factors which may be used in making a determination as to any basis for adverse action, applying to a Council Member, Department Head, or employee, include, but are not limited to, those items set forth in paragraph (a) of this section and, any of the following factors:

- (1) Prior History. Delinquency, misconduct or poor working relationships in current employment;
- (2) Improper Conduct. Criminal, dishonest or unbecoming conduct, including but not limited to the following:
 - **Dishonesty.** Stealing or taking employer property or other employees' property without proper authorization; misuse of employer or other employees' funds or property; cheating; forging or willfully falsifying reports, records, or documents, misuse of leave of absence; or any other false action detrimental to the employer or fellow employees.

- **Disturbance.** Fighting; using profane, abusive, or threatening language; horseplay; causing injury to fellow employees through a deliberate action or gross negligence; spreading false reports; or otherwise disrupting harmonious relationships between employees.
 - **Sabotage.** Deliberate damage or destruction of City equipment or property; altering, removing, or destroying City records; advocacy of or participating in unlawful trespass or seizure of City property; encouraging or engaging in slow-downs, sit-ins, strikes or any other concerted effort to limit or restrict employees from working.
 - **Misconduct.** Any criminal offense which could have an adverse effect on the employer, or on the confidence of the public in the integrity of the City government, or on the relationship of the employee and other employees; or repeated convictions during service on misdemeanor charges such as speeding, reckless driving, or accidents involving injuries to persons or damage to property or equipment.
- (3) **Misleading Information.** False statements or deception or fraud in applications, examination or representations made for appointment or promotion.
- (4) **Abuse of Drugs or Alcohol** in violation of Article 13 of these Personnel Rules.
- (5) **Statutory.** Any statutory disqualification which makes the individual unfit for the job or failure to meet and maintain requirements of the individual's job description.
- (6) **Unsatisfactory Attendance.** Excessive or unauthorized absence and/or tardiness in violation of Article 5 of these Personnel Rules.
- (7) **Incompetence.** Inability or unwillingness to perform assigned work satisfactorily.
- (8) **Indifference toward Work.** Failure to remain at work, inefficiency, loafing, carelessness, performing personal business during working hours, abuse of eating and/or rest periods, sleeping or being inattentive during working hours, interfering with work of others, mistreatment of the public or other employees, or leaving work without permission.
- (9) **Insubordination.** Willful failure or refusal to perform assigned work or fully comply with instruction or orders as request by the supervisor or other members of management. If the employee believes the instruction or order is improper, the employee should obey the order or instruction and file a grievance later. This does not apply to imminently dangerous situations. If the employee believes the instruction or order, if followed, would result in physical injury to himself or another employee, or damage to City equipment, the employee should request immediate verification by the next higher level of supervision.

- (10) **Violation of Safety Rules.** Smoking in prohibited areas, improper removal of safety guards, fire extinguishers, or other equipment designed to protect employees; failure to use safety equipment or to follow safety rules; or failure to report an on-the-job injury, vehicle accident, or unsafe condition.
- (11) **Misuse of City Equipment on Services.** Using, possessing, taking or providing any City equipment, credentials, or services for other than official City business without proper authority.
- (12) **Conduct.** Conduct detrimental to the proper order, discipline, and morale of city employees.
- (13) **Political Activities** in violation of Section 2.03.
- (14) **Weapons.** The control of, or possession by, any employee of a handgun or other concealed weapon in a City vehicle or on any City property; provided that this subsection (14) shall not be applicable to certified licensed peace officers.
- (15) Any conduct that, on becoming public knowledge, would impair the confidence of the public in the integrity of the City government, or on the relationship of the employee and other employees.

(e) Policy on Evaluation and Training Period.

- (1) **Evaluation and Training Period.** All new employees shall be in an evaluation period for ninety (90) days after being employed. The evaluation period shall be used to closely observe and evaluate the work and fitness of employees and to encourage adjustment to their jobs. Only those employees who satisfactorily meet performance standards during the evaluation period shall be retained.
- (2) **Completion of Evaluation Period – New Employees.** All new employees will be evaluated after ninety (90) days. At the conclusion of the probationary period, employees will be evaluated by their supervisor. All new employees who have successfully completed the ninety (90) day probationary period will be eligible to use their vacation leave as enjoyed by other regular city employees. All new employees failing to successfully complete the ninety (90) day probationary period shall be terminated from employment with the City. These employees may be discharged for any misconduct, with or without notice to correct the misconduct and any employee discharged during the ninety (90) day probationary period will not have any appeal rights.

(3) Promoted Employees.

- All promoted employees shall be required to complete a ninety (90) day evaluation period in the new position before the same promotion is considered to be fully approved.
- If a promoted employee cannot meet the requirements as set forth in the job description of the new position, the employee may be restored to the position from which he/she was promoted or to a comparable position. However, if no comparable position exists, the promoted employee may be terminated.

(4) Demoted Employees. Any employee being demoted as a result of a disciplinary action shall be subject to a ninety (90) day probationary period in their new position.

(5) Performance Probation. Any employee may be placed on performance probation. The supervisor may, with the approval of the City Manager, place any employee under the supervisor's management on performance probation. The employee shall be notified in writing that the employee is being placed on performance probation and the minimum term that such probation shall last. Employees not successfully completing performance probation or failing to comply with the standards established for employees of the City may be terminated or demoted without further notice.

(6) Extension of Probationary Period. All employees serving on probationary status or in the probationary period shall be subject to having such status extended for increments of three (3) months. Upon written recommendation of the department head such periods can be extended if approved by the City Manager in writing. Failure to successfully complete a probationary status or probationary period shall be indicated in writing, including the duration of the extension and the improvements required, and provided to the employee.

(f) Demotion. If the adverse action is a demotion, it may be within the same salary range or to a position with a lower salary range, but in either case will be accompanied by at least some reduction in pay and duties for the employee involved. No employee may be demoted to a position for which the employee does not possess the necessary minimum qualifications.

(g) Suspension. A suspension shall be with or without pay and shall not exceed thirty (30) calendar days except when based upon unusual circumstances or conditions and shall be approved in writing by the City Manager. The Department Director shall issue all suspensions without pay and provide notice to the City Manager of such suspension. The City Manager shall issue suspensions to employees who report directly to the City Manager. No employee is entitled to suspension prior to termination.

(h) Notice. A department head may decide to demote, suspend, or dismiss an employee. In such an event, the employee should be promptly served with written notice and informed that the employee has the right to a hearing on the matter through the Grievance

Procedure. If circumstances prevent the prompt presentation of such written notice, such employee should be instructed by the department head or supervisor to appear at the supervisor's office the next workday (or as soon thereafter as practicable) to receive the written notice and, if so desired by the employee, to initiate the appeal procedure. Any written disciplinary action should set forth:

- The rules violated;
- Examples of conduct, incidents, actions, or failures to act, that resulted in the discipline;
- the discipline to be imposed;
- the effective dates;
- if the action is not a dismissal, the likely effect if the employee continues to perform, or to fail to perform, in the manner that resulted in the disciplinary action; and
- any appeal as outlined in Article 9.

The written disciplinary action shall be filed with the City Manager and a copy shall be delivered to the employee or mailed to the employee's last known address by certified mail, return receipt requested. A copy shall be placed in the employee's personnel folder.

Section 8.02. Lay Off. The City Manager may recommend to the City Council the elimination of budgeted employee positions as a result of changes in duties or organization, or because of budgetary constraints. Any employee designated for a layoff shall be given priority for any vacant city position in which they meet the job requirements. Also, any employee designated for layoff will be eligible for rehire to any vacant position that occurs within six months of layoff and the former employee meets the job requirements.

Section 8.03. Notice Provisions. Any notice or decision under the provision of this Article shall be required to be in writing and shall be given by delivering same in person to the affected employee, or if said employee cannot be located after exercising reasonable diligence, the notice shall be by deliver of same to the last known address as is reflected and shown in the records of the HR Manager. Such notice may be delivered by hand delivery or by deposit in the U.S. Mail addressed to the last known address, and such mailing shall be conclusive evidence of the receipt of such notice by the employee. Such notice shall be effective as of the time of its actual delivery to the employee or deposit in the U.S. Mail.

Article 9. Grievance Procedures

Section 9.01. General Guidelines. It is the City's goal to treat employees fairly in all respects. Employees who feel they have been subjected to unfair treatment or discrimination have the right to present grievances for consideration through simple and reasonable procedures as provided in, and subject to the exceptions of these policies. A grievance is defined as any complaint or problem concerning an employee's duties or working conditions. Any employee may present grievances under the procedures outlined below and should be free from restraint, coercion, or reprisal as a result.

Section 9.02. Procedural Steps. Any employee may file a formal grievance.

- (a) The grievance shall be in legible writing, printing, or typing giving the following information:
- Date, time, place and detailed description of the alleged action.
 - Specify the nature of the grievance.
 - Explain why the action is considered improper, unjust/unfair.
- (b) Steps in the grievance and appeal process shall be as follows: Police follow the police officer's association guidelines but that does not supersede the city personnel policy.
- (1) Step One. A grievance by an employee must be presented to the immediate supervisor within three (3) working days of the alleged action. The immediate supervisor will notify the department head of the grievance within five (5) working days after the supervisor received the grievance. Such immediate supervisor, or in the supervisor's absence his designee, has five (5) working days from the date of receipt of the grievance to respond. If immediate supervisor is the department head, skip step 2 and go to step 3.
- (2) Step Two. If the grievance is not resolved between the employee and the immediate supervisor, the employee may request a hearing with the department head. The request for a department head hearing must be filed with the department head within two (2) working days of the earlier of the immediate supervisor's decision or the expiration of the five (5) day period for response provided in Step One. The department head will schedule a hearing and respond to the grievance within five (5) working days of the date of the department head's receipt of the request for a department head hearing.
- (3) Step Three. City Manager. Employees shall have a further right of appeal to the City Manager provided such appeal is made in writing within three (3) working days of the Department Head's decision. The City Manager may modify, amend, or deny any appeal without a hearing. If granted a hearing, the City Manager shall indicate the date and time that the hearing will be held. The City Manager's decision shall be final not subject to further appeal.
- (4) Appeal Process for Termination. Employees who are involuntary terminated shall have a right to appeal to the City Manager provided such appeal is made in writing within three (3) working days of the date of termination. The City Manager may modify, amend, or deny any appeal without a hearing. If granted a hearing, the City Manager shall indicate the date and time that the hearing will be held. The City Manager's decision shall be final and not subject to further appeal.

Section 9.03 Grievances Without Basis. Grievances are given serious consideration by the City and are encouraged in all legitimate fact circumstances. Equally so, frivolous grievances are discouraged, as are repeated grievances regarding trivial matters. And grievances that are based on evidence the grievant is found to have known to be false will result in disciplinary action.

Section 9.04. Complaints from Non-employees. All complaints concerning employees of the City received by the City from non-employees shall be handled according to the policy of the City in force at such time as the complaint is filed for citizens' complaints. Any adverse actions taken as a result of the non-employee's complaint may be appealed in the same manner as provided in this Article.

Section 9.05. Grievance against the City Manager. Grievances against the City Manager regarding discrimination, sexual harassment, or violations of civil rights, may be made to the City Attorney. All other grievances will first be submitted to the City Manager.

Section 9.06. City Manager Authority. Except only in those instances, if any, in which a grievance is filed against the City Manager pursuant to Section 9.05, or for violation of a state or federal law, the decisions and actions of the City Manager with respect to the employment, performance, promotion, discipline or termination of an employee shall be final and unappealable. The City Manager may, when he/she deems such action appropriate and in the best interests of the performance and efficiency of the City, waive or modify any process, procedure or schedule provided in this policy for or with respect to the employment, supervision, promotion, discipline, or termination of personnel in all instances.

Article 10. Benefits

Section 10.01. Retirement. All regular full-time employees are required to become members of the Texas Municipal Retirement System (TMRS). Enrollment shall be accomplished in accordance with the TMRS guidelines. See Section 7.02. Details of the retirement plan are outlined in the TMRS handbook.

Section 10.02. Uniforms. The City will provide certain employees with uniforms and a yearly pair of work boots in order to assure a neat appearance, identify the worker as a municipal employee, and to protect the employee's personal clothing while performing the employee's job duties. Employees provided must wear uniforms and work boots. The cost of uniforms not returned upon separation from employment will be charged to the employee and, if such are not returned or the cost thereof paid, such fact shall be recorded in the employee's personnel file. An employee voluntarily terminating employment within 30 days after receiving a pair of work boots will be required to reimburse the City for the cost of the work boots.

Section 10.03. Social Security. All employees of the City are covered under the Federal Insurance Contributions Act (FICA). This government insurance provides retirement, disability, and death benefits. This insurance is financed by social security taxes which are paid through payroll deductions by the employee and matched by the City.

Section 10.04. Unemployment Compensation. All employees of the City are covered, as applicable, under the State unemployment compensation program. This program provides payments for unemployed workers in certain circumstances as provided by law.

Section 10.05. Insurance. Life, health, and dental insurance are provided to all regular full-time employees through a group insurance policy. Insurance benefits shall be effective at the time allowed by the policy. Life, health, and dental insurance are not provided to temporary, seasonal, or part-time employees. This insurance provided by the City to the employee shall be at no cost to the employee. At the employee's option and expense, dependent insurance coverage is also available. Coverage may be continued with certain limitations to retirees of the City and the City will not contribute to the retiree's premium. Coverage may be continued with certain limitations upon termination other than retirement provided the premiums are paid entirely by the employee. These limitations are consistent with the Consolidated Omnibus Budget Reconciliation Act (COBRA).

10.06. Worker's Compensation Insurance. The City participates in Worker's Compensation Insurance coverage for employees. When an employee is injured on-the-job the employee must immediately report the injury to his/her supervisor. Injuries that occur while on duty will be handled in accordance with Section 5.10(b).

Article 11. Harassment

Section 11.01. Harassment Policy. All employees should be able to enjoy a work environment free from all forms of unlawful discrimination, including any type of harassment based on sex, race, gender, age or any EEOC protected category. Work environment includes working associations with elected City Council Members and those appointed to Commissions or committees.

- (a) Harassment refers to behavior that is motivated in whole or in part by a person's sex, race, gender, age, ethnicity that is not welcome and is personally offensive, or that lowers morale and that, therefore, interferes with an employee's work effectiveness. Harassment can be types of threats or intimidations and come in the form of oral or written communications.
- (b) Sexual Harassment. This type of harassment is a form of misconduct that undermines the integrity of the employment relationship.
 - (1) No employee, either male or female, should be subjected to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. A finding that an employee has committed any form of sexual harassment will result, at minimum, in a written warning being issued and placed in the employee's personnel file.
 - (2) No employee or officer of the City shall threaten or insinuate, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment or career development. A finding that an employee has committed any such form of sexual harassment will result in severe

disciplinary action up to and including transfer, demotion, suspension, or termination from employment.

- (3) Examples of sexual harassment include, but are not limited to: referring to someone as a hunk, doll, baby or honey; cat calls (whistling), making sexual comments or innuendoes; turning work discussions into sexual topics; asking about sexual fantasies; asking a person about his/her sexual life; repeatedly asking out a person who is not interested; pressure for sexual favors; smacking lips; telling lies or spreading rumors about a person; harassing phone calls; giving a massage around the neck or shoulders; touching a person's clothing, hair, or body; lingering around a person; pinching or stroking; touching or rubbing oneself sexually around or in view of another person; and/or tearing, pulling, or yanking a person's clothing.

- (c) Sexual harassment occurs in many forms, including but not limited to, unwelcome physical contact, verbal abuse, leering, gestures, and more subtle advances and pressure inviting sexual activity. Appendix 3 provides a sample form for reporting occurrences of sexual harassment. Such conduct includes instances in which:

- (1) Submission to the advances is made a term or condition for obtaining employment opportunities or avoiding adverse employment action;
- (2) Submission to or rejection of the advances is used as the basis for making any employment decision; or
- (3) Such conduct interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

- (d) Professional Harassment or quid pro quo of any type is strictly prohibited by the City of Palacios. Professional Harassment or quid pro quo harassment occurs when someone in a position of authority over another directly or indirectly bullies or demands favors (sexual or otherwise) in exchange for some benefit (promotion, raise, etc.) or to avoid a detriment (termination, demotion, etc.) in the workplace.

- (e) Harassment of any type is strictly prohibited and will not be tolerated. If any employee feels they are being harassed, they should promptly report such facts and advise the harasser that the conduct is offensive and that it must stop immediately. If any such unwelcome interest or conduct does not cease immediately upon demand by the employee, or if the employee is not comfortable confronting the harasser, the employee must report the matter to the employee's supervisor within twenty-four (24) hours. If such employee is unable or unwilling to speak with his/her supervisor about the alleged harassment, the conduct or incident must be reported to the HR Manager or the City Manager. Upon any supervisor, department head or officer receiving a report of alleged harassment, the HR Manager, and all persons in the alleged offender's chain of command shall be advised of the report and appropriate action shall be promptly taken. The first action taken, in such an event, shall include steps calculated to prevent recurrences of any

such alleged incidents pending investigation and final resolution of the complaint. Each such report shall be investigated promptly, and appropriate corrective actions will be taken with the City Manager's concurrence.

- (f) It will be the responsibility of the City Manager to inform department heads and supervisors of the policy concerning non-discrimination, equal employment opportunities and harassment, the gravity of such behavior and the procedure to be employed in the event an allegation develops. The HR Manager shall provide or cause the department heads and supervisors to receive training, with respect to recognizing and dealing with sexual harassment.
- (g) Each supervisor has a responsibility to communicate to employees that harassment will not be tolerated and to make certain that employees are aware of this policy. This duty includes discussing this policy with all employees and assuring employees that employees are not to endure insulting, degrading, or exploitative treatment from anyone.
- (h) Any employee who complains of harassment in good faith will be protected against retaliation or reprisal for making the complaint. However, the City recognizes that false accusation of harassment can have serious effects on innocent men and women, their reputation, and their families. False accusations of harassment will result in severe disciplinary action up to and including termination.
- (i) The Purpose of this section is to communicate to all employees, including supervisors, department head, managers, and Council, that City of Palacios will not *in any instance* tolerate bullying behavior. Persons found in violation of this policy will be disciplined, up to and including termination.

The city of Palacios defines bullying as repeated, health-harming mistreatment of one or more people by one or more perpetrators. It is abusive conduct that includes:

- Threatening, humiliating, or intimidating behaviors.
- Work interference/sabotage that prevents work from getting done.
- Verbal abuse.

Such behavior violates the City of Palacios' Code of Ethics, which clearly states that all employees will be treated with dignity and respect.

City of Palacios considers the following types of behavior examples of bullying:

- **Verbal bullying.** Slandering, ridiculing, or maligning a person or his or her family; persistent name-calling that is hurtful, insulting or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
- **Physical bullying.** Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property.

- **Gesture bullying.** Nonverbal gestures that can convey threatening messages.
- **Exclusion.** Socially or physically excluding or disregarding a person in work-related activities.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person.
- Shouting or raising one's voice at an individual in public or in private.
- Using obscene or intimidating words or gestures.
- Not allowing the person to speak or express himself or herself (i.e., ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person's job performance or description.
- Public reprimands.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor's instructions.
- Manipulating the ability of someone to do his or her work (e.g., overloading, underloading, withholding information, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Assigning menial tasks not in keeping with the normal responsibilities of the job.
- Taking credit for another person's ideas.
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.
- Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property).

Individuals who feel they have experienced bullying should report this to their supervisor or to Human Resources before the conduct becomes severe or pervasive. All employees are strongly encouraged to report any bullying conduct they experience or witness as soon as possible to allow the City of Palacios to take appropriate action.

Article 12. Tobacco Use Policy

Section 12.01. Tobacco Use Policy. Smoking, vaping, e-cigarettes, smokeless (chewing) tobacco, or other use of tobacco products is prohibited in all city buildings and vehicles except in designated areas or in areas shared with other employees or which are accessible to the general public.

Article 13. Drug Abuse Policy

Section 13.01. Statement of Purpose. The City maintains a firm commitment and effort to provide reliable service to its citizens, and a safe and healthy working environment for its employees and the community. While the vast majority of employees are not involved with illegal drugs or substance abuse, those who are involved in use, abuse, or trafficking, on or off the job, may have an adverse impact both on the health, safety and welfare of our citizens, the workplace and fellow employees; and may impair the City's ability and efforts to maintain a safe work environment that is free from the effects of drugs. All employees are required to understand and acknowledge the City's Drug Abuse Policy. See Appendix 4.

Section 13.02. Prohibitions. The following conduct by employees of the City is prohibited and will result in appropriate action by the City, up to and including termination of employment.

- (a) The use, possession, manufacture, distribution, dispersion or sale of illegal drugs or drug paraphernalia on City premises, in City supplied vehicles, or during working hours; provided that the prohibition against possession shall not apply to paraphernalia or drugs held as evidence under authority of the Chief of Police;
- (b) Unauthorized use, possession, manufacture, distribution, dispensation or sale of a controlled substance, dangerous drugs, or alcohol on City premises or while on City business, in City supplied vehicles, or during working hours.
- (c) Storing in a locker, desk, automobile or other repository on City premises or property, any illegal drug, drug paraphernalia, controlled substance, or alcohol; provided that such prohibition shall not apply to the storage of any such substance in conjunction with the performance of public duties as authorized by the Chief of Police or the City Manager;
- (d) Having an authorized controlled substance, illegal drugs, or alcohol in one's system while on City premises or City business, in City supplied vehicles, or during working hours or being under the influence of alcohol and not reporting such to the immediate supervisor or, absent such supervisor, to any available supervisor;
- (e) Switching or adulterating any urine sample submitted for testing;
- (f) Refusing to report for testing immediately upon notification to do so by any supervisor, or refusing to consent to testing or to submit a urine sample when requested by a supervisor or management;
- (g) Refusing to submit to an inspection when requested by any supervisor or management personnel;

- (h) Failure by an employee to notify the Department Head, or the City Manager of any arrest or conviction of such employee for, or with respect to, the illegal use, possession, control, sale or manufacture of any controlled substance, drug or alcohol, within five days after the arrest or conviction;
- (i) Failure to report to the supervisor the use of any drug, prescription, non-prescription medication, or alcohol, which may affect the employee's job performance or safety, e.g. alter the employee's behavior or diminish or impair the employee's physical or mental capabilities;
- (j) Refusing to sign a statement agreeing to abide by the City's drug abuse policy;
- (k) Refusal by an employee in a safety sensitive position or other position required to adhere to provisions of this policy, as determined by the City, to sign an acknowledgment that the employee will submit to random, reasonable cause, and post-accident testing for drugs, and so long as the employee remains in the position covered by this policy;
- (l) Refusal to complete a medical questionnaire and consent form prior to testing;
- (m) Refusal to complete the toxicology chain of custody form after submission of a urine specimen;

The City reserves the right to test employees for drug use and/or relieve any employee from their job duties, when, in the opinion of the City, the use of drugs, legal or illegal, or alcohol, may be affecting the performance of the employee's job duties.

Section 13.03. Types of Testing.

- (a) **General.** The City shall have the right to require the following drug screening tests to be done for all employees;
 - Pre-employment
 - Reasonable suspicion;
 - Post-Accident.
- (b) **Random Testing.** Employees who serve in safety sensitive positions may be subject to random drug and alcohol tests.
- (c) **Periodic Testing.** Designated commercial drivers will be required to have biennial (periodic) testing as required by this policy and/or federal statutes and regulations.

The City Manager shall designate the positions that are subject to random and periodic testing procedures. Employees serving in a safety sensitive position that subjects them to random and periodic testing will be notified. An example list of those positions is included in Appendix 1, Schedule 1.

13.04. Required Testing. Prior to the City taking action based on a positive result, all positive drug tests must go to a Medical Review Officer for confirmation of tests that may be positive but do not fall within the prohibitions specified by this policy because of prescribed medication being taken at the prescribed dose and certifying to the City either a positive or negative test. If an employee tests positive for drugs, the employee, will have the opportunity to discuss and explain the test results with the City Manager or designee.

- (a) **Pre-employment.** The City requires that all newly hired employees be free of drug or alcohol abuse. Each offer of employment may be conditioned upon the passing of a urine test for drugs. The City may not hire any applicant who refuses to submit to or fails to pass the pre-employment drug test.
- (b) **Random.** Only employees in safety sensitive positions will be subject to random drug testing. The City Manager or his/her designee will determine by random generation which employees, among those subject to random testing, will be tested and the date on which each such employee will be tested. The representative will keep this information confidential and in a locked receptacle.

The City shall ensure that the random selection process provides for the same odds to be tested for every eligible employee. If an employee scheduled to be randomly tested is not available for testing, the employee's name will be returned to the selection pool so that the employee remains subject to random testing according to the same odds as any other employee subject to testing.

On the day on which an employee is to be randomly tested, the designated drug abuse representative will contact the HR Manager as to the employee(s) to be tested. The representative shall ensure that notification time is kept to the minimum possible to facilitate the intent of the testing process.

- (c) **Reasonable Suspicion.** Whenever management personnel reasonably suspects that an employee's work performance or on the job behavior is affected any way by drugs or alcohol, the City may require the employee to submit a urine sample for testing. Supervisors will be trained to recognize the effects of drug or alcohol use and before a reasonable cause test is administered, two supervisors must substantiate and concur in the decision to test. Normally the two supervisors are in the employee's chain of command; however, if two supervisors from the same chain of command are not available, another supervisor may be consulted. At least one of the two supervisors must have received training for detecting drug use. Any supervisor of the employee may substantiate and concur in a decision to test, even though that supervisor has not observed behavior of the employee indicating drug or alcohol use. The two supervisors may concur by phone. A supervisor must drive the employee to the testing site. Provided, however, that, upon the

recommendation of any supervisor or department head of the City with respect to any employee, the City Manager may authorize and/or direct that a drug and alcohol screening test be administered under this paragraph.

- (d) **Post Accident.** Any employee whose performance either contributes to an accident which accounts for more than fifty dollars (\$50) in property damage or cannot be completely discounted as a contributing factor to an accident must be tested; provided that any employee in a safety sensitive position or other position required by federal regulations to be tested will be tested. An employee to be tested will be tested as soon as possible, if not immediately, after an accident. The employee's supervisor or his designed must take the employee for drug testing after the accident.

Section 13.05. Discipline.

- (a) **Violations.** If an employee tests positive for drug use, or violates any prohibition outlined in Section 2, the employee will be terminated except in extraordinary mitigating circumstances as approved by the City Manager.
- (b) **Failure to Test.** The failure to submit to a required testing is prohibited and will result in immediate termination, except in the following circumstances:
 - (1) An employee in a position covered by this policy is randomly selected for testing and is on previously approved leave.
 - (2) A supervisor determines that, due to an existing emergency, it is not feasible for an employee to leave the worksite for testing. This determination must be confirmed by the City Manager. In such cases, the employee will be required to report for testing as soon as the emergency permits.
 - (3) If the employee is physically unable to provide a urine specimen on demand, the employee will be retained at the collection site while waiting for the specimen to be provided. If an employee, after a reasonable period of time, is still unable to provide the sample, he/she may return to the work location; however, he/she must be under constant supervision until he/she is able to be driven back to the collection site and provide the sample. If he/she continues to be unable to provide the sample, he/she will be referred to see a physician, to determine if the inability to provide a sample is caused by a medical reason. If the employee does have a medical reason that would hinder the employee's ability to provide the sample, the employee's name will be returned to the random pool, if he/she is in a position covered by this policy. If the employee is not in a position covered by this policy and has been medically certified as unable to provide a specimen on demand, he/she will not be considered to have refused to submit to testing. If no medical reason exists, the employee will be considered to have refused to submit to testing and will be terminated.

Section 13.06. Supervisory Training. The City will train its supervisors in:

- (a) **Performance.** Identifying and documenting job performance and on-the-job behavior that might reflect personal problems.
- (b) **Behavior.** Identifying specific, contemporaneous physical, behavioral and performance indicators of on-the-job use of drugs or alcohol, or impairment by drugs or alcohol.
- (c) **Procedures.** Supervisor training shall include training regarding appropriate procedures for:
 - (1) Drug testing and technology;
 - (2) Conducting workplace inspections; and
 - (3) Encouraging voluntary referrals to available resources for counseling and/or treatment.

Section 13.07. Confidentiality and Record Keeping. The results of all urine tests will be treated as confidential. Each applicant or employee will be required to sign a statement at the time of testing to allow the release of the results to the City. This information will only be known to the testing laboratory, the designated drug abuse representative, and other employees with the “need to know” such as appropriate officers, the City Manager and the employee’s immediate supervisor. However, any governmental body may obtain the testing results as part of an accident investigation, without the express written consent of the tested individual, provided the governmental body has legal authorization to secure such results. No drug tests results will be released to a subsequent employer without the written consent of the employee.

All records pertaining to the Drug Testing Program will, as specified in 49 CFR Part 199.3, be maintained in a locked receptacle by the designated drug abuse representative.

Section 13.08. Employee Assistance Program (EAP).

- (a) Voluntary participation in a qualified drug or alcohol abuse program **prior to a confirmed positive test** result is encouraged. No disciplinary action will be brought as a result of an employee volunteering to participate in such a program, provided the employee volunteers, prior to committing an act or event which would subject the employee to disciplinary action and prior to the employee being requested to submit to a test. Employees who, prior to being requested to take a test, voluntarily identify themselves as drug or alcohol abusers and obtain counseling and rehabilitation through a qualified drug or alcohol abuse program shall not be disciplined for their drug and/or alcohol abuse if they thereafter refrain from violating the City’s policy on drug and alcohol abuse. All employees, however, can be disciplined for any incident resulting from their violation of the City’s drug and alcohol policy.

- (b) Upon a confirmed determination that an employee has been under the influence of drugs or alcohol in violation of the City's policy, notwithstanding disciplinary action, the City may refer the employee to one or more qualified drug or alcohol abuse programs at which the employee can obtain assessment, counseling, and rehabilitation. Participation in a qualified abuse program is voluntary and no added or increased disciplinary action may be taken against an employee for failure to begin or complete an abuse program. Participation in any such abuse program shall be at the sole cost and expense of the employee and, if applicable, his or her health insurance.
- (c) Disciplinary action based on a violation of this drug and alcohol policy is not suspended by an employee's participation in an abuse program after a confirmed determination the employee has been under the influence of drugs or alcohol while on duty. Disciplinary action, up to and including dismissal, may be taken against any employee with a confirmed positive test of being under the influence of alcohol or drugs while on duty.
- (d) The City will provide, as available, employees and their families with confidential, professional assessment and referral for assistance in resolving or accessing treatment for addiction to, dependence on, or problems with alcohol, drugs, or other personal problems adversely affecting their job performance. Confidential assessment and referral services will be provided without cost to the employee or family member. The cost of treatment, counseling or rehabilitation resulting from EAP referral will be the responsibility of the employee.
- (e) When documented job impairment has been observed and identified, a supervisor may recommend participation in the EAP. Any action taken by the supervisor, however, will be based on job performance.
- (f) Supervisor referrals to the EAP will include employee's release of information consent form to be returned to the City supervisor by the EAP. Refusal to participate in, or failure to complete the EAP directed program will be documented. Should job performance not improve after a reasonable amount of time, the employee is subject to progressive corrective action up to and including termination of employment.
- (g) Self-referral by employees or family members is strongly encouraged. The earlier a problem is addressed, the easier it is to deal with and the higher the success rate. While self-referral in itself does not preclude City's use of corrective action, participation in an EAP directed program may enable the supervisor to allow time for completion of such program before initiating or determining additional corrective actions.
- (h) EAP-related activities, such as referral appointments, will be treated on the same basis as other health matters with regards to the use of sick or compensation leave. Sick leave may be taken as needed, while compensation time must be pre-approved.

Article 14. Internet and E-mail

Section 14.01. General Guidelines. This policy applies to any and all forms of use of the City computer systems and equipment and does not supersede or limit any state or federal laws, nor any other City policies regarding confidentiality, information dissemination, or standards of conduct. Computers and laptops are City of Palacios property. All use of the Internet with any City equipment (including but not limited to computers, telephone lines, modems, telephone numbers, etc.) must be in compliance with all applicable federal, state and local laws and the policies of the City. Individual users should be aware that the City has no control over and cannot be responsible for the content of information available on the Internet. Some employees may find information on the Internet that is offensive or otherwise objectionable. Any use of the City equipment or resources in violation of this policy or applicable departmental policies is grounds for disciplinary action.

- (a) The City's domain name and URL (Internet address or website) are the property of the City and may not be used by City employees for personal gain.
- (b) No unauthorized advertising or unauthorized links may be used on the City's website.
- (c) Employee Internet access must be authorized by the department head. A condition of authorization is that all Internet users must read and sign a copy of the internet policy. The City HR/Grant Manager will ensure that a signed copy of the personnel policy is on file in the employee's personnel file prior to granting such access.
- (d) Department heads should work with employees to determine the appropriateness of using the Internet for professional activities and career development.
- (e) Use of the Internet by City employees must be consistent with the City Personnel Policy regarding employee conduct and work conditions.
- (f) The Internet must be treated as a formal communications tool like telephone, radio, and video communications. Therefore, each individual user is responsible for complying with all relevant policies when using the City's resources for accessing the Internet.
- (g) Internet access must not be used for illegal, improper, or illicit purposes.
- (h) Employees need to keep in mind that all Internet usage can be recorded and stored along with the source and destination.

- (i) Use of City equipment or resources to intentionally post or share any racist, sexist, threatening, obscene or otherwise objectionable material is strictly prohibited and subjects the employee to disciplinary action.
- (j) Resources which are not clearly used for a City purpose shall not be accessed or downloaded.
- (k) Resources of any kind for which there is any fee must not be accessed or downloaded without prior approval by the department head.
- (l) Employees shall not connect any personal equipment to the computer systems or telephone lines of the City without the prior approval of the City Manager.

Section 14.02. Privacy. Employees have no reasonable expectation of privacy with regard to Internet usage in an office even if it is locked. The City Manager has the ability and the right to view employees' work areas (including offices), Internet usage patterns and take action to assure that City resources are devoted to maintaining the highest levels of productivity. The Internet path record is the property of the City and therefore the taxpayers of the City. Such information is subject to the Texas Public Information Act and the laws applicable to State records retention. Each employee using the Internet shall identify him/herself honestly, accurately, and completely when providing such information.

Section 14.03. Safety and Security. The safety and security of the City computer systems and resources must be considered at all times when using the Internet.

- (a) Employees shall not share a password for any City account or with any unauthorized person nor obtain any other user password by any unauthorized means.
- (b) Employees must not intentionally use the Internet facilities to disable, impair, or overload performance of any computer system or network, or to circumvent any system intended to protect the privacy or security of another user, except as part of an official Police investigation.
- (c) Employees shall not intentionally create, install, or knowingly distribute a computer virus of any kind on any municipal computer, regardless of whether any demonstrable harm results.
- (d) Employees shall not copy, install, or use any software or data files in violation of applicable copyrights or license agreements.
- (e) Employees shall report all computer virus outbreaks to the City Manager. The City Manager may designate a person to log all such outbreaks and the eradication method

used by the departments. All departments shall be notified in the event of a virus outbreak. The City Manager may take whatever action is reasonably necessary to prevent the spread of a computer virus to other computers.

Section 14.04. Personal Use.

- (a) At no time shall City equipment or resources be used for any personal monetary interest or gain.
- (b) Employees may not use City equipment to access personal e-mail accounts or any other account requiring a password or code that was not established by the City for the employee's use.
- (c) Employees shall not use City Internet accounts to subscribe to mailing lists or mail services for personal use and shall not participate in electronics discussion groups (i.e., list server, Usenet, news group, chat rooms) for personal purposes. Employees may participate in electronic discussion groups for municipal purposes.
- (d) Employees should be aware that when sending an e-mail message of a personal nature, there is always the danger of the employee's words being interpreted as official City policy or opinion. Therefore, when an employee sends an e-mail message from a City e-mail address that is of a personal nature, especially if the content of the e-mail could be interpreted as an official City statement, the employee must use the following disclaimer at the end of the message: *"This e-mail contains the thoughts and opinions of (employee's name) and does not represent official city policy."*
- (e) Employees shall not access non-work-related information or otherwise "surf" the Internet for non-work related purposes.

Section 14.05. Personal Social Media. While City employees shall be free to utilize social media sites and other related posting methods to post information on the Internet, any posting of information on the Internet through any site, regardless of where the posting is conducted, must comply with the guidelines established by this section.

- (a) Blogging or posting information of a personal nature on the Internet or other Employer social media sites is prohibited during work hours. Employees are not permitted to engage in social networking of a personal nature while using any of the Employer's electronic social media sites. No use of any social media, networking, blogging, journaling, instant messaging, or video posting sites on City equipment, as well as City-operated networks is considered private or confidential even if it is password protected or otherwise restricted.

- (b) If the employee's social networking or other information posting contains information related to the City, the employee must make it clear to the readers that the views expressed are the employee's alone and not reflective of the views of the City. Personal social media accounts or websites may not be designated in a way that would cause users to believe that the site is administered or endorsed by the City, including the unauthorized use of City logos or trademarks.
- (c) Employees are encouraged to act responsibly on and off duty, and to exercise good judgement when using social media.
- (d) Employees are prohibited from disclosing confidential information concerning another City employee in any position. Posting of confidential information may violate law and subject the individual posting the information to disciplinary action and/or criminal penalty.
- (e) Employees are similarly prohibited from disclosing confidential City information in any position. Posting of confidential information violates policy and may subject the individual positing the information to disciplinary action and/or criminal penalty.
- (f) Employees must abide by all federal and state laws, as well as City policies with regard to information posted and transmitted through the internet.
- (g) Employees must refrain from posting anything that may constitute a violation of the City's Harassment policy. Do not post any pornographic pictures of any type which could identify you as an employee of the City.
- (h) Do not post pictures of yourself or others containing images of City Uniforms or insignia, City logos, City equipment or City worksites, unless you are posting them on an official City website as part of your job duties and in conformance to the existing policies.

Article 15. Travel Policy

Section 15.01. Partial Per Diem. The per diem rate for extended travel shall be the Government Services Rate for the city. Meals provided by conference/training as part of the registration will not be paid in the per diem. All requests for per diem, partial and full day, must be completed on the Per Diem form and requested at least two weeks prior to travel time.

Section 15.02. Mode of Travel. Department heads shall approve all travel, and if traveling by car, the employee shall be reimbursed at the current rate set by the Internal Revenue Service. Reimbursement will be based on the least expensive mode of transportation available at that time, unless approved by the City Manager. Employees will be compensated for travel time as worked hours.

Article 16. Reservation of Management Discretion.

Section 16.01. No Implied Limitations. Nothing in this personnel policy shall limit the City in exercising the functions and discretion of management under which the City hires new employees, direct the work force, schedules hours of work, disciplines, suspends, discharges, or requires employees to observe city rules and regulations. The City reserves the right to amend, modify, and delete provisions of this and all other policies of the City. This policy is intended to set forth general guidelines that will be applied in most circumstances, however nothing in this policy: (a) prevents the City Manager from waiving any provision in a specific instance, care or mater; or (b) alters an employee's at-will employment status.

Section 16.02. Reservation of Rights. The City Council reserves the right to interpret, change, suspend, cancel, or dispute, all or any part of this Policy, procedures or benefits discussed herein. Employees will be notified of any change. Although adherence to this Policy is considered a condition of continued employment, nothing in this Policy alters an employee's status and shall not constitute nor be deemed a contract or promise of employment. Employees remain free to resign their employment at any time for any or no reason, without notice, and the City retains the right to terminate any employee at any time, for any or no reason, with or without notice.

Section 16.03. 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. Should any section or part of this manual be held unconstitutional, illegal, or invalid, or the application thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof, but as to such remaining portion or portions, the same shall be and remain in full force and effect.

SICK LEAVE POOL CONTRIBUTION

INSTRUCTIONS:

An employee must complete this form to contribute to the Sick Leave Pool.

Please submit one original and one copy to Human Resources Manager and one to supervisor.

Records of contributions must be retained for two fiscal years plus the current year.

I wish to contribute the following amount of my accrued sick leave to the City of Palacios Sick Leave Pool to be used to benefit eligible employees who are unable to work due to catastrophic illness or injury. I understand that I may contribute a maximum of 24 hours of leave (in increments of 8 hours) per year. I also understand that my sick leave contribution will be returned to me only as an approved withdrawal from the Sick Leave Pool and only after I have exhausted my regular sick leave.

Employee Name (Print or Type)

Social Security No.

Department

CONTRIBUTION AMOUNT, CHECK ONE:

_____ 8 Hours

_____ 16 Hours

_____ 24 Hours

Employee Signature

Date

Department Head Signature

Date

NOTE: DONATIONS WILL ONLY BE ACCEPTED FROM OCTOBER 1ST THROUGH OCTOBER 31ST OF EACH YEAR. IF YOU DO NOT DONATE DURING THIS PERIOD, YOU WILL HAVE TO WAIT UNTIL THE NEXT FISCAL YEAR. AN EXCEPTION WILL BE GRANTED FOR INDIVIDUALS WHO ARE TERMINATING OR RETIRING WHO MAY WANT TO DONATE ALL OF THEIR UNUSED TIME TO THE SICK LEAVE POOL.

REQUEST FOR POOL LEAVE

This form is to make an application for the use of paid leave time from the City of Palacios Sick Leave Pool.

Submit one (1) copy to the employee's department head and the original to the Human Resources Manager.

Employee Name

Social Security No.

Department

Last day Employee was physically on duty: _____

Date and time employee exhausted all paid leave: _____

Sick leave pool time requested: _____

Leave without pay: From _____ To _____

This request must be accompanied by a Certificate of Illness/Injury.

Signature of Requesting Employee

Date

Signature of Department Head/Supervisor

Date

SECTION II: TO BE COMPLETED BY THE HUMAN RESOURCES MANAGER

Request Approved: _____

Request Denied: _____

Amount of Time Approved: _____

Signature of Human Resources Manager

Date

TO BE COMPLETED BY EMPLOYEE

Department

Telephone Number: _____

Date _____

This form must accompany an application with a request for pool leave and should be submitted to the City of Palacios Human Resources Manager.

Name of person involved in accident: _____

Phone#: _____ Age: _____ Date of Birth: _____

State cause and type of accident: _____

Nature of injuries or damage: _____

First Aid Given:_____ Ambulance called:_____ Taken to Hospital:_____

Name of Physician or person who gave first aid: _____

Phone

Name of person notified for injured party: _____

Relationship

Phone

Report prepared by: _____

Position

Department Head:

HARASSMENT COMPLAINT FORM

The City will make every effort to provide a work environment free from all forms of harassment. Harassment in the workplace is illegal; it violates Title VII of the 1964 Civil Rights Act and subjects employees to conditions and actions that have nothing to do with job performance or qualifications.

Name: _____ Date: _____

Department: _____ Supervisor: _____

Person(s) against whom harassment complaint is filed:

Date(s) that the actions resulting in this complaint took place:

Name(s) of witnesses: _____

Did the alleged Harassment include (indicate below):

_____ Verbal harassment	_____ Unwelcome advances
_____ Distribution of explicit material	_____ Physical Harassment
_____ Requests for sexual favors	_____ Threats of physical harm
_____ Hostile Work Environment based on protected categories (race, color, religion, gender, national origin, age, disability, pregnancy, genetic information, or other protected class)	
_____ Other (describe) _____	

Please describe the conduct which caused you to file this complaint. Include dates and persons involved.

I believe an appropriate resolution of my complaint would be:

Signature of Employee: _____ Date of Complaint: _____

UNDERSTANDING OF DRUG AND ALCOHOL POLICY

By my signature of acceptance to the City of Palacios, Texas, Personnel Policy Manual, I hereby acknowledge that I have received and reviewed a full and complete copy of the City of Palacios Personnel Policy and the Drug and Alcohol Abuse Policy contained therein; that I understand such policies; and further that I have had an opportunity to ask questions about the terms, provisions, meanings, application and enforcement thereof.

I have also read and understand the following Statement of Policy by the City of Palacios.

“The City of Palacios is a drug and alcohol abuse free work environment and that as an employee of the City of Palacios, Texas, I am subject to testing for Drugs or Alcohol consistent with the policy therein stated and as amended from time to time.

These drug and alcohol policies are designed to bring to the City reliable service to the citizens and a safe and healthy working environment for co-workers and citizens through uniform administration of drug and alcohol policies and practices. The following minimum standards will be adhered to:

- (a) The use, abuse, or trafficking of illegal drugs and/or substance abuse, on or off the job, will not be permitted.
- (b) Alcohol consumption and intoxication, as detailed in the Personnel Policy Manual, will not be permissible on city premises or during the performance of work-related duties.
- (c) The conduct prohibited under the drug and alcohol policies of the City are grounds for immediate termination without regard to whether the conduct actually occurred.
- (d) Testing, as set forth in the City of Palacios Personnel Policy Manual, is a condition of employment for all city employees to ensure the safest working environment and provide uniform policies in drug and alcohol testing.”

Acknowledgment of Receipt and Understanding

The undersigned employee of the City of Palacios, Texas, hereby acknowledges that I have received and reviewed a full and complete copy of the City of Palacios’ Personnel Policy and the Drug Abuse Policy passed by the City Council on: May 23, 2023; that I understand such policies; and further that I have had opportunity to ask questions about the terms, provisions, meanings, application and enforcement thereof.

I have also read and understand the following Statement of Policy by the City of Palacios.

“The City of Palacios is an at-will employer, and all employees are subject to termination for any reason or no reason at all, either voluntarily or involuntarily. I understand that

this policy manual is a general guide and that the foregoing provisions of this policy manual do not alter my at-will employment or constitute an employment agreement or contract, nor does it guarantee continued employment. I understand the City of Palacios reserves the right to change, modify, add, or eliminate any provisions within this policy manual at any time without notice. I understand that the provisions contained in this policy manual are applicable to me. Any promises made to me, which conflict with the provisions of this manual, are effective only if in writing and signed by the City Council or City Manager. I further understand that employees shall have the right to administratively appeal and file grievances with respect to disciplinary decisions and actions affecting their employment; provided that, consistent with such policy, the decision of the City Manager shall be final. The decision of the City Manager or City Council, as applicable, shall be final and unappealable.”

I understand the City will attempt to apply its policies and regulations in a fair and impartial manner. However, I also understand such policies and regulations do not create any contract or due process rights for employees; are intended as a guide only for use and application within the City organization; and that a decision by the City Manager or City Council, as applicable, with respect to any employment issue controlled by such policies and regulations, will be final and unappealable. I understand that I will be subject to drug and alcohol testing and that the acceptance of such testing is a condition of continuing employment.

Date of Signature: _____

Signature of Employee

Printed Name of Employee

UNDERSTANDING OF COMPUTER/INTERNET/EMAIL POLICY

By my signature of acceptance to the City of Palacios, Texas, Personnel Policy Manual, I hereby acknowledge that I understand that all computers and laptops given, loaned, or used by me, at work, are the property of the City of Palacios.

I acknowledge that the safety and security of all employee and citizen records are of the utmost importance, and I will not do anything to intentionally jeopardize the safety or security of my fellow employees or the citizens of Palacios. I further acknowledge that I will never connect any of my personal equipment to the city computer systems or telephone lines unless requested by the City Manager.

I acknowledge that although it may not be my intent to come across as a city employee when using email or internet, it can be construed that I was speaking for the City of Palacios, and I will therefore always maintain a professional manner when using city computers, email, and internet.

I acknowledge that social media, while acceptable on employee's own time, should always be made clear that views of the employee are their personal views and not the views of the City of Palacios. I acknowledge that I will use good judgement when using social media. Confidential matters are never to be discussed on social media.

I acknowledge that I have read the employee handbook Article 14. Internet and E-Mail and I will follow all rules regarding the use or non-use of the internet and e-mail system for the City of Palacios.

I acknowledge that misuse of this policy can/will constitute disciplinary action up to and including termination of employment.

Date of Signature: _____

Signature of Employee

Printed Name of Employee

CITY COUNCIL MEMORANDUM

City Council Meeting: June 08, 2023
Department: Administrative
Subject: Planning and Zoning Commission

BACKGROUND:

The Planning and Zoning Commission currently has two vacancies to fill for a total of 5 seats. These vacancies are to be for a term of two years ending in May of 2025. Vacancies are to be filled at the first regular Council meeting in June.

GOALS:

To appoint 2 new members from applications submitted to the City Secretary to fill the current vacancies.

FISCAL IMPACT:

None

RECOMMENDATION:

Staff recommends Council review applications submitted, and chose 2 new members.

ATTACHMENT:

Applications received

Planning Commission Terms and Duties

§ 10.01 Planning Commission.

The City Council shall appoint a City Planning Commission consisting of five (5) members who shall be residents of the City who are not members of the City Council or employees of the City and who shall serve without compensation. Members shall be appointed at the first regular meeting of June of each year for a two (2) year term with three (3) to be appointed each even numbered year and two (2) to be appointed each odd numbered year.

§ 10.02 Vacancies on the Commission.

Vacancies occurring on the Planning Commission shall be filled by the City Council for the remainder of the term within thirty (30) days after the vacancy occurs. Any member of the Commission who is absent for three (3) consecutive regular meetings of the Planning Commission, without being excused, may have his/her office declared vacated by the City Council.

§ 10.03 Organization of the Commission.

At its first meeting following the annual appointment of members by the City Council, the Planning Commission shall elect one (1) of its members as chair and one of its members as vice-chair. The Commission shall establish rules of procedure, which shall include the following:

(a)

The Commission shall hold, at a minimum, quarterly meetings and report to the City Council annually;

(b)

A quorum shall consist of a majority of the membership. An affirmative vote of a majority of those present shall constitute adoption of any pending motion;

(c)

The Chairperson shall be entitled to vote; and

(d)

The City Manager shall be an ex-officio member of the Commission, and shall be responsible for ensuring that minutes of meetings are recorded and maintained.

(May 5, 2018 – Special Election, prop. F)

§ 10.04 Powers and Duties of the Commission.

The Planning Commission shall:

(a)

be responsible to and act as an advisory board to the City Council.

(b)

approve, amend, extend, and add to a master plan for the physical development of the City, subject to approval of the City Council;

(c)

review and approve all plats for new subdivisions of land within the City and within adjacent areas as permitted by law and submit findings and recommendations to the City Council for City Council review and approval; and

(d)

perform such other duties and be vested with such other powers as the City Council may prescribe or as imposed upon the Commission by State Law.

CITY COUNCIL MEMORANDUM

City Council Meeting: June 08, 2023
Department: Administrative
Subject: Zoning Board of Adjustments

BACKGROUND: The Zoning Board of Adjustments is to be seated with 5 members. We currently have 2 members whose terms have ended. Terms of the Board are for two years with positions 1, 3, and 5 ending in odd numbered years, and positions 2 and 4 ending in even numbered years. Appointments of the Board are to be selected by Council at the first regular meeting in June of each year. In the absence of the Board, Council shall serve as the Board.

GOALS:

Council will need to either choose from applications submitted to fill the seats or determine if they would like to dissolve the Board and let Council serve as the Board.

FISCAL IMPACT:

None

RECOMMENDATION:

Staff recommends Council decide to seat the Board or serve as the Board.

ATTACHMENT:

Applications submitted to City Secretary

§12.800 Zoning Board of Adjustments

§ 12.800 ZONING BOARD OF ADJUSTMENT.

A.

Organization Of Zoning Board of Adjustment.

There is hereby created a Zoning Board of Adjustment, herein referred to as the Board. In the absence of a Board, the City Council shall serve as the Board. The Board shall be organized, appointed, and function as follows:

The Board shall consist of five (5) members who are residents of the City, each to be appointed by the City Council for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. The City Council shall designate one (1) member as chairman. Vacancies shall be filled for the unexpired term of any member, whose place becomes vacant for any cause, in the same manner as the original appointment was made. The City Council may appoint two (2) alternate members of the Board who shall serve in the absence of one (1) or more of the regular members when requested to do so by the Chairman of the Board or City Secretary, as the case may be. All cases to be heard by the Board will always be heard by a minimum of seventy-five percent (75%) of the number of regular members. These alternate members, when appointed, shall serve for the same period as the regular members, which is for a term of two (2) years, and any vacancy shall be filled in the same manner, and they shall be subject to removal the same as the regular members.

Each position on the Board shall be given a numerical designation with the designations beginning with the number 1 and ending with the number 5. The terms of the odd-numbered positions (places 1, 3, and 5) shall expire in odd-numbered years and the terms of even-numbered positions (places 2 and 4) shall expire in even-numbered years. Board members may be appointed to successive terms.

Each alternate position on the Board shall be given a numerical designation with the designations beginning with the number 1 and ending with the number 2. The terms of the odd-numbered positions shall expire in odd-numbered years and the terms of even-numbered positions shall expire in even-numbered years. Board alternate members may be appointed to successive terms. Appointments of members and alternate members of the Board shall be made at the first regular City Council meeting in the month of June of each year. Newly appointed members and alternate members shall be installed at the first regular Board meeting after their appointment. If there is a sitting Board, they shall continue to serve until their replacement is installed.

B.

Operational Procedure.

(1)

The Board shall adopt rules to govern its proceedings provided, however, that such rules are not inconsistent with this chapter or state law. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oath and compel the attendance of witnesses.

(2)

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(3)

Decisions of the Administrative Official may be appealed to the Board by any person aggrieved or by an officer, department, or board of the municipality affected by a decision of the

administrative official. Such appeal must be made within fifteen (15) days after the decision has been rendered by the administrative official by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The Administrative Official whose decision is being appealed shall forthwith transmit to the Board all the papers constituting the records upon which the action appealed from was taken.

(4)

An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with the officer, that, by reasons of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or a court of record on application or notice to the officer from whom the appeal is taken and on whom due cause shown.

(5)

No appeal to the Board for the same or related variance on the same piece of property shall be allowed prior to the expiration of six (6) months from a previous ruling of the Board on any appeal to such body unless other property in the immediate vicinity has, within the said six (6) months period, been changed or acted on by the Board or City Council so as to alter the facts and conditions on which the previous board action was based. Such change of circumstances shall permit the rehearing of an appeal by the Board prior to the expiration of six (6) months period, but such conditions shall in no wise have any force in law to compel the Board, after a hearing, to grant a subsequent appeal. Such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

(6)

At a public hearing relative to any appeal, any interested party may appear in person, or by agent, or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the Board on any appeal. Any special exception or variance granted or authorized by the Board, under the provisions of this chapter, shall authorize the issuance of a building permit or a certificate of occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action of the Board, unless said board shall have, in its action, approved a longer period of time and has so shown such specific longer period in the minutes of its action. If the building permit and/or certificate of occupancy shall not have been applied for within said ninety (90) day period, or such extended period as the Board may have specifically granted, then the special exception or variance shall be deemed to have been waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal, and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.

C.

Actions Of The Zoning Board of Adjustment.

(1)

In exercising its powers, the Board may, in conformity with the provisions of the Statutes of the State of Texas as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken. The Board shall have the power to impose reasonable conditions to be complied with by the applicant.

(2)

The concurring vote of seventy-five percent (75%) of the number of regular members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the application on any matter upon which it is required to pass under this chapter or to effect any variance in said chapter.

(3)

Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, or Board of the municipality may present to a court of record (District Court) a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Board and not thereafter.

D.

Notice Of Hearing Before Zoning Board of Adjustment Required.

The Board shall hold a public hearing on all appeals made to it, and written notice of such public hearings shall be sent to the applicant and all other persons who are owners of real property lying within two hundred feet (200') of the property on which the appeal is made. Measurements shall be taken inclusive of public streets. Such notice shall be given no less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last City tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the United States Post Office. Notice shall also be given by publishing the same in the official publication of the City at least ten (10) days prior to the date set for hearing, which notice shall state the time and place of such hearing.

E.

Jurisdiction Of Zoning Board of Adjustment.

When, in its judgment, the public convenience and welfare will be substantially served, and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board may, in specific cases, after public notice and public hearing, and subject to appropriate conditions and safeguards, authorize special variances and/or exceptions to the regulations herein established. The Board shall also:

(1)

Consider applications for conditional uses as set forth in Section 12.301;

(2)

Hear and decide appeals when it is alleged there is error on any order, requirement, decision, or determination made by the administrative official in the enforcement of this chapter;

(3)

Interpret the intent of the zoning district map where uncertainty exists because the physical features on the ground vary from those on the zoning district map and none of the rules set forth in this chapter apply;

(4)

Initiate, on its motion or cause presented by interested property owners, action to bring about the discontinuance of a nonconforming use;

(5)

Require the discontinuance of a nonconforming use under any plan, whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this chapter;

(6)

Consider requests to change of occupancy of a nonconforming use to another nonconforming use in accordance with the provisions of Section 12.600;

(7)

Consider requests for the enlargement of a nonconforming use in accordance with the provisions of Section 12.600;

(8)

Consider requests for the reconstruction of a nonconforming structure or building on the lot or tract occupied by such building, provided such reconstruction does not, in the judgment of the Board, prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming structure, and provided that such actions conform to the provisions of Section 12.600;

(9)

Require the vacation and demolition of a nonconforming structure which is deemed to be obsolete, dilapidated, or substandard;

(10)

Consider requests for variance of the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum setback standards, off-street parking, off-street loading regulations, lot area, maximum height, where the literal enforcement of the provisions of this chapter would result in an unnecessary hardship, or where such variance is necessary to permit a specific parcel of land, which differs from other parcels of land in the same district by being of such area, shape or slope, that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district.

(Ordinance 27-11-2007 adopted 12/11/07)

CITY COUNCIL MEMORANDUM

City Council Meeting: June 8, 2023
Department: City Manager
Subject: Swimming Pool/Tennis Court

BACKGROUND

The swimming pool and tennis courts were purchased by the Ed Rachal Foundation. The City of Palacios has been gifted the Swimming Pool and Tennis Courts by the Ed Rachal Foundation. Ed Rachal Foundation will do renovations on the tennis courts to turn them into pickleball courts. After this summer, the Ed Rachal Foundation will renovate the swimming pool.

GOALS

The goal is to open pickleball courts and pool to the public this summer. Next summer to open a renovated pool to the public.

FISCAL IMPACT

The fiscal impact for the City of Palacios is the maintenance of the pickleball courts and swimming pool.

RECOMMENDATION

Staff recommends that the City accept the deed from the Ed Rachal foundation for the tennis courts and swimming pool.

ATTACHMENT

Deed

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

DATE: May 26, 2023

GRANTOR: ERF PALACIOS, INC., a Texas nonprofit corporation

GRANTEE: THE CITY OF PALACIOS, TEXAS, a Texas municipal corporation

GRANTEE'S MAILING ADDRESS:

P.O. Box 845
Palacios, Texas 77465

CONSIDERATION: As a gift by Grantor to Grantee.

PROPERTY:

Land:

The following described Land:

That 0.740 acre tract of land in the City of Palacios, Matagorda County, Texas described on EXHIBIT "A" hereto attached. Said 0.740 acre tract is being replatted as Lot 2, Block 20 of the Original Townsite of Palacios.

Together with and including all of the Grantor's right, title and interest in and to the rights and appurtenances in any way belonging or appurtenant to said Land, including, without limitation: (i) any improvements on said Land; (ii) strips and gores, if any, adjacent or contiguous to the Land; (iii) any land lying in or under the bed of any street, alley, road, creek or stream running through, abutting or adjacent to the Land; (iv) any riparian rights appurtenant to the Land relating to surface or subsurface waters; and (v) easements, rights of ingress and egress and reversionary interests benefitting or serving the Land.

Easement.

In addition to the Land, Grantor hereby grants unto the Grantee, its successors and assigns a non-exclusive easement for parking vehicles on the following Easement Area:

Easement Area.

That 0.292 acre tract of land in Palacios, Matagorda County, Texas described on EXHIBIT "B" hereto attached.

The Easement Area may be used by Grantee, its successors and assigns for use as a parking lot for visitors to the Land described on EXHIBIT "A". No above ground structures shall be placed or constructed on the Easement Area which would prevent or interfere with use of such as a parking lot. No fence shall be placed along the West boundary of the Easement Area which would hinder vehicular to the Easement Area from 3rd Street.

The Easement herein granted to Grantee is non-exclusive in nature and the Grantor reserves for itself, its successors and assigns the right to use the Easement Area for any use which does not interfere with the Grantee's use thereof for a parking lot. Without limitation, the Grantor, its successors and assigns shall also have the right to utilize the Easement Area for parking vehicles for visitors to adjacent land owned by Grantor.

The present and future owners of the Land herein conveyed to the Grantee, and their employees, lessees, guests and invitees shall use the Easement Area in such condition of repair or disrepair as may exist from time to time. The Grantor, its successors and assigns may, but shall not be required to, at their expense, maintain and repair the parking lot; and also the Grantee, its successors and assigns may, but shall not be required to, at their expense, maintain and repair the parking lot. Unless otherwise agreed the Grantor, its successors and assigns shall not be required to reimburse the Grantee, its successors and assigns for costs incurred for repairs to the parking lot; and the Grantee, its successors and assigns shall not be required to reimburse the Grantor, its successors and assigns for costs incurred for repairs of the parking lot.

Property.

The Land, the Easement and other appurtenant rights are herein referred to as the "Property".

RESERVATIONS FROM CONVEYANCE:

None.

EXCEPTIONS TO CONVEYANCE AND WARRANTY:

This conveyance is subject to the following matters to the extent that such are presently in force and effect and affect the Property:

- (1) All easements, rights-of-way and restrictive covenants, if any, of record with the County Clerk of the County in which the Property is located;
- (2) Taxes for the current year, the payment of which Grantee assumes;
- (3) All mineral estate reservations and conveyances (including assignments or reservations of royalty interests) by Grantor and by Grantor's predecessors in title as shown by the records of the County Clerk of the County in which the Property is located, and the rights of any lessee or other person claiming an interest in oil, gas and other minerals under oil, gas and/or mineral leases.

GRANT OF PROPERTY:

Grantor, for the Consideration and subject to the Reservations From Conveyance and the Exceptions to Conveyance and Warranty, GRANTS, GIVES, and CONVEYS to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging so long as a public swimming pool is maintained on the said Land. To have and to hold unto Grantee, Grantee's successors and assigns so long as a public swimming pool is maintained upon the Land. Provided that no temporary cessation, of not longer than twenty-four (24) consecutive months, shall be deemed a failure in such respect; and whenever such a swimming pool shall cease to be located on the Land, then and thereupon this conveyance shall be null and void and the Property shall absolutely revert without any necessity for suit or reentry to Grantor, its successors and assigns; and in this respect the Grantor hereby grants and assigns such reverter and reversionary interest in the Property unto The Ed Rachal Foundation, a Texas nonprofit corporation which is the parent company of the Grantor, its successors and assigns, such that upon any reversion of the title such shall pass to The Ed Rachal Foundation, its successors and assigns; and no act or omission on the part of any of them shall be a waiver of the operation or enforcement of such condition. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the Property to Grantee and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through and under Grantor but not otherwise, and except as to the Reservations From Conveyance and the Exceptions to Conveyance and Warranty and subject to the foregoing reverter.

ACCEPTED BY GRANTEE:
THE CITY OF PALACIOS, TEXAS

GRANTOR:
ERF PALACIOS, INC

By: _____
Name: _____
Title: _____

By: Paul D Altheide
Paul Altheide
President & CEO

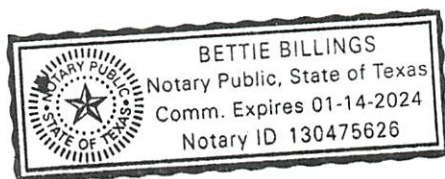
STATE OF TEXAS

COUNTY OF Nueces

§
§
§

This instrument was acknowledged before me on the 26th day of May, 2023, by PAUL ALTHEIDE, the President & CEO of ERF PALACIOS, INC., a Texas nonprofit corporation, on behalf of such corporation.

Bettie Billings
Notary Public, State of Texas



STATE OF TEXAS

§
§
§

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 2023, by _____, the _____ of THE CITY OF PALACIOS, TEXAS, a Texas municipal corporation, on behalf of such corporation.

Notary Public, State of Texas

EXHIBIT "A"

LEGAL DESCRIPTION

0.740-Acre Tract

STATE OF TEXAS §

COUNTY OF MATAGORDA §

Being a 0.740-acre tract of land out of and a part of Block No. Twenty (20) of the Original Townsite of Palacios City, (now City of Palacios, Texas), in Matagorda County, Texas as shown by plat recorded in Volume 14, Page 374 of the Deed Records of Matagorda County, Texas, and this 0.740-acre tract being more particularly described by metes and bounds as follows;

BEGINNING at a 5/8 inch iron rod found in the north right-of-way line of Moore Avenue, a public road right-of-way having a width of 80-feet, more or less, said iron rod also being in the east right-of-way line of 3rd Street, a public road right-of-way having a width of 80-feet, more or less and said iron rod also marking the southwest corner of Block 20 and the southwest corner of the herein described tract;

THENCE with the west boundary line of Block 20 and the east right-of-way line of 3rd Street, North $1^{\circ}07'33''$ West, for a distance of 203.47 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" set in the east right-of-way line of 3rd Street for the northwest corner of the herein described tract;

THENCE North $88^{\circ}52'08''$ East, with the south line of a joint use easement for a distance of 158.41 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" set at a point in Block 20 for the northeast corner of the herein described tract;

THENCE South $1^{\circ}07'33''$ East, for a distance of 203.47 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" set in the south boundary line of Block 20 and in the north right-of-way line of Moore Avenue, for the southeast corner of the herein described tract;

THENCE South $88^{\circ}52'08''$ West with the south line of Block 20 and the north right-of-way line of Moore Avenue for a distance of 158.41 feet to the POINT OF BEGINNING, containing in area 0.740-acres of land, more or less.

This survey description is based on a survey made on the ground under my supervision in October 2022. It is true and correct to the best of my knowledge and belief. Bearings are based on the Texas State Plane Coordinate System, South Central Zone, NAD 83.



John D. Mercer, RPLS
john.mercer@lynnngroup.com
Texas No. 1924
Surveyor Firm No. 10116600
Date: March 14, 2023
Job No. S2342

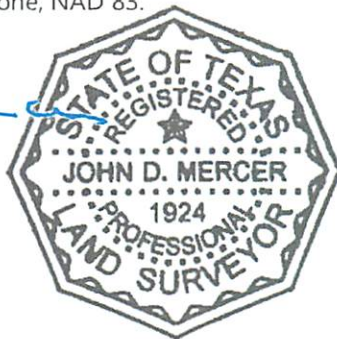


EXHIBIT "B"

LEGAL DESCRIPTION

0.292-Acre Joint Use Easement

STATE OF TEXAS §

COUNTY OF MATAGORDA §

Being a 0.292-acre easement of land out of and a part of Block No. twenty (20) of the Original Townsite of Palacios City (now City of Palacios, Texas), in Matagorda County, Texas as shown by plat recorded in Volume 14, Page 374 of the Deed Records of Matagorda County, Texas and this 0.292-acre tract being more particularly described by metes and bounds as follows;

FOR REFERENCE a 5/8 inch iron rod found in the north right-of-way line of Moore Avenue, a public road right-of-way having a width of 80-feet, more or less and said iron rod also being in the east right-of-way line of 3rd Street, a public road right-of-way having a width of 80-feet, more or less, said iron rod also being the southwest corner of Block 20;

THENCE with the west boundary line of Block 20, and along the east right-of-way line of 3rd Street, North 01° 07'33" West for a distance of 203.47 feet to the POINT OF BEGINNING

THENCE at a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" set in the east right-of-way line of 3rd Street and in the west boundary line of Block 20 for the southwest corner of the herein described easement;

THENCE with the west boundary line of Block 20 and along the east right-of-way line of 3rd Street, North 1°07'33" West for a distance of 80.28 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" set in the east right-of-way line of 3rd Street for the northwest corner of the herein described easement;

THENCE North 88°52'08" East for a distance of 158.41 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" set at a point in Block 20 for the northeast corner of the herein described easement;

THENCE South 1°07'33" East for a distance of 80.28 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" set at a point in Block 20 for the southeast corner of the herein described easement and being the northeast corner of a called 0.740-acre tract of land;

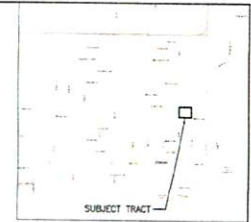
THENCE South 88°52'08" West with the north line of said 0.740-acre tract for a distance of 158.41 feet to the POINT OF BEGINNING, containing in area 0.292-acres of land, more or less.

This survey description is based on a survey made on the ground under my supervision in October 2022. It is true and correct to the best of my knowledge and belief. Bearings are based on the Texas State Plane Coordinate System, South Central Zone, NAD 83.


John D. Mercer, RPLS
john.mercer@lynngroup.com
Texas No. 1924
Surveyor Firm No. 10116600
Date: March 14, 2023
Job No. S2342



RE-PLAT
OF LOT ONE (1), BLOCK 20, OUT OF THE RE-PLAT OF
BLOCK 20 OF THE ORIGINAL TOWNSITE OF PALACIOS
CITY, TEXAS, (NOW CITY OF PALACIOS, TEXAS)
AS SHOWN ON THE PLAT RECORDED IN
VOLUME 2023, PAGE 9 OF THE PLAT RECORDS OF
MATAGORDA COUNTY, TEXAS



VICINITY MAP

STATE OF TEXAS
COUNTY OF MATAGORDA
CITY OF PALACIOS

I, Paul Athaide, Chief Executive Officer of the ERF Palacios, INC., Owners of Block 20 (XXX Description) described in the above and foregoing plat, do hereby make and establish subdivision of said property according to all lines, dedications, restriction and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, water courses, drains, and public places as may be shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs and assigns to warrant and forever defend the title on the land so dedicated.

IN TESTIMONY WHEREOF, the ERF PALACIOS, INC., has caused these presents to be signed by Paul Athaide, as Chief Executive Officer on this _____ day of _____, 2023.

BY _____
Paul Athaide, Chief Executive Officer

THE STATE OF TEXAS
COUNTY OF MATAGORDA

NOTARY PUBLIC

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and considerations therein stated.

Given under my hand and seal of office this _____ day of _____ A.D. 2023.

Notary Public

County

THE STATE OF TEXAS
COUNTY OF MATAGORDA

COUNTY CLERK CERTIFICATE

I, _____ County Clerk of Matagorda County, Texas do hereby certify that the foregoing subdivision RE-PLAT OF LOT ONE (1), BLOCK 20, OUT OF THE RE-PLAT OF BLOCK 20 OF THE ORIGINAL TOWNSITE OF PALACIOS CITY, TEXAS, (NOW CITY OF PALACIOS, TEXAS) AS SHOWN ON THE PLAT RECORDED IN VOLUME 2023, PAGE 9 OF THE PLAT RECORDS OF MATAGORDA COUNTY, TEXAS, in the City of Palacios, Matagorda County, Texas with certificate of authentication was filed for record in my office on the _____ day of _____, 2023, at _____ o'clock _____ PM, and was duly recorded on the _____ day of _____, 2023 in Volume _____ Page _____ of the Matagorda County Plat Records, Slide No. _____

Matagorda County Clerk

THE STATE OF TEXAS
COUNTY OF MATAGORDA

CITY PLANNING COMMISSION
CERTIFICATE OF APPROVAL

Approved this _____ day of _____, 2023,
by the Planning Commission of the City of
Palacios, Texas:

Chairman

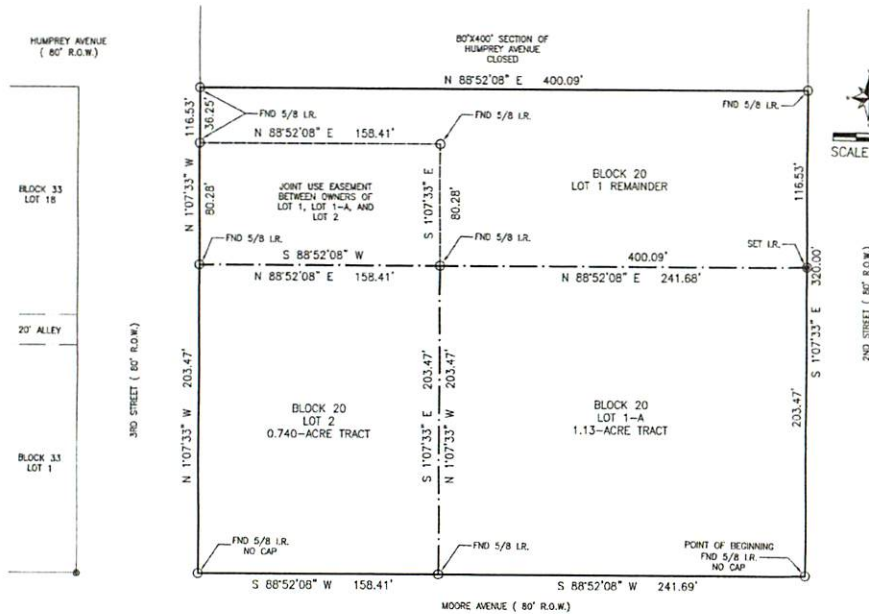
THE STATE OF TEXAS
COUNTY OF MATAGORDA

CITY COUNCIL
CERTIFICATE OF APPROVAL

Approved this _____ day of _____, 2023,
by the City Council of the City of Palacios, Texas.

Mayor

City Manager



HUMPHREY AVENUE
(80' R.O.W.)

2ND STREET (80' R.O.W.)

BLOCK 7
LOT 5

BLOCK 7
LOT 6

BLOCK 7
LOT 7

BLOCK 7
LOT 8

NOTES:

- 1) THE BASIS OF BEARING FOR THIS SURVEY IS GRID NORTH, BASED UPON RTX/DGPS OBSERVATIONS, REFERENCED TO N.A.D. 83, TEXAS STATE PLANE COORDINATES, SOUTH ZONE, CORRECTED TO HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET.
- 2) THE ENTIRE PROPERTY LIES WITHIN THE CITY LIMITS OF THE CITY OF PALACIOS, TEXAS

THE STATE OF TEXAS
COUNTY OF MATAGORDA

FLOOD PLAIN APPROVAL

According to the Flood Hazard Boundary Map No. 48321C0555 dated January 15, 2021 provided by the Federal Emergency Management Agency, except as otherwise noted, this area lies in Zone X.

Flood Plain Administrator

THE STATE OF TEXAS
COUNTY OF MATAGORDA

CERTIFICATE OF SURVEYOR

I, the undersigned, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this plat is true and correct to the best of my knowledge and belief and was prepared from a survey on the ground and after verification of existing corner markers and setting of all lot corners under my supervision.

John D. Mercer
Registered Professional Land Surveyor No. 10116600
Texas Registered Surveying Firm 10116600
May 23, 2023



JOHN D. MERCER & ASSOCIATES
CONSULTING ENGINEERS
TEXAS REGISTERED SURVEYING FIRM 10116600

118 EAST MAIN STREET
EDNA, TX 77957

361-782-7121



S2342

IRON RODS CALLED "TOLAND" ARE A 5/8 INCH IRON ROD THAT BEAR A PLASTIC CAP MARKED "IRON ENGINEER FIRM 10116600" UNLESS NOTED OTHERWISE
IRON RODS CALLED "JET" ARE A 5/8 INCH IRON ROD THAT BEAR A PLASTIC CAP MARKED "IRON ENGINEER FIRM 10116600"

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

DATE: May 26, 2023

GRANTOR: ERF PALACIOS, INC., a Texas nonprofit corporation

GRANTEE: THE CITY OF PALACIOS, TEXAS, a Texas municipal corporation

GRANTEE'S MAILING ADDRESS:

P.O. Box 845
Palacios, Texas 77465

CONSIDERATION: As a gift by Grantor to Grantee.

PROPERTY:

The following described Land:

That 1.13 acre tract of land in the City of Palacios, Matagorda County, Texas described on EXHIBIT "A" hereto attached. Said 1.13 acre tract is being replatted as Lot 1-A, Block 20 of the Original Townsite of Palacios.

Together with and including all of the Grantor's right, title and interest in and to the rights and appurtenances in any way belonging or appurtenant to said Land, including, without limitation: (i) any improvements on said Land; (ii) strips and gores, if any, adjacent or contiguous to the Land; (iii) any land lying in or under the bed of any street, alley, road, creek or stream running through, abutting or adjacent to the Land; (iv) any riparian rights appurtenant to the Land relating to surface or subsurface waters; and (v) easements, rights of ingress and egress and reversionary interests benefitting or serving the Land. The Land and other appurtenant rights being herein referred to as the "Property".

RESERVATIONS FROM CONVEYANCE:

None.

EXCEPTIONS TO CONVEYANCE AND WARRANTY:

This conveyance is subject to the following matters to the extent that such are presently in force and effect and affect the Property:

- (1) All easements, rights-of-way and restrictive covenants, if any, of record with the County Clerk of the County in which the Property is located;
- (2) Taxes for the current year, the payment of which Grantee assumes;
- (3) All mineral estate reservations and conveyances (including assignments or reservations of royalty interests) by Grantor and by Grantor's predecessors in title as shown by the records of the County Clerk of the County in which the Property is located, and the rights of any lessee or other person claiming an interest in oil, gas and other minerals under oil, gas and/or mineral leases.

GRANT OF PROPERTY:

Grantor, for the Consideration and subject to the Reservations From Conveyance and the Exceptions to Conveyance and Warranty, GRANTS, GIVES, and CONVEYS to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging so long as a public athletic court is maintained on the said Land. To have and to hold unto Grantee, Grantee's successors and assigns so long as a public athletic court is maintained upon the Land. Provided that no temporary cessation, of not longer than twenty-four (24) consecutive months, shall be deemed a failure in such respect; and whenever a public athletic court shall cease to be located on the Land, then and thereupon this conveyance shall be null and void and the Property shall absolutely revert without any necessity for suit or reentry to Grantor, its successors and assigns; and in this respect the Grantor hereby grants and assigns such reverter and reversionary interest in the Property unto The Ed Rachal Foundation, a Texas nonprofit corporation which is the parent company of the Grantor, its successors and assigns, such that upon any reversion of the title such shall pass to The Ed Rachal Foundation, its successors and assigns; and no act or omission on the part of any of them shall be a waiver of the operation or enforcement of such condition. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the Property to Grantee and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through and under Grantor but not otherwise, and except as to the Reservations From Conveyance and the Exceptions to Conveyance and Warranty and subject to the foregoing reverter.

ACCEPTED BY GRANTEE:
THE CITY OF PALACIOS, TEXAS

ERF PALACIOS, INC

By: _____
Name: _____
Title: _____

By: Paul Altheide
Paul Altheide
President & CEO

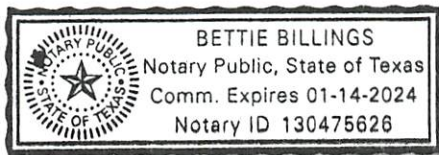
STATE OF TEXAS

COUNTY OF

Nueces

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This instrument was acknowledged before me on the 26th day of May, 2023, by PAUL ALTHEIDE, the President & CEO of ERF PALACIOS, INC., a Texas nonprofit corporation, on behalf of such corporation.



Bettie Billings
Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF _____

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§
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This instrument was acknowledged before me on the _____ day of _____, 2023, by _____, the _____ of THE CITY OF PALACIOS, TEXAS, a Texas municipal corporation, on behalf of such corporation.

Notary Public, State of Texas

EXHIBIT "A"

LEGAL DESCRIPTION

1.13-Acre Tract, Called Lot 1-A

STATE OF TEXAS §

COUNTY OF MATAGORDA §

Being a 1.13-acre tract of land out of and a part of Lot One (1) in Block No. Twenty (20) out of the Re-Plat of Block Twenty (20) of the Original Townsite of Palacios City, (now City of Palacios, Texas), in Matagorda County, Texas as shown on plat recorded in Volume 2023, Page 9 of the Plat Records of Matagorda County, Texas, and this 1.13-acre tract being more particularly described by metes and bounds as follows;

BEGINNING at a 5/8 inch iron rod without a cap found in the north right-of-way line of Moore Avenue, a public road right-of-way having a width of 80-feet, more or less, said iron rod also being in the west right-of-way line of 2nd Street, a public road right-of-way having a width of 80-feet, more or less, said iron rod marking the southeast corner of Lot One (1) and also marking the southeast corner of Block 20 and the southeast corner of the herein described tract;


THENCE with the south boundary line of Block 20 and the north right-of-way line of Moore Avenue, South 88°52'08" West, for a distance of 241.69 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" found in the north right-of-way line of Moore Avenue, said iron rod marking the southeast corner of Lot Two (2) of the aforementioned Re-Plat of Block Twenty (20), and said iron rod also marking the southwest corner of the herein described tract;

THENCE North 1°07'33" West, with the east line of said Lot Two (2), for a distance of 203.47 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" found at the northeast corner of said Lot Two (2), said iron rod also marking the northwest corner of the herein described tract;

THENCE North 88°52'08" East, for a distance of 241.68 feet to a 5/8 inch iron rod with a cap marked "LYNN ENGINEER FIRM 10116600" set in the east boundary line of Block 20 and in the west right-of-way line of 2nd Street, said iron rod marking the northeast corner of the herein described tract;

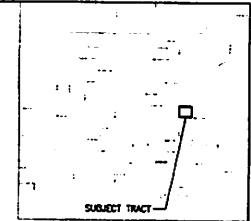
THENCE South 1°07'33" East with the east line of Block 20 and the west right-of-way line of 2nd Street for a distance of 203.47 feet to the POINT OF BEGINNING, containing in area 1.13-acres of land, more or less.

This survey description is based on a survey made on the ground under my supervision in October 2022. It is true and correct to the best of my knowledge and belief. Bearings are based on the Texas State Plane Coordinate System, South Central Zone, NAD 83.


John D. Mercer, RPLS
john.mercer@lynnngroup.com
Texas No. 1924
Surveyor Firm No. 10116600
Date: May 23, 2023
Job No. S2342



RE-PLAT
OF LOT ONE (1), BLOCK 20, OUT OF THE RE-PLAT OF
BLOCK 20 OF THE ORIGINAL TOWNSITE OF PALACIOS
CITY, TEXAS, (NOW CITY OF PALACIOS, TEXAS)
AS SHOWN ON THE PLAT RECORDED IN
VOLUME 2023, PAGE 9 OF THE PLAT RECORDS OF
MATAGORDA COUNTY, TEXAS



VICINITY MAP

STATE OF TEXAS
COUNTY OF MATAGORDA
CITY OF PALACIOS

I, Paul Almeida, Chief Executive Officer of the ENP Palacios, INC., Owners of Block 20 (CCC Description) described in the above and foregoing plat, do hereby move and establish subdivision of said property according to all laws, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, water courses, drains, and public places as may be shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs and assigns to warrant and forever defend the title to the land so dedicated.

IN TESTIMONY WHEREOF, the ENP PALACIOS, INC., has caused these presents to be signed by Paul Almeida, its Chief Executive Officer on this _____ day of _____, 2023.

By: Paul Almeida, Chief Executive Officer

THE STATE OF TEXAS

COUNTY OF MATAGORDA

NOTARY PUBLIC

BEFORE ME, the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and considerations therein stated.

Given under my hand and seal of office this _____ day of _____ A.D. 2023.

Notary Public

County

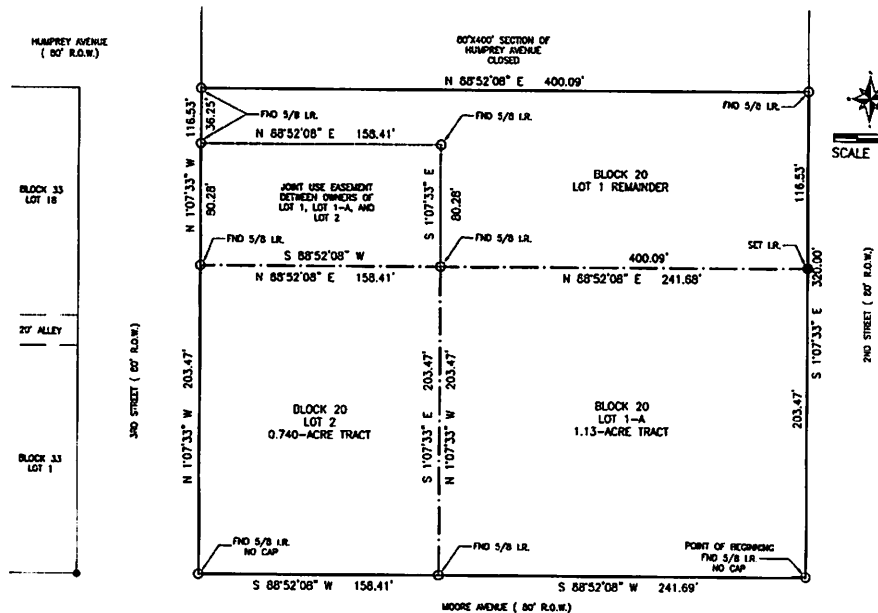
THE STATE OF TEXAS

COUNTY OF MATAGORDA

COUNTY CLERK CERTIFICATE

I, _____ County Clerk of Matagorda County, Texas do hereby certify that the foregoing subdivision RE-PLAT OF LOT ONE (1), BLOCK 20, OUT OF THE RE-PLAT OF BLOCK 20 OF THE ORIGINAL TOWNSITE OF PALACIOS CITY, TEXAS, (NOW CITY OF PALACIOS, TEXAS) AS SHOWN ON THE PLAT RECORDED IN VOLUME 2023, PAGE 9 OF THE PLAT RECORDS OF MATAGORDA COUNTY, TEXAS, in the City of Palacios, Matagorda County, Texas with certificate of authentication was filed for record in my office on the _____ day of _____, 2023 at _____ o'clock _____ PM, and was duly recorded on the _____ day of _____, 2023 in Volume _____ Page _____ of the Matagorda County Plat Records, Side No. _____

Matagorda County Clerk



HUMPHREY AVENUE
(80' R.O.W.)



HUMPHREY AVENUE
(80' R.O.W.)

BLOCK 7
LOT 5

BLOCK 7
LOT 6

BLOCK 7
LOT 7

BLOCK 7
LOT 8

NOTES:

- 1) THE BASIS OF BEARING FOR THIS SURVEY IS GRID NORTH, BASED UPON RTN/IGNES OBSERVATIONS, REFERENCED TO NAD 83, TEXAS STATE PLANE COORDINATES, SOUTH ZONE, CORRECTED TO HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET.
- 2) THE ENTIRE PROPERTY LIES WITHIN THE CITY LIMITS OF THE CITY OF PALACIOS, TEXAS

THE STATE OF TEXAS

COUNTY OF MATAGORDA

FLOOD PLAIN APPROVAL

According to the Flood Hazard Boundary Map No. 48321C0555F dated January 15, 2021 provided by the Federal Emergency Management Agency, except as otherwise noted, this area lies in Zone X.

Flood Plain Administrator

THE STATE OF TEXAS

COUNTY OF MATAGORDA

CERTIFICATE OF SURVEY

I, the undersigned, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this plat is true and correct to the best of my knowledge and belief and was prepared from a survey on the ground and after verification of existing corner markers and setting of all lot corners under my supervision.

John D. Mercer
John D. Mercer
Registered Professional Land Surveyor
Texas Registered Surveying Firm 10116600
May 23, 2023



THE STATE OF TEXAS

COUNTY OF MATAGORDA

**CITY PLANNING COMMISSION
CERTIFICATE OF APPROVAL**

Approved this _____ day of _____, 2023,
by the Palacios Planning Commission of the City of
Palacios, Texas.

Chairman

THE STATE OF TEXAS

COUNTY OF MATAGORDA

**CITY COUNCIL
CERTIFICATE OF APPROVAL**

Approved this _____ day of _____, 2023,
by the City Council of the City of Palacios, Texas.

Mayor

City Manager

NON BOSS CALLED "YOUNG" ARE A 5/8 INCH
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JOHN D. MERCER & ASSOCIATES
CONSULTING ENGINEERS
TEXAS REGISTERED SURVEYING FIRM 10116600
111 EAST MAIN STREET
EDNA, TX 77957
361-782-7121



52342

CITY COUNCIL MEMORANDUM

City Council Meeting: June 08, 2023
Department: Police Department
Subject: Game Room Location Restrictions / Ordinance No. 2023-O-09

BACKGROUND

Having specific knowledge and expertise in dealing with the operations of Game Rooms, I know and can attest that these businesses increase crime in the areas where they are located. Game Rooms often serve as a hub for narcotics activity and have shown to increase calls for service in the areas of assaults, thefts, and burglaries. Game Rooms are often the targets of robberies due to the large amounts of cash retained during the hours of operations. The businesses cannot operate legally, within the gaming laws of the State of Texas, and be a profitable business. Any area that the city allows to have a Game Room would see an increase of foot, bicycle, and vehicle traffic during all hours of operations.

GOAL

The goal of restricting the locations Game Rooms might be allowed to operate in the City of Palacios is to prevent a loss of quality of life for residents who might live in an area a Game Room is placed and therefor be subjected to the increased criminal activities. To prevent Game Rooms from being located near parks, churches, and schools, whereas the Game Room would bring a greater volume of foot, bicycle and vehicle traffic to the area and increase the potential for an accident to injure a child or resident.

FISCAL IMPACT

There is no fiscal impact to the city.

RECOMMENDATION

Accept the ordinance as written.

ATTACHMENT

Ordinance to properly establish location restrictions on potential Game Rooms in the City of Palacios.

ORDINANCE NO. 2023-O-09

AN ORDINANCE OF THE CITY OF PALACIOS, TEXAS, PLACING LOCATION REQUIREMENTS FOR GAME ROOMS AND AMUSEMENT REDEMPTION MACHINES; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds that Game Rooms, as a category of commercial uses, are associated with secondary effects including but not limited to personal and property crimes, gambling offenses, weapon offenses, illicit narcotics and drug trafficking, negative impacts on surrounding properties, urban blight, and litter.

WHEREAS, there is a desire to keep Game Rooms and Amusement Redemption Machines (hereinafter “Game Rooms” collectively) a safe distance from residences, churches, schools, child-care facilities, hospitals, registered businesses, parks and or playgrounds; and

WHEREAS, the City Council desires to provide the highest quality of life for citizens and visitor to the City of Palacios; and

WHEREAS, the City Council deems that each of the foregoing negative secondary effects constitutes a harm, which the City of Palacios, has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City of Palacios’ rationale for these regulations, exists independent of any comparative analysis between the legal game rooms and illicit game rooms. The City of Palacios interests in regulating game rooms extend to preventing future secondary effects of either current or future game rooms that may locate in the City of Palacios.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF PALACIOS, TEXAS:

Section 1. The findings set forth in the preamble to this Ordinance are hereby found to be true and correct and are hereby approved and adopted.

Section 2. The Code of Ordinances of the City of Palacios, Texas, Chapter 4, Business Regulations, is hereby amended to add Article 4.11 Location Requirements for Game Rooms and Amusement Redemption Machines, to read as follows:

Sec. 4.11 Location Requirements for Game Rooms and Amusement Machines

(a) **Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) **Amusement redemption machine.** A recreational machine that provides the user with an opportunity to receive something of value other than a right of replay.

(2) **Gaming machine** – means any electronic, electrical or mechanical contrivance or machine that is constructed or adapted for use in a game of chance, where the game is played or commenced by the insertion in a slot or other aperture of money or money’s worth in the form of cash or tokens, or by payment of money or money’s worth by any other means.

(3) **Game room.** A Game room is defined as any business establishment in which at least 25% of the public floor area is devoted to coin-operated machines used for recreation and amusement purposes.

(4) **Game room owner.** A person or entity which has an ownership interest in a game room.

(5) **Operational machine.** An amusement redemption machine that is ready to be played and that is or appears to be accessible to the public.

(b) A structure housing a Game Room hereafter located within the City shall be located at least five hundred (500) feet from any residence boundary line, or any structure used as a residence; from a church, public or denominational school, hospital, licensed child-care facility, hotel, motel, park, playground (public), playfield, stadium (public), institution of religious, charitable, or philanthropic nature, registered business; and from any other structure housing a Game Room.

(c) Distance requirements are to be measured in a straight line in all directions from the structure housing the Game Room to any residentially zoned district boundary line, to any structure used as a residence; from a church, public or denominational school, hospital, licensed child-care facility, hotel, motel, park, playground (public), playfield, stadium (public), institution of religious, charitable, or philanthropic nature, registered business; and from any other structure housing a Game Room.

(d) The measurement to a structure shall be taken from the farthest point that a structure extends in the direction of the measurement, including overhanging roofs and all other projections or portions of such structure,

(e) Should a Game Room be located in conjunction with other buildings in a manner where said game Room is clearly separated from the other portions of the structure (for example a Game Room in a shopping center), measurements shall be taken from the boundaries of the space occupied by the Game Room.

(f) Should a Game Room be located in a manner where said Game Room is situated above the ground level of a multistory structure and is clearly separated from other activities within the structure, the Game Room measurements shall be taken from the boundaries of the space occupied by the Game Room, thence to the nearest point of egress (elevator or stairs), thence to the nearest ground floor exit, thence in a straight line in all directions to any structure used as a residence; from a church, public or denominational school, hospital, licensed child-care facility, hotel, motel, park, playground (public), playfield, stadium (public), institution of religious, charitable, or philanthropic nature, registered business; and from any other structure housing a Game Room.

(g) Any violation of this section shall be punishable by a fine of up to \$500.00 per day. Each day shall be a separate violation.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

FIRST READING APPROVED AND ADOPTED this _____ day of _____, 2023.

ATTEST:

APPROVED BY:

Aleigha Galvan, City Secretary

Jim Gardner, MAYOR

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
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Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainor	_____	_____	_____
Chip Woolf	_____	_____	_____
Margie Wier	_____	_____	_____
Jason Hink	_____	_____	_____
Donna Harvey-Schulman	_____	_____	_____

SECOND AND FINAL READING APPROVED AND ADOPTED this _____ day of _____, 2023.

ATTEST:

APPROVED BY:

Aleigha Galvan, City Secretary

Jim Gardner, MAYOR

APPROVED AS TO FORM AND CONTENT:

Anne Marie Odefey, City Attorney

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainor	_____	_____	_____
Chip Woolf	_____	_____	_____
Margie Wier	_____	_____	_____
Jason Hink	_____	_____	_____
Donna Harvey-Schulman	_____	_____	_____

Commerce Street Lift Station Pump and Force Main Project

CITY COUNCIL MEMORANDUM

City Council Meeting: June 8, 2023
Department: City Manager
Subject: Commerce Street Lift Station Pump and Force Main Project

BACKGROUND

The City Manager previously discussed moving forward with this project. The project has now been bid for construction.

GOALS

The goal is to make improvements to the Commerce Street lift station pump and force main.

FISCAL IMPACT

Palacios EDC has pledged \$400K for this project. The remainder will be paid by Water Fund. The money for this project was budgeted in the 22-23 budget projects.

RECOMMENDATION

Staff recommends that the City accept the bid for the Commerce Street lift station pump and force main construction.

ATTACHMENT



May 19, 2023

Ms. Cynthia Raleigh, CPM, MBA
City Manager, City of Palacios
311 Henderson Avenue
Palacios, TX 77465

RE: Recommendation of Award
U.E. Job No. E25481.00
Commerce Street Lift Station Pump & Force Main Improvements
Palacios, Texas

Dear Ms. Raleigh:

On May 17, 2023 at 2:00 p.m., public bids were opened for the Commerce Street Lift Station Pump & Force Main Improvements. The following bids were received:

Bidder	Total Base Bid	Total Base Bid + Alternate Bids No. 1 & No. 2	Calendar Days to Substantial Completion
Lester Contracting, Inc.	\$402,880.00	\$460,880.00	180
T Construction, LLC	\$669,363.00	\$1,028,963.00	195

I recommend that the contract for the aforementioned project be awarded to Lester Contracting, Inc. for the Total Base Bid or the Total Base Bid plus Alternate Bids No. 1 and/or No. 2, if chosen by the City Council. (See attached Bid Tabulation)

If you have any questions, please do not hesitate to contact me at (361) 578-9836 or by email at mglaze@urbanvictoria.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Glaze", followed by the initials "P.E." in a smaller, stylized font.

Matt A. Glaze, P.E.
Vice President

MAG/dmf

Attachment

BID TABULATION									
CITY OF PALACIOS									
COMMERCE STREET LIFT STATION PUMP & FORCE MAIN IMPROVEMENTS									
BID OPENING: MAY 17, 2023									
				Lester Contracting, Inc.		T Construction, LLC			
ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE		
BASE BID									
GENERAL									
1.	Mobilization, Insurance and Bonds (Maximum 10% of Base Bid)	1	LS	\$ 40,000.00	\$ 40,000.00	\$ 82,500.00	\$ 82,500.00	\$	82,500.00
2.	Barricading & Traffic Control (Furnish, Install, Maintain & Remove Signs & Warning Devices) (Includes Flagmen, Traffic Handling & Temporary Striping)	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 20,000.00	\$ 20,000.00	\$	20,000.00
3.	Construction Staking	1	LS	\$ 3,500.00	\$ 3,500.00	\$ 3,850.00	\$ 3,850.00	\$	3,850.00
SUBTOTAL GENERAL					\$ 48,500.00		\$	\$	106,350.00
LIFT STATION PUMP IMPROVEMENTS									
4.	Remove & Dispose of Existing Pump, Motor, Conduit & Wiring	1	LS	\$ 2,000.00	\$ 2,000.00	\$ 45,000.00	\$ 45,000.00	\$	45,000.00
5.	Remove & Replace Fence	1	LS	\$ 775.00	\$ 775.00	\$ 18,500.00	\$ 18,500.00	\$	18,500.00
6.	Gorman Rupp T4A3S-B/F Pump on Vertical Base with 15 HP, 1800 RPM motor (Including belts, sheaves, guard & new conduit and wiring to existing control panel)	1	LS	\$ 27,000.00	\$ 27,000.00	\$ 135,800.00	\$ 135,800.00	\$	135,800.00
7.	Force Main Connection (Including all yard piping, fittings & pipe support)	1	LS	\$ 7,500.00	\$ 7,500.00	\$ 6,900.00	\$ 6,900.00	\$	6,900.00
SUBTOTAL LIFT STATION PUMP IMPROVEMENTS					\$ 37,275.00		\$	\$	206,200.00
FORCE MAIN IMPROVEMENTS									
8.	Remove & Replace Existing Sign	1	EA	\$ 200.00	\$ 200.00	\$ 1,200.00	\$ 1,200.00	\$	1,200.00
9.	Adjust and/or Relocate Existing Water Meter	4	EA	\$ 385.00	\$ 1,540.00	\$ 445.00	\$ 1,780.00	\$	1,780.00
10.	Sanitary Sewer Force Main (8") (PVC) (Non-Paved Areas)	2,714	LF	\$ 55.50	\$ 150,627.00	\$ 78.00	\$ 211,692.00	\$	211,692.00
11.	Sanitary Sewer Force Main (8") (PVC) (Gravel Paved Areas)	446	LF	\$ 64.00	\$ 28,544.00	\$ 78.00	\$ 34,788.00	\$	34,788.00
12.	Sanitary Sewer Force Main (8") (PVC) (Asphalt Paved Areas)	372	LF	\$ 72.00	\$ 26,784.00	\$ 84.00	\$ 31,248.00	\$	31,248.00
13.	Sanitary Sewer Force Main (8") (PVC) (Concrete Paved Areas)	31	LF	\$ 115.00	\$ 3,565.00	\$ 85.00	\$ 2,635.00	\$	2,635.00
14.	Sanitary Sewer Force Main (8") (PVC) (Installed in Steel Casing)	150	LF	\$ 74.50	\$ 11,175.00	\$ 68.00	\$ 10,200.00	\$	10,200.00
15.	Steel Casing (16")	150	LF	\$ 411.00	\$ 61,650.00	\$ 305.00	\$ 45,750.00	\$	45,750.00
16.	Fitting (8") (Bend) (45 Deg)	20	EA	\$ 690.00	\$ 13,800.00	\$ 350.00	\$ 7,000.00	\$	7,000.00
17.	Fitting (8") (Bend) (90 Deg)	4	EA	\$ 725.00	\$ 2,900.00	\$ 350.00	\$ 1,400.00	\$	1,400.00
18.	Fitting (6") (Plug)	2	EA	\$ 450.00	\$ 900.00	\$ 350.00	\$ 700.00	\$	700.00

BID TABULATION									
CITY OF PALACIOS									
COMMERCE STREET LIFT STATION PUMP & FORCE MAIN IMPROVEMENTS									
BID OPENING: MAY 17, 2023									
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