



City of Willits

Personnel Policies and Procedures Manual

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of the Willits City Council
on July 22, 2009

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SECTION 1. PURPOSE, AUTHORITY AND COVERAGE

1.1 Purpose

The purpose of this Manual is to establish and maintain a Merit System for administration of the City's personnel matters. These procedures shall be administered by the City Manager. The City Manager may delegate the responsibility of assisting in the administration of these personnel policies and procedures. These policies and procedures may be updated periodically upon the recommendation of the City Manager and subsequent adoption by the City Council. City employees will have access to all amendments to these policies and procedures.

The goal of uniform personnel practices is to insure that the principles of fairness and merit are the basis for all personnel actions. These personnel policies and procedures have been established to set standards insuring that in any personnel action, including recruitment, examination, selection, appointment, compensation, training, promotion, retention, and discipline, the basis for the action, and the procedures employed will be impartial and universally applied.

1.2 Coverage

These policies and procedures apply to all City employees, except that nothing in these policies and procedures regarding disciplinary rights and disciplinary processes or administration of a Merit System (e.g., appointment, probation status) applies to those who serve in an at-will capacity, or at the pleasure of the Council, or by contract. Nothing in these policies and procedures gives those who serve at-will, or at the pleasure of the Council, or by contract any right to employment or continued employment.

1.3 No Contract Created

Nothing in these policies and procedures is intended to create any contract of employment, express or implied, or to create any contractual right in City employment.

1.4 Conflicts with Other Provisions

If a provision of these policies and procedures actually conflicts with any provision of 1) an applicable collective bargaining agreement negotiated between the City and a recognized employee organization, or 2) City ordinance, or state or federal law, to the extent of such conflict, the collective bargaining agreement, City ordinance, or state or federal law shall control. In all other cases, these policies and procedures shall apply.

1.5 Violation of the Personnel Policies and Procedures

A violation of any policy or procedure herein shall be grounds for discipline, up to and including termination from City employment.

1.6 Severability

If any court finds any section, subsection, sentence, clause or phrase of these policies and procedures to be inconsistent with the law, such finding(s) shall not affect the validity of the remaining portion of these policies and procedures.

SECTION 2. FOUNDATIONAL POLICIES OF EMPLOYMENT

2.1 Employment Standards

The tenure of every City employee will be based on a demonstrated need for the work performed, availability of funds, faithful and effective performance, proper personal conduct, and continuing ability, with or without reasonable accommodation, to perform the essential functions of his or her position.

2.2 Conflicts of Interest

City employees, officers and officials are expected to devote their best efforts and attention to the performance of their jobs. They are expected to avoid even the appearance of a conflict of interest that could arise from a financial or non-economic interest that may impact the employee's, officer's or official's ability to carry out his or her duties to the City with undivided loyalty.

Employees, officers and officials are on notice regarding the following restrictions; these restrictions include any activity or interest which may give the appearance of a violation of any of the following:

Employees, officers and officials shall not be financially interested in any contract made by them in their capacity as a City employee, officer or official;

Officers and officials shall not make, participate in making or in any way attempt to use their official position for the City to influence a governmental decision in which the officer or official knows or has reason to know he or she has a financial interest;

Employees, officers and officials shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties for the City (see section [5.4] regarding Outside Employment or Activity for additional restrictions); and Employees, officers and officials shall not engage in any activity, regardless of financial or economic benefit, which may divide the employee's, officer's or official's loyalty to the City.

2.3 Equal Employment Opportunity

2.3.1 Policy Against Discrimination, Harassment, and Retaliation

1. Purpose and Application

The purpose of this Policy Against Harassment, Discrimination and Retaliation is to reaffirm the City's zero tolerance of: 1) harassment and discrimination; and 2) retaliation against those who report or oppose harassment or discrimination.

It is the City's intent and the purpose of this Policy to provide all employees, applicants, and contractors with an environment that is free from any form of discriminatory harassment, discrimination or retaliation as defined in this Policy.

This Policy prohibits harassment or discrimination on the basis of any of the following protected classifications: an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual). It is also the policy of the City to provide a procedure for investigating alleged harassment, discrimination and retaliation in violation of this Policy. The protection from discrimination includes the protection from retaliation for having taken action either as a complainant, or for assisting a complainant in taking action, or for acting as a witness or advocate on behalf of an employee in a legal or other proceeding to obtain a remedy for a breach of this policy.

This Policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

2. Policy Coverage

This Policy prohibits harassment or discrimination by or of a City official, officer, applicant, employee, non-employee (including a customer, client, vendor, member of the public or other third-party), or person providing services for the City pursuant to a contract, because: 1) of an individual's protected classification; 2) of the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification. The City does not consider conduct in violation of this Policy to be within the course and scope of employment or the direct consequence of the discharge of City duties.

3. Prohibition Against Harassment and Discrimination

It is the City's policy to prohibit any form of harassment or discrimination, as defined below. To that end, this Policy establishes a Complaint Procedure which applicants, officials, officers, employees or contractors can use to report potential violations. Disciplinary action, up to and including termination, will be taken against an employee or officer who is found to have engaged in harassment or discrimination in violation of this Policy. Any official, contractor, non-employee or other third-party found to have engaged in harassment and/or discrimination in violation of this Policy will be subject to appropriate sanctions.

The City has zero tolerance for any conduct that violates this Policy. Conduct need not rise to the level of a violation of law in order to violate this Policy.

Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. If you are in doubt as to whether or not any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor or the Director of Human Resources.

4. Prohibition Against Retaliation

In order to deter harassment and discrimination, and to support the integrity of the Complaint Procedure described below, the City also prohibits retaliation. Any employee found to have retaliated against an applicant, elected official, officer, employee, or contractor because of a complaint of harassment or discrimination or because of participation in the Complaint Procedure, shall be subject to disciplinary action. Any elected official, contractor, non-employee or other third-party who has been found to have retaliated in violation of this Policy will be subject to appropriate sanctions.

5. Definitions

(a) Protected Classifications

This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected classification" includes actual or perceived: race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual).

(b) Discrimination

This Policy prohibits treating individuals differently because of the individual's protected classification as defined by this Policy.

(c) Harassment

Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:

- (i) Verbal—such as epithets (nicknames and slang terms), derogatory or suggestive comments, propositioning, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his

or her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those of a protected classification.

- (ii) Visual forms of harassment, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of a protected classification.
- (iii) Physical—includes the following conduct taken because of an individual's protected classification: assault, touching, impeding or blocking movement, physically interfering with normal work or movement, pinching, grabbing, patting, leering, making express or implied job threats or promises in return for submission of physical acts, mimicking, stalking, or taunting.
- (iv) Sexual Harassment—includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature or any of the above described conduct when:
 - a. Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or
 - b. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating or offensive work environment.
 - d. By definition, sexual harassment is not within the course and scope of an individual's employment with the City.

(d) Retaliation

Retaliation against a person (and his or her associates) because of their complaint or participation in the complaint process described in

this Policy is strictly prohibited. Any act of reprisal which violates this Policy will result in appropriate disciplinary action. Examples of actions that might be retaliation against a complainant, witness or other participant in the complaint process include: 1) singling a person out for harsher treatment; 2) lowering a performance evaluation; 3) failing to hire, failing to promote, withholding pay increases, assigning more onerous work, abolishing a position, demotion or discharge; 4) real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination; or 5) shunning or avoiding those who have complained or participated in the complaint resolution process described in this policy.

Any act of retaliation will be treated as a separate and distinct incident, regardless of the outcome of the harassment or discrimination complaint.

6. Guidelines for Identifying Harassment, Discrimination and Retaliation

To help clarify what constitutes a violation of this Policy, use the following guidelines:

- (a) Harassment and discrimination include any conduct which is “unwelcome” to an individual and which is taken because of the recipient’s protected classification.
- (b) Discrimination may result when an individual is treated differently due to his or her membership in a protected classification. In addition, discrimination may result when a City policy or practice has a negative impact on a particular classification of employees as a whole.
- (c) It is no defense that the recipient appears to have voluntarily “consented” to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
- (d) Simply because no one has complained about a joke, gesture, picture, physical contact or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.

- (e) Even visual, verbal, and/or physical conduct between two individuals who appear to welcome it can constitute harassment of a third applicant, officer, official, employee or contractor who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
- (f) Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. The City recognizes that it is legitimate for those in protected classifications to have heightened sensitivities to harassment as a result of their life experiences. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).
- (g) Conduct can constitute retaliation under this Policy when an action is taken or an employee is treated in a particular manner due to his or her reporting of a violation of this Policy, participation in an investigation of an alleged Policy violation, or any other negative action taken against an individual because of his or her association with the complainant.
- (h) A single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. Therefore, if you are in doubt as to whether any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor.

7. Confidentiality

The City recognizes that confidentiality is important to all parties involved in a harassment investigation. Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action.

An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or a department head. Any individual who discusses the content of an investigatory interview will be subject to discipline.

The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

8. Romantic And Sexual Relationships Between Supervisors And Subordinates

Romantic or sexual relationships between supervisors and subordinate employees are prohibited. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

9. Reporting Harassment, Discrimination or Retaliation

An individual who feels he or she has been harassed, discriminated against or retaliated against in violation of this Policy should report the conduct immediately and according to the following procedure so that the complaint can be resolved quickly and fairly.

(a) Reporting to the Offending Individual

Sometimes an individual is unaware that his or her conduct is offensive. The City strongly encourages any individual who feels that he or she has been harassed or discriminated against in violation of this Policy to let the offending person know immediately and firmly that the conduct at issue is unwelcome, offensive, in poor taste, and/or inappropriate and must stop. The City also encourages that alleged acts of retaliation be reported in this manner as well.

When the conduct in question continues after the offending person has been informed it is offensive, or if a person does not feel comfortable talking to the offending person directly, the employee should make a report in accordance with subsection (b) below, or go directly to the formal reporting process.

(b) Reporting to Management

If an individual who believes he or she has been harassed or discriminated against prefers not to confront the offending person, he or she need not do so. If the individual does not report the harassment or discrimination to the offending individual, or does so but is not

satisfied the situation has been resolved, the individual must then immediately report the conduct to any supervisor, department head, or other City management employee. The individual should provide all details of the incident or incidents, names of individuals involved, and the names of any witnesses. This report can be made orally or in writing, although a written account is preferred.

If the complaint involves the Human Resources Director, the person receiving the complaint must notify the City Manager.

(c) Interim Relief

Any official, officer, supervisor or management employee who receives a complaint or learns of a potential violation of this Policy must promptly report the information to the Human Resources Director. The Human Resources Director, in concurrence with the City Manager, may take interim action to diffuse volatile circumstances, such as placing the alleged perpetrator on paid administrative leave or temporarily transferring the alleged perpetrator. Generally, no interim action should be taken to change the complaining individual's working conditions unless the complaining individual voluntarily consents to the temporary change.

(d) Investigation

The Human Resources Director or his or her designee will immediately either direct or undertake an effective, discrete, thorough and objective investigation of the allegations at issue. All complaints will be investigated to the extent that the City deems appropriate. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview, and that retaliation against those who report alleged harassment or who participate in the complaint procedure is prohibited.

(e) Investigation Into Unreported Potential Violations

The City takes a proactive approach to the problems of harassment, discrimination and retaliation and will conduct an investigation if its officers, officials, supervisors or managers who become aware that

harassment may be occurring, regardless of whether the recipient or a third party reports a potential violation of this Policy.

(f) Remedial and Disciplinary Action

If the investigation concludes that harassment or retaliation in violation of this Policy has occurred, the City will notify the complainant and perpetrator of the general conclusion(s) of the investigation and will take effective remedial action that is designed to end the violation(s). Any employee or officer determined to be responsible for violating this Policy will be subject to appropriate disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this Policy or otherwise fails to take appropriate action to enforce this Policy. Any official or contractor found to be responsible for violating this Policy will be subject to appropriate sanctions.

(g) Option to Report to Outside Administrative Agencies

Any individual has the option to report harassment or retaliation to the U.S. Equal Employment Opportunity Commission (“EEOC”) or the California Department of Fair Employment and Housing (“DFEH”). These governmental agencies offer legal remedies and a complaint process. The nearest DFEH and EEOC offices are listed in the government section of the telephone book or employees can check the equal employment opportunity posters that are located on City bulletin boards for office locations and telephone numbers.

10. Responsibilities of Employees, Management and Supervisory Employees

(a) Employees

In order to establish and maintain a professional working environment, while at the same time preventing harassment, discrimination, and retaliation, employees are expected to:

- (i) Set an example of acceptable conduct by not participating in or provoking behavior that violates this Policy. Try not to be angry or insulted if an individual tells you that your behavior is offensive. People have different values and standards and may be offended by behavior you think is proper. Tell the

individual you did not realize your behavior was offensive, and immediately cease the conduct.

- (ii) Let fellow employees know when you consider behavior offensive. An individual may not realize behavior he or she thinks is proper could be seen by others as offensive.
- (iii) Report harassment, discrimination or retaliation as quickly as possible, whether the employee is the target of the conduct or a witness.
- (iv) If an employee witnesses harassment, he or she should tell the individual being harassed that the City has a policy prohibiting such behavior, and that he or she can demand that the harasser cease the behavior.
- (v) Maintain confidentiality as required by this Policy.
- (vi) Fully cooperate with the City's investigation of complaints made under this Policy.

(b) Management and Supervisory Employees

In addition to the responsibilities listed above for individual employees, management and supervisory personnel are responsible for the following:

- (i) Implementing this Policy by taking all complaints seriously and modeling behavior that is consistent with this Policy. Direct all complaints to the Director of Human Resources.
- (ii) Taking positive steps to eliminate any form of harassment, discrimination or retaliation observed or brought to his or her attention.
- (iii) Making sure no department head, supervisor or other employee retaliates through any action of intimidation, restraint, coercion or discrimination.
- (iv) Monitoring the work environment and taking appropriate action to stop potential Policy violations.

- (v) Following up with those who have complained to ensure the behavior complained of has ceased.
 - (vi) Informing complainants of their option to contact the EEOC or DFEH regarding a potential Policy violation.
- (c) Human Resources Director

The Human Resources Director or his or her designee is responsible for administering the complaint procedure and authorizing and/or conducting an investigation.

Any questions about this Policy should be directed to the Human Resources Director.

11. Mandatory Training

As part of its commitment to ensuring a work environment free from harassment and discrimination, the City requires that all of its employees receive training on this Policy at least once every two (2) years. Human Resources will schedule multiple training sessions in the Spring of each year to ensure that employees are able to schedule the mandatory training. Attendance at the training will be documented.

The purpose is to restate and reaffirm that the City will take all reasonable steps to prevent and prohibit harassment in the work environment. The purpose of this policy is also to define discrimination and harassment and to set forth procedures for investigating and resolving internal complaints.

2.4 Workplace Security

2.4.1 Zero Tolerance Policy

The City maintains a zero tolerance policy against violence in the workplace and seeks to provide a safe and secure workplace for employees and the public. The workplace includes any location where City business is conducted, including vehicles and parking lots. Except in the normal course of police duty, any violation of this policy will lead to criminal prosecution, and/or disciplinary action, up to and including termination.

2.4.2 Prohibited Behavior

1. Employees are prohibited from engaging in, encouraging, or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of City employment. The City has zero tolerance for any conduct that references workplace violence even if it was intended to be a prank, harmless, humorous, blowing off steam, or venting.
2. Employees engaged in City business are prohibited from carrying self-defense weapons in violation of any law or this policy. Employees who have legal authority to carry a self-defense weapon shall notify the department head in writing of what type of weapon is being carried. Employees who have legal authority to carry self-defense weapons violate this policy if they: accidentally discharge or lose their weapon; use, threaten to use, or display the weapon while engaged in City business; or violate any law related to carrying a legal self defense weapon while engaged in City business.

2.4.3 Definitions

Workplace Violence is any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

1. Threats or acts of physical harm directed toward an individual or his or her family, friends, associates, or property;
2. The destruction of, or threat of destruction of City property or another employee's property;
3. Harassing or threatening phone calls;
4. Surveillance;
5. Stalking;
6. Possession of offensive or defensive weapons (firearms, illegal knives, clubs, mace, pepper spray, tear gas, etc.) unless specifically required or authorized and approved by City management;
7. Any conduct relating to violence or threats of violence that adversely affects the City's legitimate business interests; and

8. Weapons are defined as firearms, chemical sprays, clubs or batons, and knives, and any other device, tool, chemical agent or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

2.4.4 Incident Reporting Procedures

1. Employees must immediately report workplace violence to a supervisor or other management employee. The supervisor will report the matter to his or her department head.
2. The department head will document the incident, including the employee name(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.
3. The department head will take appropriate steps to provide security, such as:
4. Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
5. Asking any threatening or potentially violent person to leave the site;
6. Immediately contacting an appropriate law enforcement agency

2.4.5 Investigation

The department head will see that reported violations of this policy are investigated as appropriate.

2.4.6 Management Responsibilities

Each department head has authority to enforce this policy by:

1. Training supervisors and subordinates about their responsibilities under this policy;
2. Assuring that reports of workplace violence are documented accurately and timely;
3. Notifying the Human Resources Department of any incident;

4. Making all reasonable efforts to maintain a safe and secure workplace; and
5. Maintaining records and follow up actions as to workplace violence reports.

2.4.7 Follow Up and Disciplinary Procedures

An employee found in violation of this policy will be subject to disciplinary action, up to and including termination of employment. The City may also direct that the employee submit to a fitness for duty examination. City employees may be subject to criminal prosecution.

2.5 Employee Assistance Program

The City provides an Employee Assistance Program (“EAP”). The EAP is intended to provide professional, confidential counseling services that may be available to employees and members of their households to assist in resolving emotional difficulties, marital and family conflict, stress, chemical dependency, conflicts at work, financial help, and other concerns. The EAP counselor can help to clarify a problem and to develop an action plan during the counseling session. In most cases EAP services are paid by the City of Willits. Further information may be obtained from the City Manager or Personnel Director Human Resources Director.

SECTION 3. ADMINISTRATION OF THE PERSONNEL PROGRAM

3.1 City Council

The City Council shall exercise control over personnel only through the City Manager, the adoption of the City budget, pay plan, or ordinances and resolutions. The City Manager shall serve directly under the supervision and control of the City Council in accordance with Chapter 2.08 of the Willits Municipal Code.

3.2 City Manager

The City Manager shall be responsible for insuring the effective administration of these policies and procedures and may delegate such functions as deemed necessary for the implementation of this system. The City Manager may adopt, amend, or rescind written administrative procedures consistent with these policies and procedures. The City Manager shall advise the City Council on any changes.

The City Manager or appointee shall be responsible for directing and coordinating the personnel activities of the City including the following:

- a) Preparation of position classification(s) and pay plans and directing the administration of these plans.
- b) Computation of a budget for Personnel Services for all departments.
- c) Recruiting, testing, selecting, and hiring of all City employees.
- d) Approving the appointment, promotion, demotion, transfer, discipline, discharge, and other actions affecting persons employed by the City.
- e) Supervising, developing, and maintaining the personnel system, including written forms, procedures and records.
- f) Maintaining a current roster of all persons employed by the City.
- g) Directing employee orientation, training, counseling, and career development in conjunction with Department Heads.
- h) Administering the fringe benefits program.
- I) Approving Performance Evaluation reviews for all employees.
- j) Administering the Personnel Policies and Procedures including (in particular) the Employee Grievance Procedures.
- k) Performing any other lawful acts which are considered necessary or desirable to carry out the purpose of the personnel system and the provisions outlined in this Manual.

3.3 Department Heads

Department Heads shall establish such written rules as are deemed necessary for the efficient and orderly administration of the department. Such rules are subject to the approval of the City Manager before they become effective and must be consistent with the policies established in this Manual.

Copies of any department rules shall be provided to each employee and employee organization in the department and will be filed with the City Manager.

3.4 Personnel Records

3.4.1 File Maintenance

The Human Resources Department maintains a permanent personnel file for each City employee. Personnel files are the property of the City, and access to files is restricted as stated in this section.

3.4.2 File Content

An employee's personnel file shall contain only material that the City deems is necessary and relevant to the administration of the City's personnel program. Nothing is intended to conflict with the Public Safety Officers Procedural Bill of Rights Act.

3.4.3 Employee's Responsibility to Notify City of Changes

Each employee is responsible for promptly notifying the Human Resources Department of any changes in relevant personal information, including change of name, mailing address, telephone number, emergency contacts, and number and names of dependents.

3.4.4 Medical Information

"Medical information" means any information that identifies the employee and pertains to his or her medical history, mental or physical condition, or treatment.

1. Separate Confidential Files

All medical information about an employee or applicant is kept separately and is treated as confidential, in accordance with applicable state or federal law.

2. Information in Medical Files

The City will not obtain medical information about an employee or applicant except in compliance with the law.

3. Access to Medical Information

Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

The City will not provide employee or applicant medical information to a third party (except as permitted under the California Confidentiality of Medical Information Act) unless the employee signs an “Authorization for Release of Employee Medical Information” in the form attached to this rule. The City will release only the medical information that is identified in the employee’s authorization. If the employee’s authorization indicates any limitations regarding the use of the medical information, the City will communicate those limitations to the person or entity to which it discloses the medical information.

3.4.5 Location and Access to Personnel Files

Personnel files are located in the Human Resources Department, and can be accessed in accordance with the following procedures:

1. City Employees

A City employee may review his or her personnel file, to the extent defined in California Labor Code, section 1198.5, at reasonable times and intervals. An employee who wishes to review his or her file must contact the Human Resources Director or designee to arrange for an appointment. The review will be conducted in the presence of a Human Resources Department staff member or designee. On request, an employee is entitled to receive a copy of any employment-related document he or she has signed. An employee who wishes to have a copy of any other personnel file document must pay for copying costs.

2. Employee Representatives

An employee representative may inspect an employee’s personnel file without the employee only if the employee has provided written consent.

3. City Management

City management personnel may access employee personnel files as needed for legitimate personnel administration purposes.

4. Confidential Material

Notwithstanding any of the above, neither an employee nor an employee representative may have access to: a) documents that pertain to pending investigations regarding the employee's conduct; or b) references and related information given in confidence or as part of the City's employment application or promotion process.

3.4.6 Destruction of Personnel Records

Personnel records, including employment applications, shall be destroyed only in accordance with the City's retention schedule and applicable state and federal law.

3.4.7 References and Release of Information in Personnel Files

1. Public Information

Upon request, the City will release information about its employees as required by the Public Records Act.

2. Reference Checks

All requests from outside the City for reference checks or verification of employment concerning any current or former employee must be referred to the Human Resources Director. Information will be released only if the employee signs an "Authorization for Release of Employment Information" in the form attached to this rule, except that without such authorization, the following limited information will be provided: dates of employment, and salary upon departure. Department heads and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the City Manager or Human Resources Director on a case-by-case basis

3. Medical Information.

Medical information will be released only in accordance with subsection 3.4.4 above.

3.5 Productivity

The City shall recognize that delivery of essential municipal services in the most efficient and effective manner is of paramount importance. Optimum productivity is recognized to be the mutual obligation of both the City and its employees.

Work procedures, schedules, and assignments, or any other means of increasing productivity, may be established and/or revised at the discretion of the City Manager, so long as no right guaranteed an employee under his or her respective M.O.U. is violated.

SECTION 4. RECRUITMENT, APPLICATION AND SELECTION

4.1 Selection Procedures

Appointment and promotion to positions in the City shall be based upon qualifications for the job and merit. The evaluation methods may include, but are not limited to, one or more of the following; written examinations; oral presentations; performance tests; balance and coordination or physical agility tests; education, training and experience; professional certification; medical examinations, background investigations, psychological evaluations and polygraph examinations. Selection factors will be weighed as determined through position classification and analysis.

Regardless of the number of competitors, selection methods shall be deemed competitive when; 1) the qualifications required are based upon education, experience, and personnel standards established by the City Manager; 2) a reasonable opportunity is afforded for qualified persons to apply; and 3) all persons being considered compete against common standards. The City Manager may limit selection methods to internal candidates if it is deemed to be in the best interest of the City.

4.2 Fitness for Duty Examinations

4.2.1 Pre-Employment and Pre-Promotion Examinations

After a conditional offer of employment has been extended to an applicant, the City may, in compliance with all applicable laws, require the applicant to submit to a fitness for duty examination and/or drug test.

Internal candidates for promotion may be subject to drug testing.

4.2.2 Current Employee Examinations

The Director of Human Resources may require an employee to submit to a fitness for duty examination to determine if the employee is able to perform the essential functions of his or her job when: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his or her job; or 2) there is reason to question the employee's ability to safely or efficiently complete essential job functions.

4.2.3 Role of Health Care Provider

A City-selected health care provider will examine the employee at the City's expense. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the

employee's job. The health care provider will examine the employee and provide the City with non-confidential information regarding whether: 1) the employee is fit to perform essential job functions; 2) there are any reasonable accommodations that would enable the employee to perform essential job functions; and 3) the employee's continued employment poses a threat to the health and safety of him or herself or others. Should the health care provider exceed the scope of the City's request and provide confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

4.2.4 Medical Information

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

4.2.5 Medical Information from the Employee's Health Care Provider

An employee may submit confidential medical information to the City from his or her personal health care provider. If the employee provides written authorization, the department head will submit the information that the employee provides to the City-paid health care provider who conducted the examination. The department head will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

4.2.6 Interactive Process Discussion

After receipt of the health care provider's fitness for duty report, and analysis of the employee's personal health care information, if any, the department head will arrange for a discussion or discussions, in person or via conference telephone call, with the employee and his or her representatives, if any. The purpose of the discussions will be to work in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the department head will also discuss, if relevant, alternate available jobs for which the employee is qualified, or whether the employee qualifies for disability retirement or family and medical leave.

4.2.7 Determination

After the discussions, the Director of Human Resources will review the information received, and determine if there is a reasonable accommodation that would enable the employee to perform essential job functions, or if the accommodations would pose an undue hardship on department operations. The Director of Human Resources will

inform the employee in writing of his or her determination. The Director of Human Resources will use his or her discretion based upon the particular facts of each case.

4.3 Appointing Authority

The City Manager shall determine those applicants eligible for appointment in accordance with Section 4.1. The Department Head of each department shall recommend in writing to the City Manager all appointments, promotions, or transfers for the department from the approved employment lists. The City Manager is the appointing authority.

4.4 Vacancy Announcements

All vacancies shall be filled by transfer, promotion, reemployment, reinstatement, or original appointment. When a vacancy is to be announced, the Department Head shall submit a written request to the City Manager. This request should state any special requirements of the position so that they can be added to the job announcement. Approval must be obtained from the City Manager prior to any advertising or recruiting.

The job announcement shall specify the title and salary range of the class for which the opening is occurring; the job description (or summary); manner of application; examination requirements; essential functions of the job; and other pertinent information.

Announcements may be posted on City bulletin boards where eligible persons might reasonably be expected to have access to them, and in any other posting as deemed appropriate in the Human Resources Director's discretion.

4.5 Background Check

Candidates for all full time, certain part-time sensitive, and all police service positions shall be fingerprinted for the purpose of a background check. No use shall be made of such fingerprint that is protected by federal or state law.

4.6 Rejection of Applicants

Applications submitted which do not meet minimum qualifications required for the position will be rejected. Applications may also be rejected for any of the following reasons: 1) the applicant has submitted an incomplete or untimely application, 2) the applicant is determined to be physically or psychologically unfit for the performance of duties for the position to which he/she seeks appointment, and if disabled, cannot be reasonably accommodated, 3) the applicant is addicted to the use of drugs, 4) the applicant has been convicted of a crime which is job related, 5) the applicant has practiced or attempted to practice any deception or fraud in the application, 6) the applicant has a poor driving record as determined by the City for positions that require driving, 7) the applicant is unable to show proof of authorization to work in the United States, or 8) for any material cause

which in the judgment of the appointing authority may render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City or a significant disciplinary action.

4.7 Employment Lists

As soon as possible after completion of the selection process, the Human Resources Director shall prepare and maintain an employment list approved by the City Manager consisting of the names of candidates who qualified in the process.

Employment lists shall remain in effect until exhausted or declared abolished by the City Manager, but not for more than one (1) year.

Names placed on an employment list as a result of an open competitive list created as a result of continuous examinations may be merged with any others already on the list.

SECTION 5. WORK SCHEDULE

5.1 Work Shift

All employees are expected to be at their workstations and ready to work at the start of their scheduled work day or shift. Work hours shall be assigned to meet operational needs. The department head may change an employee's work period, week, or hours at any time, unless otherwise specified in an applicable MOU and subject to the notice requirement in Section 5.3.

5.2 Work Day Breaks

During a normal eight (8) hour work day, non-police employees may receive two (2) quarter-hour breaks and shall receive either a one-half hour or one hour meal break to be scheduled by the Department Head or designated representative. Employees shall not be compensated for the meal break. All breaks, except meal breaks, shall be taken at or near the work site. As determined by the Department Head, an employee may be required to work through a break, in which case the meal break time will also be considered hours worked for overtime compensation purposes.

Unless otherwise specified by an operative MOU, Police and dispatch employees shall be entitled to two (2) quarter-hour breaks and a meal period not to exceed thirty (30) minutes as the work load permits and subject to calls for services.

5.3 Shift Schedule and Work Schedule Changes

Except as specifically provided in applicable Memoranda of Understanding, whenever possible, employees will be given adequate advance notice of no less than five (5) days of any shift schedule or work schedule changes except where an emergency exists. Subject to his or her discretion, a Department Head may grant an employee request for a work schedule change with less than five (5) days' notice.

5.4 Outside Employment or Activity

5.4.1 Policy

The City prohibits employees from engaging in any outside employment or activity that is inconsistent with, incompatible with, in conflict with, or inimical to their duties, or the duties, functions or responsibilities of the City.

No City-owned equipment, including, but not limited to, vehicles, instruments, tools, supplies, computers, or telephones may be used by any employee engaged in outside employment or activity, except upon written approval of the department head.

5.4.2 Outside Employment or Activity Defined

Outside employment or activity is any work performed, on a paid or volunteer basis, by a City employee outside of his or her employment with the City.

5.4.3 Prohibited Types of Outside Employment

The City prohibits any outside employment or activity that involves:

1. The use of City time, facilities, equipment, supplies or other resources;
2. The use of the employee's uniform and/or badge of his or her City office or employment.
3. Accepting money or other consideration, from any person or entity other than the City, for any act that the employee regularly performs in the regular course or hours of his or her City employment as part of his or her duties for the City;
4. The performance of an act, not in his or her capacity as a City employee, which may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by the employee or the City department in which he or she is employed;
5. Time demands which would likely render performance of his or her City duties less efficient;
6. Conditions in which there is a substantial danger of injury or illness to the employee; or
7. Any act, whether or not for monetary compensation or other consideration, which is inconsistent, incompatible, in conflict with, or inimical to his or her duties for the City.

5.4.4 Application for Outside Employment or Activity Permit

1. Application

Any employee interested in outside employment or activity must complete and submit to the department head an application for outside employment prior to participating in the outside employment or activity. The employee must indicate the nature of the employment or activity and the time period when the employee proposes to engage in the outside employment or activity.

2. Approval

Approval of the department head and City Manager is required. The City Manager's decision is final.

5.5 Employee Political Activities

5.5.1 Policy

The City prohibits:

1. Employees and officers from engaging in political activities during work hours;
2. Political campaigning in City buildings or on City premises adjacent to City buildings; and
3. Employees and officers from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

Those who violate this policy will be subject to discipline, up to and including termination.

5.5.2 Examples of Prohibited Conduct

1. Participate in political activities of any kind while in uniform;
2. Participate in political activities during working hours;
3. Participate in political activities on City worksites, in City buildings, or on City property;
4. Place or distribute political communications on City property;
5. Use City equipment to make political communications;
6. Solicit a political contribution from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee;
7. Favor or discriminate against any employee because of political opinions or affiliations;
8. Interfere with any election; or

9. Attempt to trade job benefits for votes.

5.5.3 Examples of Permitted Conduct

1. Express opinions on all political subjects or candidates;
2. Become a candidate for any local, state, or national election;
3. Contribute to political campaigns;
4. Join and participate in the activities of political organizations;
5. Request, during off-duty time, political contributions, through the mail or other means, from City officers or employees if the solicitation is part of a solicitation made to a significant segment of the public which may include City officers or employees;
6. Solicit or receive, during off-duty time, political contributions from a City employee organization if the funds, when collected, were not earmarked for a clearly identifiable candidate for a federal, state or local office; or
7. Solicit or receive, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of City officers or employees.

SECTION 6. CLASSIFICATION PLAN

6.1 General

The classification plan is comprised of a list of classes of positions supported by written specifications setting forth the duties and responsibilities of each class and the qualifications necessary for appointment to a position within that class.

6.2 Purpose

The purpose of the classification plan shall be to:

- a) Provide like pay for like work.
- b) Establish qualification standards for recruiting and testing purposes.
- c) Provide the appointing authority with a means of analyzing work distribution, areas of responsibility, lines of authority, and other relationships between positions.
- d) Assist the appointing authority in determining budget requirements.
- e) Provide a basis for developing standards of work performance.
- f) Establish lines of promotion.
- g) Indicate training needs.
- h) Provide uniform titles to positions.

6.3 Class

A class shall be comprised of one or more positions that are similar in the basic character of duties and responsibilities so that the same pay scales, title and qualification requirements can be applied, and the positions can be treated fairly and equitably under like conditions for personnel purposes.

6.4 Class Specifications

Each Department Head shall be responsible for establishing and keeping current class specifications for positions in his or her respective departments.

The class specifications shall state the characteristic duties, responsibilities, and qualification requirements which distinguish a given class from other classes. The class specifications shall describe the more typical types of work which may be allocated to a given class, but shall not be construed to restrict the assignment of other duties related to the class.

6.5 Administration of the Classification Plan

The classification plan shall be established and maintained through recommendations of the Department Heads to the City Manager. The City Manager, subject to budget authorization, shall

have final authority, and may establish a new class, create a new position within a class, reclassify a position within a class, or reclassify a position to a different class.

When a new position is proposed by a Department Head, a request for classification of the position with a description of the applicable duties and responsibilities shall be sent to the City Manager. The City Manager shall allocate the position to the proper class after analysis and evaluation of duties and responsibilities.

6.6 Reclassification

6.6.1 Basis for Reclassification

1. An employee may request, or department head may recommend, reclassification of a position when duties and responsibilities of the position have significantly increased or decreased or changed.
2. Reclassification is initiated by a written recommendation from the department head to the City Manager describing why the employee's position merits reclassification or a reclassification study.
3. Reclassification from one class level to another can only occur by a job analysis clearly documenting that the department head has assigned to the employee's position new, additional and/or different duties requiring a different level of knowledge, skill and ability, experience and/or education, training and/or certificates. In all cases the employee must meet the minimum education and experience qualifications for the new classification. The basis for a reclassification shall be the gradual change of duties over a significant period of time or assignment of different duties.

6.7 Employment Status

City employment is defined as follows:

6.7.1 FLSA Overtime Exempt Employee

An employee who meets one or more of the duties test exemptions from overtime under the FLSA (e.g., executive, administrative, professional, computer employee) and who is paid on a salary basis, meaning that he or she is compensated in a predetermined amount that is not reduced, regardless of the quality or quantity of work actually performed, except as allowed by law or required by the City's principles of public accountability for partial-day absences.

6.7.2 FLSA Overtime Eligible Employee

An employee who is entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis. An employee who is assigned to an FLSA-exempt position on an acting or temporary basis only will remain overtime-eligible.

6.7.3 At-Will Employee

“At-will” refers to any City employee who 1) does not hold regular status; or 2) serves at the pleasure of the Council or another City employee or appointee; or 3) can be terminated at any time without cause and without the opportunity to appeal. Employees who move from a “regular” employment status to an at-will position will be required to sign a notification and acknowledgment of at-will employment as a condition of employment.

6.7.4 Probationary Employee

An employee who is serving a probationary period. The probationary period is part of the selection process, during which the City determines whether work performance or work-related behavior meets the required standards of the position.

1. Length of Probation

Unless otherwise specified by memoranda of understanding or these Rules, the probationary period is one thousand forty (1040) hours of actual and continuous service. The probationary period is automatically extended by the length of any leave(s) of absence of forty (40) hours or more.

2. Separation Without Cause

At any time during the probationary period, the appointing authority can terminate the employment relationship without cause and without right of appeal, grievance or hearing. Employees on probation due to a promotion, transfer, or reappointment are subject to Section 8.2.1 and 8.2.2 of these rules.

3. Regular Appointment Requires Recommendation

No probationary employee will receive a regular appointment without a written recommendation from the department head. The probationary employee shall be notified by the department head prior to the expiration of the probationary period that he or she has been rejected or approved for regular appointment.

6.7.5 Regular Employee

An employee who is regularly scheduled to work on a continuing basis and has completed the probationary period for the position he or she holds. A regular employee may only be terminated from City employment for cause and has associated procedural due process, appeal and grievance rights.

6.7.6 Full-Time Employee

An employee who is assigned to work the maximum number of work hours scheduled by a particular department or division.

6.7.7 Part-Time Employee

An employee who is assigned to work less than the maximum number of work hours scheduled by a particular department or division.

6.7.8 Temporary Employee

An employee who is assigned to work on a particular project or for a job of limited or definite duration is a temporary employee. A temporary employee: 1) does not hold regular status; 2) does not serve a probationary period; 3) can be dismissed at-will from City employment at any time without right of procedural due process, appeal, grievance or hearing; and 4) is not entitled to earn, accrue, or participate in any City employee benefit plans, or paid or unpaid leaves.

SECTION 7. COMPENSATION PLAN

7.1 General

The City Manager for the City shall be responsible for the preparation of a Compensation Plan following City Council approval of any adjustments in wages, fringe benefits and other matters related thereto. The Compensation Plan shall prescribe the pay range for each classification, allocate classes thereto and provide for any appropriate special compensation provisions. The Compensation Plan shall utilize a standardized salary schedule containing five steps within each schedule. Employees must be compensated at an established step within the standardized schedule.

The Compensation Plan is available upon request from the Human Resources Department.

7.2 Appointment Rate

Except as otherwise provided herein, all new employees, whether full or part-time, shall be compensated at the minimum rate of the salary range in effect for the class in which the appointment is made.

The City Manager or his or her designee may authorize the appointment of new employees at a higher salary step in the salary range in effect when it is determined that there is a direct and measurable benefit to the City. Factors to be considered include: the quality and quantity of the appointee's previous training and experience; the difficulty in recruiting qualified, experienced applicants; and a determination that the performance of the appointee has a significant impact on City or departmental programs and policies.

7.3 Compensation on Promotion

A regular or probationary employee who is promoted to a position in a class with a higher salary range shall be compensated at the entry rate of the higher salary range, or at a rate which would provide a minimum increase required by an applicable Memorandum of Understanding above the rate he or she was receiving prior to promotion. In no event, however, shall the salary after promotion be higher than the top step of the salary range of the new position.

Upon satisfactory completion of the employee's probationary period into which he or she is promoted, the employee shall be advanced in accordance with Section 7.8. This date of satisfactory completion of the probationary period will become the employee's new annual review date.

7.4 Compensation for Acting Appointments

Subject to the following limitations, an employee who is required on the basis of an acting appointment to serve in a class with a higher salary range than that of the class in which he or she is normally assigned shall receive the entrance salary rate of the higher salary range, or a minimum

established by current applicable Memoranda of Understanding. In no event, however, shall the salary for the acting position be higher than the top step of the salary range of the higher class.

7.4.1 Limitations

1. The acting appointment must be to a position in a higher class occupied by a regular employee on suspension or on an authorized leave of absence; or to a position for which a vacancy exists.
2. The written approval of the City Manager shall be required.
3. The employee must serve a minimum number of work hours in accordance with current applicable Memoranda of Understanding on a consecutive basis in the higher class at his or her normal rate of pay prior to being eligible for the higher pay rate. Upon completion of such consecutive work hours in the acting position, the employee shall be paid the higher rate for all additional consecutive hours thereafter.

7.5 Compensation on Demotion

7.5.1 Demotion Based on Unsatisfactory Performance (For Cause)

An employee who is involuntarily demoted to a position in a class with a lower salary range because of unsatisfactory performance shall have his or her salary reduced to the entry rate of the class to which he or she is demoted. If the employee was previously promoted from the lower class, the employee will be compensated at the same rate he or she was receiving prior to the promotion.

7.5.2 Demotion for Other than Unsatisfactory Performance

An employee who is either demoted at his or her own request or by the City for a reason unrelated to performance, to a position in a class with a lower salary range, shall have his or her salary reduced to the highest rate in the lower salary range that does not constitute an increase in salary.

7.5.3 Demotion for Y-Rated Employees

If an employee is Y-rated (i.e., salary is frozen) and requests a voluntary demotion, his or her salary shall be reduced to the highest rate in the lower salary range.

7.6 Reemployment of Regular Employees

On written recommendation of the Department Head and approval by the City Manager, a former regular employee may be reemployed in the class or position he or she occupied at the time of separation, subject to the following conditions:

1. There must be a vacant position in the class and no layoff reemployment list for such class, or if an active list exists, all eligible former employees who were subject to layoff must have been contacted and either found ineligible for reinstatement or rejected it.
2. The employee must have completed at least one (1) year of continuous service in the class immediately prior to separation from City employment.
3. The employee separated from City employment under favorable circumstances, i.e., in good standing.
4. The reemployment occurs within one (1) year after separation.
5. The employee shall be required to serve a probation period.
6. The employee may be required to pass a medical and/or psychological examination or drug screen and any other qualifying tests as prescribed by the City Manager.
7. The compensation of a former regular employee who is reemployed in the class or position he or she occupied at separation shall be as determined by the City Manager but in no case shall it exceed the schedule, level and salary step which he or she was receiving at separation. There shall be no reinstatement of any benefits accrued during the previous employment period, but credit shall be granted for prior services for purposes of benefit accrual rates.

7.7 Reemployment of Temporary Employees

The City Manager may authorize compensation at any rate within the salary range for persons reemployed for temporary services. Such reemployment is within the sole discretion of the Department Head with the City Manager's approval.

7.8 Merit Increases

Salary increases are not automatic. They are based on merit and are subject to a written performance evaluation from the Department Head to the City Manager certifying that the employee has been performing work which consistently meets or exceeds department standards, and is improving in his or her ability to carry out the job assignment. Department Heads are responsible for timely performance reviews, as described in Section 8 of these rules.

7.8.1 Eligibility

Employees will become eligible for merit increase consideration every two thousand eighty (2080) hours of work, or pro-rated amount for part time employees, after

acquiring regular status until they reach the top step of the salary schedule within their classification.

7.8.2 Effective Date

All merit advancement increases shall be effective on the first day of the first pay period following City Manager approval. Employees receiving merit increases shall be advanced to the next higher step in the salary schedule.

7.8.3 Completion of Probation

Upon satisfactory completion of the probation period, as evidenced in writing by the Department Head and approved by the City Manager, a full time employee will obtain regular status and receive an initial merit increase. This date will become the employee's new annual review date.

7.8.4 Temporary Employees

Temporary employees shall not be eligible for merit increases.

7.8.5 Part-time Employees

Part-time employees shall be eligible for salary increases only upon recommendation of the City Manager.

7.9 Regular Appointment from Temporary Status

Notwithstanding any other provisions of these regulations, a temporary appointee in a class who, without a break in service, receives a probationary appointment to a regular position in the same or different class shall be eligible for consideration for a merit salary increase upon satisfactory completion of the probation period, as evidenced in writing by the Department Head and approved by the City Manager. The employee shall accrue leave benefits from the date of the temporary appointment, although he or she will not be eligible to use them until the probation period for the permanent position is successfully completed.

7.10 Appointment to a Reclassified Position

7.10.1 Class with Same Salary Range

If the position is reclassified to a class with the same salary range as the previous class, and if the incumbent is appointed to the reclassified position, the salary rate of the employee shall not change. This provision shall also apply to a change of class title, provided there is not a change in the basic duties of the position.

7.10.2 Class with Higher Salary Range

If the position is reclassified to a class with a higher salary range than the previous class, the incumbent reclassified shall be compensated at the entry rate of the higher salary range or at the rate which would provide a minimum of 5% above the rate he or she was receiving prior to reclassification, whichever is greater. In no event shall the employee receive a salary higher than the top step of the new range.

7.10.3 Class with Lower Salary Range

If the position is reclassified to a class with a lower salary range than the previous class and if the incumbent is appointed to the reclassified position, his or her salary rate shall not change. If the salary is greater than the maximum rate of the lower salary range, the salary shall be Y-rated (i.e., salary is frozen) and shall not change during continuous regular service until the maximum of the new range exceeds the salary of the employee.

7.11 Overtime Compensation

7.11.1 Prior Approval Required.

Overtime-eligible employees are not permitted to work overtime except as the Department Head authorizes or directs. No employee may work overtime without receiving the approval of the appropriate supervisor prior to performing the work. Working overtime without advance approval is grounds for discipline unless there is an immediate public safety need or otherwise stated in an MOU.

7.11.2 “Overtime” Defined.

Unless otherwise stated in a memorandum of understanding, “overtime” is all hours an overtime-eligible employee actually works in excess of forty (40) hours worked in his or her work week. Overtime is compensated at one and one-half (1.5) times the Fair Labor Standards Act regular rate of pay. Only actual hours worked shall be counted toward the forty (40) hour threshold for purposes of calculating FLSA overtime pay.

7.12 Compensatory Time Off

7.12.1 Supervisor Approval Required Before Work.

An employee may opt to accrue compensatory time-off (“CTO”) in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

7.12.2 Accrual Rate

CTO accrues at the rate of one and one-half (1.5) hours for each hour worked over forty (40) hours of actual work in the employee's work week. CTO cannot be accumulated in excess of eighty (80) hours at any given time, unless agreed to in an applicable Memorandum of Understanding.

7.12.3 Employee Requests to Use CTO

The City will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested; and 2) the employee makes the request no later than five (5) days prior to the date requested. If the employee does not provide five (5) days' notice, or if the department cannot accommodate the time off, the City will provide the employee the opportunity to cash out the CTO requested at the end of the current pay period.

7.12.4 City Cash Out

The City reserves the right to cash out accumulated CTO with 14 days notice down to a balance of 44 hours.

7.12.5 Cash Out

During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials). Separating employees shall be compensated for all accrued, unused compensatory hours at the current FLSA regular rate of pay, or the average regular rate for the prior three (3) years, whichever is higher.

7.12.6 MOU CTO

"MOU CTO" is CTO that is earned on a daily basis as may be permitted by a memorandum of understanding ("MOU"). MOU CTO is subject to the CTO procedures listed in that MOU, except that MOU CTO will be accounted for in an accrual separate from the FLSA-CTO described above.

7.13 Miscellaneous Compensation

7.13.1 Standby Duty While On Regularly Scheduled Time Off

This section applies in the absence of an applicable Memoranda of Understanding ("MOUs").

Standby duty requires the employee to be so assigned by the Department Head or designee:

1. To be ordered in writing to be ready to respond as soon as possible to calls for service.
2. To be reachable by pager, beeper, radio or telephone at all times.
3. To remain within a reasonable distance from their work station.
4. To refrain from activities which might impair his or her ability to perform assigned duties.
5. If an employee is on “standby duty,” he or she will be compensated in accordance with current applicable Memoranda of Understanding. In addition, if called out, actual time worked shall be compensated at one and one half times the employee’s regular rate of pay and pursuant to minimum call out provisions described in any MOU.

7.14 Prohibited Salary Deductions

Notwithstanding any other provision in these Rules, the City will not reduce the pay of any FLSA-exempt employee for any of the following reasons:

1. Any disciplinary reason, except for suspensions in one (1) day increments for violations of workplace conduct rules;
2. Jury duty, except by the amount of juror fees;
3. Temporary military leave of up to three (3) months; or
4. Witness leave except 1) when the leave is to pursue the employee’s own legal action and 2) by the amount of any witness fee received.

7.14.1 Complaint Procedure

The City prohibits any reductions from an FLSA-exempt employee’s pay that are contrary to FLSA requirements. Any FLSA-exempt employee who believes that his or her salary has been reduced in violation of the FLSA, can file a written complaint with the Human Resources Director. The complaint must be dated, signed, and describe the specific pay reduction at issue. The Human Resources Director will review the complaint. If a reduction in violation of the FLSA is found, the City will promptly reimburse the employee for the amount of the pay reduction, and institute good faith measures to insure that the error does not occur in the future.

7.15 Air Travel

Where an employee is authorized to fly by commercial airline, the ticket shall be by economy fare. The City shall reimburse the employee for actual bus, shuttle or cab fares incurred for travel to and from the airport.

7.16 Lodging

Employee's lodging expenses will be paid while traveling on City business. Employees are expected to be economical in selection of accommodations.

7.17 Meal Allowance

Any employee traveling on City business shall receive, in addition to transportation and lodging expenses, a meal allowance ("MA") to cover meals. The total allowance will be granted to the employee before departure. The per diem amount for MA shall be set by the City Manager, in accordance with current applicable Memoranda of Understanding. The MA shall be considered fair reimbursement, and the employee shall neither be required to account for use of the MA, return unused portions, nor claim additional expenses for these items.

An employee shall be eligible for breakfast per diem if required to travel on City business prior to 7:30 a.m. in order to reach the destination on time, and dinner if he or she is required to travel on City business after 6:30 p.m. The employee may be authorized a dinner MA if he or she is required to travel on City business the evening prior to a conference, meeting or class.

An employee shall not receive a MA when that meal is included in the registration cost of a conference or class. Conversely, if a meal is included as part of the conference, but the cost is additional, the employee may be reimbursed the additional out of pocket expenses for the meal provided receipts are turned in to the Finance Director.

Except for Police Service employees, a City employee who is required to work for eight (8) straight hours in a row, without benefit of a meal break, may be reimbursed at the appropriate rate provided herein for one meal payable to either the employee or the restaurant upon the approval of the Department Head.

SECTION 8. EMPLOYEE STATUS

8.1 Probationary Period – Initial Appointments or Promotions

The probation period shall be regarded as part of the initial selection process and shall be utilized for closely observing the employee's performance; for securing the most effective adjustment of an employee to his or her position; and for reviewing the performance of any employee who does not meet the required standards of the position to which he or she was appointed or promoted.

During the probation period, an employee may be rejected at any time by the Department Head without cause and without the right of appeal

Rejection of a probationary employee must be made prior to the completion of the probationary period. A rejection notice must be sent by the Department Head to the City Manager as well as to the probationer. A copy of the rejection notice shall be retained in the employee's personnel file together with such other forms as may be prescribed by the City Manager.

8.2 Probationary Period Length – Non Police Service

The initial probationary period for all positions or promotion to a new position, except Police Service, shall be one thousand forty (1040) hours for all new employees.

All promotions, transfers and reappointments, except police services, will be subject to a probationary period of one thousand forty (1040) hours. During this probationary period employees will accrue seniority and shall be protected in discharge procedures as other regular employees.

In cases, except police service, where a promoted, transferred, or reappointed employee has not met the requirements for completing probation, but where the Department Head has evidence that the employee has the capability of meeting those requirements if given more time, the Department Head may extend the probation period an additional six (6) months, but in no event shall the total probation period exceed two thousand eighty (2080) hours. Such extensions shall be documented in the manner prescribed by the City Manager at a time prior to the completion of the initial probationary period. This paragraph does not apply to new probationary employees.

8.2.1 Probationary Period Length – Police Service and Dispatchers

The initial probationary period for all Police Service and dispatcher positions shall be three thousand one hundred twenty (3120) hours for all new employees. The grant of any leave of absence, including military leave, will cause the employee's probationary period to be extended by the length of the leave of absence.

All promotions, transfers and reappointments shall be subject to a probationary period of two thousand eighty (2080) hours. During this probationary period employees will accrue seniority and shall be protected in discharge procedures as other regular employees. However, on promotional probation, the City Manager or designee can reject the employee from the promotional position during the probationary period without cause and without the right of appeal.

In the case of an employee who appears through performance ready to fulfill all the job responsibilities of a regular employee, the Department Head may reduce the probationary period by up to one thousand forty (1040) hours upon approval of the City Manager. Under no circumstances will the probationary period be less than two thousand eighty (2080) hours.

In cases where a promoted, transferred or reappointed employee has not met the requirements for completing probation, but where the Department Head has evidence that the employee has the capability of meeting those requirements if given more time, the Department Head may extend the probation period an additional five hundred twenty (520) hours, but in no event shall the total probation period exceed two thousand six hundred (2600) hours. Such extensions shall be documented in the manner prescribed by the City Manager at a time prior to the completion of the initial probationary period.

8.3 Regular Status – Initial Entry or Promotion

When an employee first receives regular status, the employee shall be advanced to the next pay step in the employee's pay range as provided in these rules.

8.4 Seniority

Except as otherwise defined in other sections of these rules, seniority means the length of an employee's continuous service from the employee's date of hire with the City. An employee who has not completed the initial probationary period shall not be considered to have seniority, and is not a regular employee.

The City shall post the seniority list and supply employees with copies on January 1 and July 1 of each year. Within each Department, preferences in vacation scheduling and extra days off shall be by seniority within classes, provided requests are made before April 15th of each year.

An employee's continuous service record (seniority) shall be broken by voluntary resignation, discharge for just cause, or retirement. However, if an employee returns to work in any capacity within one (1) year, the break in continuous service shall be removed from their record, and the

employee will begin accruing seniority without loss of previous accrual (not to include the period of leave or separation). Seniority is not impacted by leaves available pursuant to state and federal law.

8.5 Transfers

8.5.1 Voluntary Transfer

Requests for transfers shall be given consideration when a suitable vacancy occurs in the same class. Requests, including a resume of qualifications from employees, for transfers from one department to another, shall be made in writing and shall be directed to the employee's present Department Head with copies to the appropriate Department Head and the City Manager.

8.5.2 Involuntary Transfer

A Department Head may involuntarily transfer an employee in the same class at any time and for any non-disciplinary reason. An employee so transferred has no right of appeal.

8.6 Separation

Upon separation of any employee for any reason the employee shall be paid a lump sum for all earned but unused compensatory, holiday and vacation credits.

Before separation all employees must complete an exit interview with their Supervisor, Department Head or the City Manager (the employee is given the choice). The purpose of this interview is to clarify the factors leading to the separation for the benefit of both the employee and employer. A summary of this interview shall be prepared on the form provided by the City, signed by both parties, and placed as the final document in the employee's personnel file.

Before an employee's separation date, he or she must complete the separation clearance (returning all equipment, keys, etc.).

If the employee's separation date does not coincide with the last day of a pay period, the employee will receive compensation for time worked based on the appropriate pay schedule.

8.6.1 Layoff

1. Statement of Intent

Whenever, in the judgment of the City Council, it becomes necessary to abolish any position or employment, the employee holding such position or employment

may be laid off or demoted without disciplinary action and without the right of appeal.

2. Notification

Employees shall be given not less than fourteen (14) calendar days' written notice.

3. Order of Layoff

Employees shall be laid off in inverse order of their seniority in their classification. "Seniority" is defined as the time from the date of hire in the classification. Within each class, employees will be laid off in the following order, unless special skills are required: temporary, part-time, probationary, regular.

In cases where there are two or more employees in the classification in the department from which the layoff is to be made who have the same seniority date, such employees will be laid off on the basis of the last evaluation rating in the class, providing such rating has been on file at least thirty (30) days and no more than twelve (12) months prior to layoff, as follows:

First, all employees having ratings of "improvement needed;" second, all employees having ratings of "competent;" third, all employees having ratings of "outstanding."

4. Bumping

Any employee who is designated to be laid off who had advanced to his or her present classification from a lower classification in which he or she held a regular appointment shall be given a position, if available, in the lower classification in the same department. Availability of such position shall be defined as a position authorized and budgeted. If a lower classification position is not vacant, the employee being laid off from the higher position shall automatically have the right to occupy the lower classification and an employee occupying the lower classification with less seniority in the classification shall be laid off instead.

Seniority in the lower classification shall be established according to the date of original appointment to that class, except that employees who previously occupied a position of a higher class, but occupy the lower classification due to layoffs, shall have a higher seniority.

5. Reemployment Rights for Laid Off Employees

Regular employees, who have received a satisfactory or better evaluation for the twelve (12) months prior to layoff, have completed their probationary period and who have been laid off shall be called back from layoff according to seniority in the class from which the employees were laid off within the department.

No new employees shall be hired in any class until all employees, who have been previously laid off within the immediately preceding twelve (12) month period and who are on layoff reemployment status in that class have had the opportunity to return to work.

An employee on layoff status shall accept or decline an opening within seven (7) calendar days' notice of an available position. The employee must be prepared to return to work within fourteen (14) calendar days of accepting a position. Such notice shall be provided to the last address set forth in the employee's personnel file.

8.6.2 Resignation

Resignation is an employee's voluntary separation from City employment. Department Heads have authority to accept resignations. To resign from City employment in good standing, an employee must inform his or her Department Head in writing at least two (2) weeks prior to the effective date of resignation. In the case of a Department Head, the resignation must be provided to the City Manager. A resignation becomes final and irrevocable at the time the Department Head or City Manager accepts the resignation.

8.6.3 Separation for Disability

When it is determined, on the basis of medical examination(s), that an employee is physically or mentally incapable of performing his or her essential job functions with or without reasonable accommodations, or would cause an undue risk of harm to the employees or others, the City may take action to separate the employee from City service in compliance with applicable state and federal laws.

8.6.4 Job Abandonment

An employee is deemed to have resigned if the employee is absent for three (3) consecutive work days without prior authorization and without notification during the period of the absence. Only regular employees will receive notice of intent to terminate, an opportunity to respond, and final notice of termination for job

abandonment. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee has any right to evidentiary appeal for separation due to job abandonment.

8.7 Employee Performance Evaluations

8.7.1 Frequency

A supervisor has authority to evaluate a subordinate's performance as often as the supervisor deems appropriate. Employee performance will be evaluated at least one time each year.

8.7.2 Process

The evaluation of an employee's performance is an ongoing process. Evaluations must be documented in a writing. The supervisor(s) will review the evaluation in a private meeting with the employee. The employee shall sign the performance evaluation to acknowledge that the employee is aware of its contents and has discussed the evaluation with his or her supervisor. The employee's signature on the evaluation does not necessarily indicate agreement with its contents. The employee will receive a copy of the evaluation after the meeting with the supervisor(s) and a copy of the evaluation will be placed in the employee's personnel file.

Performance Evaluations are to be completed cooperatively by the employee and his or her Department Head. They are to be completed within the scheduled month and may be initiated by either the employee or Department Head. The Department Head may solicit input from one or more immediate supervisors if they desire to do so. Employees who are assigned to more than one department will be evaluated jointly by both Department Heads. The employee and Department Head(s) are required to sign the forms. All evaluations will be reviewed by the City Manager. All evaluations will be placed in the employee's personnel file and the employee will be provided with a copy.

8.7.3 No Appeal

An employee has no right to appeal any matter relating to a performance evaluation. Instead, the employee may comment on the evaluation in a written statement. The evaluation, and any written comment, will be filed in the employee's personnel file.

8.7.4 Special Evaluations

Special Evaluations, which are evaluations that occur more frequently than the annual evaluation, may occur:

1. Prior to any promotion or transfer.
2. When an employee is subject to any performance improvement plan or disciplinary action exceeding an oral or written reprimand.
3. When an employee requests a performance evaluation at a scheduled time, or any other time. Upon such request, the Department Head or designee will complete the evaluation as soon as possible. Such special evaluation shall not be grounds for a merit increase and shall be limited to performance review purposes only. An employee can only request a performance evaluation once every six (6) months.
4. At the employee's request at least six (6) months after a performance review which was cause for the employee to fail to obtain a merit increase. Such special evaluation shall not be grounds for a merit increase and shall be limited to performance review purposes only. An employee can only request a performance evaluation once every six (6) months.

SECTION 9. WORK WEEK, ATTENDANCE AND LEAVE BENEFITS

9.1 Work Week

Unless otherwise specified in a memorandum of understanding or payroll record, or as designated in a flexible work schedule, or as designated in a FLSA 29 USC § 207(k) schedule for safety employees, the work week begins at 12:01 a.m. Monday and ends at 11:59 p.m. Sunday.

9.2 Attendance

All employees are expected to be at their workstations and ready to work at the start of their scheduled work day or shift. Work hours shall be assigned to meet operational needs. The Department Head may change an employee's work schedule or hours at any time, unless otherwise specified in an applicable MOU. Each employee is required to accurately note work times and absences on his or her time sheet.

9.3 Absence Control

Arriving late to work, returning to work, or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited. An employee is required to seek advance permission from his or her supervisor for any foreseeable absence or deviation from regular working hours.

9.3.1 Employee's Duty to Notify of Late Arrival or Absence

An employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor no later than the scheduled work time and report the expected time or duration of any late arrival or absence. If the employee's immediate supervisor is not available, the employee must notify the department head or another supervisor. An employee who fails to timely notify the supervisor of absences, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence.

9.3.2 Excessive Tardiness/ Absenteeism

Excessive tardiness occurs when an employee is late to work or returning from breaks more than three times during any thirty (30) day period. Excessive absenteeism occurs when the number of unprotected absences (absences due to other than leaves authorized by state or federal law) exceeds three (3) days in any three (3) month period. Excessive tardiness or absenteeism will be grounds for discipline, up to and including termination. Abuse of, or misrepresentation of any form of leave time will be grounds for discipline, up to and including termination.

9.4 Anniversary Date

For the purpose of computing entitlement to leave accrual as well as seniority, an employee's continuous service shall be based on the effective date on which he or she received an initial probationary appointment to the City service.

9.5 Vacation

All employees shall be entitled to accrue vacation leave with pay except the following: 1) Employees having temporary or less than half-time appointments and 2) Employees on leave of absence without pay or suspension without pay.

Except as may be provided in a memorandum of understanding, vacation may not be taken in excess of that actually accrued and in no case may it be taken prior to the completion of an employee's initial probationary period. The Department Head shall schedule and approve all vacation leaves for employees taking into consideration whenever possible the seniority and wishes of the employee. Vacation leave may be granted on an hourly basis. Any fraction over an hour shall be charged to the next full hour.

Subject to approval of the City Finance Director, employees may make a request to the City Manager to sell back to the City accrued vacation time on a case-by-case basis.

9.5.1 Basis for Accrual – Full-time Employees

Vacation shall be credited as earned vacation for each biweekly pay period of service, or prorated for each fractional period. Unless an applicable collective bargaining agreement provides otherwise, eligible employees will accrue vacation leave on the basis of continuous years of service in accordance with the following schedule:

| Years of Service | Accrual Rate Per Pay Period | Accrued Hours Per Year |
|---------------------------|------------------------------------|-------------------------------|
| 0-3 years | 3.08 hours | 80 hours |
| 3 years, 1 day – 9 years | 4.62 hours | 120 hours |
| 9 years, 1 day – 15 years | 6.15 hours | 160 hours |
| 15 years, 1 day + | 7.69 hours | 200 |

Vacation accrued during the first six (6) months of service shall not be credited as earned until the employee completes the first six (6) months of continuous service.

9.5.2 Basis for Accrual – Part-time Employees

An employee having a probationary, regular or acting appointment that is less than full-time but is half-time or more shall accrue vacation leave with pay in proportion to the percentage of hours worked.

9.5.3 Limit on Vacation Earning

An employee may earn vacation to a cap of three times his or her annual rate. For example, if the employee is eligible to earn twelve (12) days in one (1) year, vacation earning is capped once the accrual reaches thirty-six (36) days. Once the applicable cap is reached, no further vacation is earned until the accrual falls below the cap. Only when the accrual falls below the cap will the employee begin to earn vacation again.

9.5.4 Vacation Pay at Separation

An employee who has accrued vacation leave, who has completed his or her initial probationary period, and whose employment terminates, shall be compensated for such accrued vacation based on his or her final rate at the time of separation.

An employee who separates while serving a probationary period in a position to which he or she has been promoted shall receive vacation pay based on the hourly equivalent of the salary received immediately prior to promotion

9.5.5 Holidays Occurring During Vacation

In the event one or more holidays observed by the City falls within the period an employee is on vacation leave, such day or days shall not be charged against the vacation accrual.

9.6 Sick Leave

9.6.1 Purpose

The purpose of sick leave is to allow continuation of pay while an employee recuperates from an illness, or other approved health reason causing absence. It is also intended to provide employees with the assurance of pay in order that they may be away from the job to avoid exposing others to illness. Employee abuse of sick leave will be handled in accordance with Section 9.3 Absence Control.

9.6.2 Eligibility and Accrual

Regular full-time employees accrue paid sick leave of three and sixty-nine hundredths (3.69) hours per pay period for each month of continuous service. Probationary employees accrue sick leave after date of hire but are not eligible to use it until the probationary period expires. Regular or probationary employees who work half-time or more shall accrue paid sick leave on a pro-rata basis, and part-time employees who work less than half-time do not accrue sick leave. Sick leave only accrues for employees in paid employment status. Temporary employees are not entitled to paid sick leave.

Sick leave shall not be applied to an absence which occurs on a day designated as a City Holiday, unless such holiday occurs on an employee's scheduled work day. If an employee works any time, either on his or her regular shift or overtime, on a day in which he or she takes sick leave, the combination of hours worked and sick leave shall not exceed eight (8) hours.

9.6.3 Notification of Sick Leave Use

When an employee is going to be absent for a reason described in this policy, the employee is required to notify his or her department head as soon as possible, but no later than the scheduled work time. In an emergency situation, the department head must be notified as soon as possible. If the employee utilizes more than one (1) day of sick leave, the employee must notify the department head daily.

9.6.4 Acceptable Uses of Sick Leave

An employee may use accrued sick leave because of illness, injury, exposure to contagious disease. An employee may use accrued sick leave to attend medical, dental and optical appointments only if such appointments cannot be scheduled outside the work day. An employee may use up to half of the amount of his/her annual sick leave accrual to attend to the illness of a spouse; domestic partner; children; step-children, or the mother, father, brother, sister, grandchildren or grandparents of the employee, spouse, domestic partner or other members of the employee's family residing in the employee's home; or other members of the employee's family primarily dependent upon the employee.

If an employee or a member of the employee's immediate family recovers from any such sickness after being granted sick leave, and during the regularly scheduled hours of work, then such employee shall notify the appropriate immediate supervisor and be available to return to duty.

When an employee receives Workers' Compensation, Section 4850 Leave, City Industrial Accident Leave or any other form of public salary continuance benefit as a result of an on-the-job injury or illness, the City will pay the difference between the insurance benefit and full pay for the period of the salary continuance benefit, following which the employee's salary continuance shall be limited to accumulated sick leave. The employee must report to the City the amount of payments from non-City sources and the period which it represents.

9.6.5 Physician's Certificate

Employees who are absent for more than three (3) consecutive work days may be required to file a physician's certificate confirming sickness and fitness to return to duty.

9.6.6 No Vacation in Lieu of Sick Leave

Employees will not be permitted to use vacation in lieu of sick leave unless approved by the department head.

9.6.7 Supervisor's Discretion to Begin Sick Leave

Supervisors have discretion to place an employee on sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees, or when the employee's illness or injury would interfere with the performance of work.

9.6.8 Sick Leave at Separation

Upon separation from the City after five (5) years of continuous service, an employee will be paid for thirty percent (30%) of his or her unused, accrued sick leave up to a maximum payment of one thousand (1000) hours. Upon separation from the City after ten (10) years of continuous service, an employee shall be paid for 50% of unused, accrued medical leave up to a maximum payment of one thousand (1000) hours. This compensation is not applicable if an employee is discharged for cause. In the event of a job related death, 100% of the employee's unused sick leave shall be paid to the employee's beneficiary.

9.7 Family Care and Medical Leave

The City will grant family care and medical leave for eligible employees in accordance with the requirements of applicable state (California Family Rights Act – "CFRA") and federal law (Family and Medical Leave Act – "FMLA") in effect at the time the leave is granted. No greater or lesser leave benefits will be granted than those set forth in the relevant state or federal law. Unless

otherwise provided by this article, “Leave” under this article shall mean leave pursuant to the FMLA and CFRA.

9.7.1 Definitions

1. “12-Month Period” means a rolling twelve (12) month period measured backward from the date leave is taken and continuous with each additional leave day taken.
2. “Child” means a child under the age of eighteen (18) years of age, or eighteen (18) years of age or older who is incapable of self care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child.
3. A child is “incapable of self care” if he or she requires active assistance or supervision to provide daily self care in three or more of the activities of daily living or instrumental activities of daily living—such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.
4. “Domestic Partner,” as defined by Family Code, sections 297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA Leave.
5. “Health Care Provider” means:
 - (a) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
 - (b) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition;
 - (c) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
 - (d) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are

performing within the scope of their practice as defined under California State law;

- (e) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
 - (f) Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
6. "Leave" means leave under this policy as provided for in the FMLA and CFRA.
7. "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
8. "Spouse" means a husband or wife as defined or recognized under California State law for purposes of marriage.
9. "Serious health condition" means an illness, injury impairment, or physical or mental condition that involves:
- (a) Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom); or
 - (b) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - (i) A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three (3) consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - a. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical

- therapist) under orders of, or on referral by a health care provider; or
- b. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
- (ii) Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.)
 - (iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one (1) day.
 - (iv) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.

- (v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment.

9.7.2 Reasons for Leave

1. For an eligible employee's "serious health condition," as defined herein, which prohibits the employee from performing the functions of his or her position;
2. To care for a child, parent, spouse, or domestic partner who has a serious health condition;
3. For the birth of a child or placement of an adopted or foster care child with the employee;
4. To care for a newborn child (birth to twelve (12) months of age); or
5. Because of a qualifying exigency arising out of the fact that a spouse, or a son, daughter or parent of the employee is on active duty (or has been notified of an impending call or other active duty) in the Armed Forces in support of a contingency operation.

9.7.3 Eligibility and Amount of Leave

An employee is eligible for family and medical leave benefits if:

1. The employee has at least twelve (12) cumulative months of agency service; and
2. The employee has worked at least one thousand two hundred fifty (1250) actual hours during the twelve (12) months immediately preceding the commencement date of the leave.

Eligible employees may receive up to a total of twelve (12) work weeks of unpaid leave during any twelve (12) month period. The twelve (12) month period begins on the date of the first absence qualifying for leave, and rolls forward from that date. As a result, the amount of leave an employee is entitled to take depends on how much time the employee has already taken during the twelve (12) months prior to the request.

Leave granted under any of the reasons provided by state and federal law will be counted as family/medical leave and will be considered as part of the 12-workweek entitlement in a 12-month period. There is no carryover of unused leave from one 12-month period to the next 12-month period.

An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member who incurs a serious injury or illness while on active military duty shall be entitled to a total of 26 workweeks of leave during a 12-month period as defined above, to care for the service member. The leave described in this paragraph shall only be available during a single 12-month period.

9.7.4 Spouses or Domestic Partners Both Employed by the City

The aggregate number of work weeks of leave to which City employees who are spouses or domestic partners may be entitled for reasons of birth or placement for adoption or foster care is limited to twelve (12) work weeks during the twelve (12) month period defined herein.

9.7.5 Use of Accrued Paid Leaves

Family and medical leave is unpaid, except that an employee is required to first use any accumulated sick leave, if the leave is for the employee's own serious health condition. The employee may also use sick leave to care for a parent, spouse, domestic partner or child with a serious health condition. For any other type of family and medical leave, the employee may use any paid leave time. The paid leave runs concurrently with the family and medical leave.

1. Sick and Vacation Leave Accrual

Sick leave and vacation leave do not accrue while an employee is on unpaid leave.

2. Concurrent Use of Leaves

The City may designate any non-family and medical leave, such as Workers' Compensation (except for sworn police), sick, or vacation leave, to run concurrently with family and medical leave whenever the non-family and medical leave is also for a family and medical leave purpose.

Employees are not required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act.

The City integrates family and medical leave with Workers' Compensation leave whenever an employee is absent from the work place for thirty (30) days or more due to an industrial injury or illness. As required by law, the City will not run family and medical leave concurrently with Labor Code, section 4850 leave (sworn employee temporary disability Workers' Compensation leave).

9.7.6 Reduced Work Schedule

If required by a health care provider, an employee may take family and medical leave on a reduced work schedule or on an intermittent basis when the leave is for the employee's own serious health condition, or for the serious health condition of the employee's spouse, domestic partner, parent or child. The agency may require an employee who is on a reduced work schedule or intermittent leave to temporarily transfer to an alternative position, with the same pay and benefits, if the alternative position better accommodates the required work schedule than the employee's own position. Intermittent leave can be taken in no less than one (1) hour increments and will be counted toward the annual twelve (12) week allotment.

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one (1) year of the birth or placement. In addition, the basic minimum duration of such leave is two (2) weeks, except that on no more than two occasions, an employee may use leave in a one (1) day minimum increment.

9.7.7 Designation of Leave

The City Manager or designee shall designate all paid and unpaid leaves as family and medical leave if the leave meets the requirements set forth in Sections 1 and 2 above.

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA-qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA-qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City may require the employee to exhaust accrued leave as described above

9.7.8 Procedure for Requesting Family and Medical Leave

1. Advance Notice

An employee shall provide at least thirty (30) days' advance notice of the need for family and medical leave, whenever possible. If thirty (30) days' notice is not practicable, the employee shall give notice as soon as practicable. If the employee fails to give the thirty (30) days' advance notice for foreseeable events without any reasonable excuse for the delay, or if the notice is inadequate, the City reserves the right to postpone the leave until thirty (30) days after the notice.

2. Medical Certification of Need for Leave

(a) Content and Due Date of Certification

An employee who requests leave for his or her own serious health condition, or to care for a child, parent, spouse or domestic partner who has a serious health condition, may be required to provide the City written certification from the health care provider of the individual requiring care within fifteen (15) days after requesting leave.

If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his or her position.

If the employee requests intermittent leave, or on a reduced schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is "medically necessary." "Medically necessary" means that there is a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

(b) Second and Third Opinions

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, and paid for by the City. The opinion of the third provider will be binding.

(c) Consequences of Failure to Provide Adequate or Timely Certification

If the employee provides an incomplete certification, the employee will be given a reasonable time to provide a complete certification. If the employee fails to provide a medical certification within fifteen (15) days of the employee's request for leave, the City may delay the start time for taking the leave until the required certification is provided or may designate the leave as FMLA/CPRA leave.

(d) Re-certification

(i) Periodic Re-certification

The City may require the employee to periodically report on his or her status and intent to return to work. An employee who requests an extension of approved leave will be required to provide a new certification.

(ii) Fitness for Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to return to work. Failure to provide such certification will result in denial of reinstatement.

(iii) Reinstatement

Upon expiration of leave, an employee will be reinstated to his or her position of employment held when the leave commenced, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions if all of the following conditions are met: 1) the employee has been on leave for no more than the maximum family and medical leave period; and 2) the employee provides the department a written certification from a health care provider that the employee is fit for duty.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two (2) business

days, where feasible, after the employee notifies the employer of his or her readiness to return.

If an employee is returning from family and medical leave taken for his or her own serious health condition, but is unable to perform the essential functions of his or her job because of a physical or mental disability, the City will begin an interactive process to determine whether the City can reasonably accommodate the employee without undue hardship.

However, an employee returning from family and medical leave has no greater right to reinstatement, benefits, and other conditions of employment than if he/she had been continuously employed rather than on leave.

(e) Fitness for Duty Certification

(i) Reinstatement of “Key Employees”

The City may deny reinstatement to a “key” employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

(ii) Effect on Benefits.

An employee may receive any group health insurance coverage that was provided before the leave on the same terms as if the employee had continued to work during the leave, up to a maximum of twelve (12) work weeks.

Employee contributions for group health insurance coverage, if any, will be required either through payroll deduction or by direct payment to the insurance provider. The method of payment will be established in conjunction with the employee in writing at the beginning of the leave. The amount of an

employee's contribution is subject to any changes in rates that occur while the employee is on leave.

If the City pays the employee's contribution in order to avoid cancellation of coverage, the employee will be required to reimburse the City on a payroll deduction schedule upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period to authorize the payroll deduction for delinquent payments.

If the employee fails to return from unpaid family and medical leave for reasons other than: 1) the continuation of a serious health condition of the employee or his or her covered family member; or 2) circumstances beyond the employee's control, the City may seek reimbursement from the employee for the portion of the premiums the City paid on behalf of the employee during the leave period.

(f) Required Forms

Employees must complete the following applicable forms in order to receive leave under this policy:

- (i) "Request for Family or Medical Leave Form" prepared by the City to be eligible for leave. Note: employees will receive a city response to their request which will set forth certain conditions of the leave.
- (ii) Medical certification--either for the employee's own serious health condition or for the serious health condition of a child, parent, spouse or domestic partner;
- (iii) Authorization for payroll deductions for benefit plan coverage continuation; and
- (iv) Fitness-for-duty to return from leave form.

9.8 Holiday Leave

Subject to the provisions contained herein and any operative Memoranda of Understanding to the contrary, the following days shall be observed as paid holidays by all employees in regular positions except Police Service personnel and other personnel whose work assignments, in the judgment of the Department Head require their presence on the job. For each designated holiday, such excepted

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personnel shall receive an extra day of in-lieu time off, compensatory time, vacation, or equivalent pay, whichever in the judgment of the Department Head best serves the interests of the Department.

| | |
|-------------------------|---|
| Independence Day | July 4 |
| Labor Day | First Monday in September |
| Veteran's Day | November 11 |
| Thanksgiving Day | Fourth Thursday in November |
| Day after Thanksgiving | Friday following Thanksgiving |
| Christmas Eve Day | December 24 |
| Christmas Day | December 25 |
| New Years Day | January 1 |
| Martin Luther King Day | Third Monday in January |
| Presidents Day | Third Monday in February |
| Memorial Day | Last Monday in May |
| Three Floating Holidays | Scheduling subject to Department Head approval - must be taken before last regularly scheduled pay date prior to June 30 of each year. Floating holidays do not accrue beyond June 30 of each year. |

When a designated holiday occurs on an employee's first regular day off, the previous day will be observed instead. When it falls on the employee's second regular day off, the following day will be observed instead.

To be eligible for holiday pay, an employee must be: 1) in a paid status with the City the day before the holiday; and 2) scheduled to work on the holiday. All regular full-time employees shall receive eight (8) hours' pay for each holiday. All regular part-time employees shall receive holiday pay on a pro-rata basis. Notwithstanding any of the above, temporary employees are not entitled to any holiday time or pay.

In addition to the designated holidays listed above, other days or portions of days may be authorized by official proclamation of the Mayor.

9.9 Bereavement Leave

Bereavement leave is defined as paid leave, not to exceed five (5) days in a calendar year, for the necessary absence from duty by an employee having regular or probationary appointment, because of the death of a member of his or her immediate family or because he or she must attend to the critical illness of a member of his or her immediate family where death appears imminent.

For purposes of this section, immediate family consists of the following: employee's spouse, domestic partner, child, stepchild, parent, grandparent, grandchild, brother, sister, mother/father-in-law, son or daughter-in-law, brother or sister-in-law, legal guardian, or custodial child, or the same relatives of a domestic partner.

Bereavement leave without deduction from other leave accruals shall be provided in accordance with current applicable Memoranda of Understanding, if applicable.

9.10 Pregnancy Disability Leave

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for up to four (4) months.

9.10.1 Notice and Certification Requirements

Requests for pregnancy disability leave must be submitted in writing and must be approved by the employee's supervisor or department head before the leave begins. The request must be supported by a written certification from the attending physician that the employee is disabled from working by pregnancy, childbirth or a related medical condition. The certification must state the expected duration of the disability and the expected date of return to work.

All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the department head prior to being taken. Requests for an extension of leave must be submitted in writing to the department head prior to the agreed date of return and must be supported by a written certification of the attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition. The maximum pregnancy disability leave is four (4) months.

9.10.2 Compensation During Leave

Pregnancy disability leaves are without pay. However, the employee may first use sick leave, vacation leave, and then any other accrued paid time off during the leave.

9.10.3 Benefits During Leave

An employee on pregnancy disability leave may receive any group health insurance coverage that was provided before the leave on the same terms as provided to other employees who become disabled off-duty, as if the employee had continued to work, if: 1) the employee is eligible for concurrent family medical leave; and 2) the employee has not already exhausted this twelve (12) week group health insurance coverage benefit in the current family medical leave eligibility period. The City may recover premiums it paid to maintain health coverage, as provided by the family and medical leave laws, if an employee does not return to work following pregnancy disability leave.

An employee on pregnancy disability leave, and not eligible to receive group health insurance coverage as described above, may receive health insurance coverage in conjunction with COBRA guidelines by making monthly premium payments to the City.

9.10.4 Sick and Vacation Leave Accrual

Sick leave and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.

9.10.5 Reinstatement

Upon the expiration of pregnancy leave and the City's receipt of a written statement of the health care provider that the employee is fit to return to duty, the employee will be reinstated to her original or an equivalent position so long as it was not eliminated for a legitimate business reason during the leave.

1. If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and geographic location as the employee's original position.
2. If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify potential reasonable accommodations.

An employee who fails to return to work after the termination of her leave loses his or her reinstatement rights.

9.11 Military Leave

The City provides military leaves of absence to employees who serve in the uniformed services as required by the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. § 4301 et. seq., "USERRA") and applicable state laws. An employee requesting military leave must provide the department head a copy of the military orders that specify the dates site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

9.12 Leave of Absence with Pay

Leave of absence with pay is defined as the absence of an employee from his or her regular work area, for reasons other than physical or mental illness or injury, during which he or she continues to receive regular salary and entitlement to all benefits. Regular work area is defined as the geographical area to which the employee is typically and appropriately assigned to work during the usual course of employment.

Upon written recommendation of the Department Head, the City Manager may authorize leave of absence with pay for a period or periods not to exceed one hundred eighty (180) calendar days in a calendar year for purposes which: 1) contribute to the employee's effectiveness in his or her duties and responsibilities; and 2) are deemed to be beneficial to the City.

9.13 Leave of Absence without Pay

Leave of absence without pay is defined as the authorized absence of a regular employee during which the employee's regular salary is suspended and benefits are not received unless otherwise required by law. Temporary employees are not entitled to leave without pay.

Upon written recommendation of the Department Head, the City Manager may authorize leave of absence without pay for a period or periods not to exceed one hundred eighty (180) calendar days in a calendar year for purposes which are deemed to be beneficial to the City.

Leave of absence without pay is subject to the following limitations:

1. Other than for the purpose of extending sick leave, pregnancy disability leave or family and medical leave, no leave of absence without pay will be granted unless the employee has first used all accrued vacation leave and compensatory time off. However, the City Manager may authorize limited leave of absence without pay not to exceed five (5) days to an employee who is not eligible to use accrued vacation leave because he or she has not completed his or her initial probationary period.
2. An employee on unpaid leave pursuant to this section must return to work at the end of the leave period the City has authorized or be subject to discipline for absence without leave.

9.14 Unauthorized Leave

Any absence from work without authorization shall be grounds for disciplinary action, including but not limited to, termination of employment.

The fact that an employee has vacation or sick leave accrued does not authorize his or her absence from work. All leaves must be approved by the employee's supervisor or department head prior to the actual leave time, except as provided in this section. If an employee remains absent without approved leave for more than three workdays, the City will consider such action a voluntary

resignation and will initiate procedural due process, as necessary, to terminate the employee's employment.

9.15 Management Leave

The purpose of management leave is to provide additional rest periods for Management personnel over and above the regular vacation leave. Management personnel are required to work the number of hours required to conduct and supervise the work which has been assigned to them and often attend evening and weekend meetings and functions on behalf of the City. This paid leave will permit additional time away from the pressures of the Management positions in order for the Management employees to continue their work in an efficient manner.

All Management personnel shall be entitled to take nine (9) days of management leave each year.

Management leave shall be credited on July 1 of each fiscal year except that new Management employees shall be assigned management leave prorated on the amount of time from their appointment to the next July 1.

Management leave does not vest and may not be accumulated from one fiscal year to the next. Any management leave not used prior to the next fiscal year shall be lost.

9.15.1 Time Off for Victims of Violent Crimes or Domestic Abuse

An employee who has been a victim of crime or domestic violence may take time off to: 1) appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding; 2) seek medical or psychological assistance; or 3) participate in safety planning to protect against further assaults.

An affected employee must give the City reasonable notice that he or she is required to be absent for a purpose stated above. In cases of unscheduled or emergency court appearances or other emergency circumstances, the affected employee must, within a reasonable time after the appearance, provide the City with written proof that the absence was required for any of the above reasons. The City may require the employee to provide proof of eligibility for this leave. Leave under this section is unpaid unless the employee uses accrued time off.

9.15.2 Jury Duty and Court Appearances

1. Jury Duty

An employee who is summoned to serve on a jury, must notify his or her supervisor or department head as soon as possible after receiving notice of both possible and actual jury service in order to receive time off for the period of

actual service required on such jury. An employee shall be paid the difference between his or her regular salary and the amount of court pay received, except travel pay, for jury duty. The time spent on jury duty is not work time for purposes of calculating overtime compensation.

2. Subpoena

An employee who is subpoenaed to appear in court in a matter regarding an event or transaction which he or she perceived or investigated in the course of his or her City job duties will do so without loss of compensation. The time spent will be considered work time.

3. Exception for Employee-Initiated or Non-City Related Lawsuits

An employee subpoenaed to appear in court in a matter unrelated to his or her City job duties or because of civil or administrative proceedings that he or she initiated does not receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use accrued vacation for time spent related to those proceedings. The time spent in these proceedings is not considered work time.

9.15.3 School-Related Leaves

An employee who is a parent, guardian or grandparent with custody of a child in a licensed day care facility, kindergarten or grades 1 – 12, inclusive, may request unpaid time off to visit that facility or school as described below.

1. School Activities

An employee may take off up to eight (8) hours without pay each month (up to a maximum of forty (40) hours each calendar year), to participate in the activities of the facility or school, provided that the employee gives reasonable notice to the City of his or her proposed absence. An employee may utilize his or her existing accrued vacation time or other accrued paid time off. The City requires the employee to provide documentation from the school or licensed day care facility, within five (5) days of the leave, as proof that the employee participated in the school or licensed day care activities on a specific date and time. If both parents, guardians or grandparents of a child work for the City, only one parent, guardian or grandparent—the first to provide notice—may take the time off, unless the City approves both parents, guardians or grandparents taking time off.

2. School Leave – Suspension

An employee who is the parent or guardian of a child who has been suspended from school, and who the school has directed to attend the child's school, may have unpaid leave for this purpose. The employee should alert his or her supervisor as soon as possible so that alternative arrangements may be made. The City may require proof from the employee that this leave is warranted. The employee may utilize his or her accrued vacation time.

SECTION 10. BENEFITS

10.1 General Statement

Part-time and temporary employees do not qualify for benefits, with the exception that regular part-time employees meeting the eligibility criteria are eligible for PERS retirement benefits.

10.2 Retirement Plan

Membership in the Public Employees Retirement System (PERS) Plan is mandatory from date of employment, except for the following:

1. When limited term employment is limited to six (6) months or less.
2. When part-time appointment is limited to less than an average of twenty (20) hours per week.
3. When otherwise required by the PERS Plan. See PERS Procedures Manual for more detailed information.

Except for Police Service employees, who receive retirement benefits as stated in their Memoranda of Understanding, after successful completion of an initial three month period, the City will pay membership contributions for eligible employees. Prior to successful completion of the initial three month period, employee contributions will be deducted from the employee's salary.

SECTION 11. ON-THE-JOB INJURY

11.1 Medical Attention

Whenever an employee sustains an industrial injury or disability arising out of, and in the course of, City employment, and requires medical treatment, the employee shall be referred to an appropriate facility or doctor based on the nature and extent of the injury or disability. Treatment and medical referrals arising out of or in the course of City employment shall be in conformance with rules and procedures which may be established from time to time by the City's Workers' Compensation carrier.

In the event the desired doctor is unavailable, which may be the case during the weekends and after normal working hours, industrial injury victims may be taken to Howard Memorial Hospital Emergency Room.

The employee's supervisor and/or Department Head must be notified as soon as possible after the injury.

11.1.1 Emergency

If the injury or disability is a serious and urgent nature and requires emergency medical treatment, the employee shall be referred or transported to the nearest emergency treatment facility, generally, the Emergency Room at Howard Memorial Hospital.

11.1.2 Non-Emergency

If the injury or disability is not of a serious and urgent nature and would require only normal medical treatment, the employee shall be referred to the Baechtel Creek Clinic or to the employee's designated physician.

11.1.3 First Aid

Referral of an employee for medical treatment will not be necessary in cases where the injury is of such a minor nature that ordinary first aid treatment will suffice.

11.2 Industrial Accident Reporting Procedures

In the event of injury to an employee which has arisen out of, and in the course of his or her City employment, the employee's immediate supervisor or superior shall investigate the contributing factors causing the injury and shall initiate the accident reporting forms authorized by the City Manager for this purpose. Reports of injury shall be completed immediately upon notice of such injury. Notice of injury will have been effected when the injured employee or other persons on his or

her behalf, have reported the injury to his or her supervisor or other appropriate superior. Employees are required to immediately report job-related injuries at the time they occur. Upon failure of compliance with the time limitations specified in Section 5400 of the California Labor Code, and wherein the City has been misled or prejudiced by such failure, industrial leave may be denied.

11.2.1 Reports of Injury

Reports of injury will be completed in cases where:

1. Injury to an employee occurs requiring treatment by a doctor.
2. An accident occurs which may have resulted in serious injuries had an employee been more closely involved.
3. Ordinary first aid has been administered and appears to be sufficient treatment but the likelihood of further complications, e.g., infections, exists or the injured employee insists on seeing a doctor.
4. No apparent injury has resulted, but the employee involved feels they should see a doctor or in the judgment of his or her supervisor an employee should be treated by a doctor.

11.2.2 Fatal or Serious Injuries

Fatal or serious injuries shall be reported immediately by telephone to the City Manager, who in turn will insure compliance with Section 6408 of the California Labor Code regarding special procedures in such cases. In case such fatal or serious injuries occur after normal working hours or on weekends, supervisors will contact the Police Department. In every case involving death or serious injury or illness which required inpatient hospitalization for a period in excess of twenty-four (24) hours, a report shall be made immediately by the City to the nearest CAL OSHA Office by telephone or telegraph, except accidents occurring on a public street or highway.

11.2.3 Doctor's Referral Slip

An employee, whose job-related injury was of such severity as to warrant treatment by a doctor, shall not be permitted to return to his or her job or any other job within the City until the employee has presented to his or her supervisor a properly authenticated doctor's referral slip, or other acceptable assurance, indicating the employee's physical health will not be endangered further in the performance of his or her regular duties or other duties to which he or she may be assigned.

An employee who has returned to work following recovery from a job-related injury and later requires additional time off due to incapacitation arising from an original injury, shall be returned to his or her doctor of record by way of referral slip or other forms authorized by the City Manager. Industrial accident leave, as defined below, will not be granted for intermittent time off unless incapacitation has been confirmed as outlined above.

11.2.4 Distribution of Immediate Supervisor's Report of Employee Injury

1. In the event an employee is injured, he or she shall report it immediately to his or her supervisor. If the injury warrants medical treatment, his or her supervisor shall complete a Medical Service Order slip to be given to the doctor by the injured employee.
2. Whether or not the injury warrants medical treatment, the Supervisor shall complete the "Immediate Supervisor's Report of Employee Injury" and submit it to the City Manager.
3. The Immediate Supervisor's Report of Employee Injury shall be transmitted to the payroll clerk, who will send a copy to R.E.M.I.F., return a copy to the supervisor and retain one copy for the personnel office files.

11.2.5 Distribution of State Employer's Report of Occupational Injury or Illness

In the event the employee requires medical treatment, the payroll clerk shall complete a State of California, Employer's Report of Occupational Injury or Illness report, retaining one copy for the personnel office files and sending the original and one copy to R.E.M.I.F.

11.2.6 Immediacy of Treatment

The relief of pain and suffering shall not be delayed for the sake of completing accident report forms. Under such circumstances the above procedures shall be accomplished as soon as feasible after treatment has been obtained.

11.3 Industrial Accident Leave

Industrial accident leave is defined as the necessary and authorized absence from duty by an employee because of an injury or disability which has arisen out of, and in the course of employment with the City.

11.3.1 Amount of Leave – Full-time Probationary and Regular Employees

The following schedule shall be applicable to all full-time probationary and regular employees except Police personnel covered by the provisions of Section 4850 of the California Labor Code.

| Amount of Employee's Continuous City Service | Maximum Industrial Accident Leave |
|---|-----------------------------------|
| At least one (1) day but less than six (6) months | Thirty (30) calendar days |
| At least six (6) months | Nine (9) calendar months |

11.3.2 Amount of Leave – Police Personnel – Sworn Safety

Personnel whose duties place them within the scope of Section 4850 of the California Labor Code shall receive industrial accident leave to the extent provided for in that law (one (1) year).

11.3.3 Amount of Leave – Part-time Employees

An employee having a probationary, regular, or acting appointment that is less than full-time but more than twenty (20) hours per workweek shall be entitled to a maximum of thirty (30) calendar days of industrial accident leave.

11.3.4 Amount of Leave – Temporary Employees

Temporary employees and those employees whose appointment is less than half-time (twenty (20) hours or less per workweek), including those employees assigned to the Police Department who are not within the scope of Section 4850 of the California Labor Code, shall not be entitled to industrial accident leave. Entitlement to Workers' Compensation benefits under the laws of California will be unaffected by this provision.

11.3.5 Compensation

An employee on authorized industrial accident leave shall, during such absence, receive that portion of his or her normal salary, which, when added to temporary disability benefits payable under the provisions of the Workers' Compensation Laws of California equal his or her normal salary provided that:

1. The employee is entitled to receive benefits within the scope of such law; and

2. The City's ability for payment of such portion shall be limited to the maximum periods specified in Sections 11.3.1 through 11.3.4.

11.3.6 Extended Industrial Accident Leave

An employee who continues to be injured or disabled after he or she has used all entitlements to industrial leave as specified in Sections 11.3.1 through 11.3.4, may be granted, at the discretion of the City Manager, such portion of accrued sick leave necessary to assure receipt of the equivalent of his or her full salary.

Sick leave will not normally be granted to extend industrial accident leave when it is evident that the employee will be incapable of performing the duties of the position to which he or she was assigned. If the employee is eligible for immediate retirement under the provisions of the Public Employees Retirement System then, in the interest of the employee, the Department Head may place the employee in sick leave status until retirement is effected, or expiration of sick leave, whichever is sooner.

11.3.7 Workers' Compensation Benefits

Employees who have expended the maximum industrial accident leave allowance plus sick leave extensions, if any, and continue to be temporarily disabled shall, barring recourse to other provisions of these Regulations, cease to receive supplemental wages under this section. Entitlement to Workers' Compensation benefits will be unaffected.

11.3.8 Extension of Benefits

Employees whose appointments provide them vacation, holidays, and sick leave shall continue to accrue such benefits and to earn eligibility for consideration for merit salary advancement during an absence resulting from injuries arising out of or in the course of City employment, provided such employees are entitled to temporary disability benefits under the Workers' Compensation Laws of the State of California.

11.3.9 Availability of Personnel

An employee on industrial accident leave must be available for any appointments or consultation as may be required by the City or any other authorized agency and must keep the City informed regarding his or her whereabouts on a continuing basis.

11.3.10 Appeals Board Appearances

Any employee who does not regain his or her pre-injury condition following recovery from an injury sustained in the course of City employment but instead is permanently

disabled to a measurable degree, even though the existence of disability is the employee's opinion alone, has the right to apply for a hearing before the Workers' Compensation Appeals Board, and to receive a determination as to the extent of permanent disability, if any.

The time off necessary to appear at the Appeals Board Hearing at the time it is scheduled shall be provided the employee by his or her Department Head. Time off for this purpose will be considered sick leave.

Notices of hearings before the Workers' Compensation Appeals Board will be distributed to the appropriate Department Head by the City Manager as they are received. The Department Head or his or her designated representative will attend the Appeals Board Hearings of employees assigned to that department.

SECTION 12. CAREER DEVELOPMENT

12.1 General

Employees are encouraged to take advantage of education and training benefits to improve their job skills and to qualify for transfers and promotions. These benefits are limited to training and education that is relevant to the employee's current position or "reasonable" transfer and promotion opportunities. "Reasonable" is defined as attaining the minimum qualifications for promotion or transfer with no more than two (2) years of additional education or training. These benefits will be available to all employees on a first come, first served basis, subject to the availability of budgeted funds and subject to the conditions set forth below.

Requests for education and training may be initiated by either the employee or the Department Head. Reference to training requests and training received should be made on the Performance Evaluation forms. Final decisions on requests for education and training will be made by the City Manager.

12.2 Education Reimbursement

12.2.1 Request Procedure

Regular full-time employees, performing their duties satisfactorily are eligible for this program. Employees must submit a written request, with a proposed curriculum of study, to the City Manager, at least fifteen (15) days prior to the registration deadline for such classes. Requests will be considered for attendance at accredited colleges, universities, and business and technical schools for single courses or programs leading to a degree or certificate. The City Manager shall be the final approval authority for all requests submitted. Applications must bear the signature of the employee and be approved by the Department Head.

12.2.2 Amount of Tuition Reimbursable

If a written request is approved by the City Manager, the employee shall receive reimbursement for 100% of the cost of registration, tuition and books, upon successful completion of the course(s) with a grade of "C" or better in an undergraduate course, or a "B" or better in a graduate level course, or "Passing" where no grade is used. No reimbursement shall be made for audited or incomplete courses. Employees are prohibited from receiving double funding for education; i.e., from the City and another source such as the Veterans Administration. Employees will be required to sign a statement verifying that the City is the sole source of funding. No payment shall be made for the expense of travel, parking, meals, normal supplies, or other incidental costs.

12.2.3 Post-payment / Reimbursement Request

To obtain post-payment of authorized expenses, application must be made within sixty (60) days of the completion of a course. Confirmation of the grade received and an itemized list with receipts for all expenses claimed must accompany the application.

12.2.4 Eligibility

The following criteria shall be used to determine the eligibility of courses for tuition reimbursement:

1. Courses must be directly related to the duties performed by the employee.
2. Courses must have reasonable potential for resulting in savings or more efficient service to the City.
3. Courses must be taken through accredited institutions.

12.2.5 Limitations

Reimbursement is limited to six semester units per semester or nine quarter units per quarter.

Courses are not eligible for tuition reimbursement if they:

1. Are taken to bring unsatisfactory performance up to an acceptable level;
2. Are taken to acquire skills or knowledge which the employee was deemed to have when appointed;
3. Duplicate available in-service training;
4. Duplicate training which the employee has already had; or
5. Are part of a work experience program and involve no classroom participation.

12.2.6 Control of Property

All books and other required materials which have been paid for by the City under this program are the property of the City of Willits and shall be turned in by the employee to his or her Department Head upon completion of the course. Department Heads shall be responsible for establishing and maintaining a system of control for all

such books and materials. An employee desiring reimbursement for books shall first determine that the book is not available within his or her Department.

12.3 Training

12.3.1 Authorization to Attend Function

The City may authorize or require employee attendance at conferences, seminars, workshops, or other functions of a similar nature that are intended to improve or upgrade the employee's job skills.

12.3.2 Request Procedure

Requests to attend training sessions should be made at least fifteen (15) days prior to the deadline for registration. The Department Head will make decisions regarding the employee's attendance subject to the final approval of the City Manager.

12.3.3 Costs Covered

When a request for training is approved, the employee's reasonable cost of registration, tuition and publications, transportation, lodging and meals will be covered by the City. In addition, the employee will receive compensation as described below:

1. When attendance is required by the City, the employee shall receive compensation in accordance with the section of these Rules relating to overtime hours incurred in the training (not to include eating and sleeping time).
2. When attendance is voluntary and authorized by the City, and the training occurs during the employee's regular work hours, the employee shall be compensated.

12.4 Personal Education and Training

Employees who desire to further themselves through education or training not related to their work for the City are encouraged to do so. The City will be unable to provide financial assistance for this type of education and training.

SECTION 13. EMPLOYEE CONDUCT AND DISCIPLINE

13.1 General Conduct

It is recognized to be the obligation of all employees to be courteous and efficient in the performance of their duties. Employees are expected to establish and maintain harmonious and effective working relationships with other employees and departments. A friendliness and willingness to help should be exhibited during telephone calls, in letters, and in person-to-person conversations, while at the same time being as brief and concise as possible. In addition, employees should always strive to reduce costs of supplies and services in every practical manner.

13.2 Dress and Grooming

Every City employee is expected to be dressed and groomed in a manner appropriate to his or her job and any safety considerations which may apply.

13.3 Discipline Policy

13.3.1 Policy Coverage

Only regular, for cause employees have the rights to pre- and post-disciplinary procedures listed in this section. The following categories of persons can be terminated at-will and have no rights to any of the pre- or post-disciplinary processes or procedures in this Policy: 1) temporary employees; 2) probationary employees; 3) any person who serves pursuant to a contract; 4) any person who is designated "at-will" in any City policy, document, acknowledgement, resolution or ordinance. Notwithstanding any provision in this policy, any regular employee who is exempt from the overtime provisions of the Fair Labor Standards Act ("FLSA") is not subject to any disciplinary penalty which is inconsistent with his or her FLSA overtime-exempt status.

Grounds for disciplinary action include, but are not limited to:

1. Violation of any Rule contained herein;
2. Mishandling of public funds;
3. Making any false statement, omission or misrepresentation of fact;
4. Falsifying any City record;
5. Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;

6. Malfeasance or misconduct, which shall be deemed to include, but shall not be limited to the following acts or omissions:
 - (a) Conviction of a felony. "Conviction" shall be construed to be a determination of guilt of the accused by a court, including a plea of guilty or nolo contendere, regardless of sentence, grant of probation, or otherwise.
 - (b) The damaging of City property, equipment, or vehicles, or the waste of City supplies through negligence or misconduct;
7. Insubordination, or insulting or demeaning the authority of a supervisor or manager;
8. Dishonesty;
9. Theft;
10. Disobedience;
11. Improper use of position as an employee for personal gain, or to solicit a contribution, response or action designed to further a political or charitable cause;
12. Drinking alcohol or taking narcotics or other illegal drugs on the job, or arriving on the job under the influence of such substances;
13. Gambling during the work day;
14. Offensive conduct or language towards the public or other employees;
15. Being convicted of a crime which brings discredit to the City or hinders the employee's ability to perform in his or her job capacity;
16. Acceptance of gratuities or pressure designed to affect the City's response to the public or special interest groups (taking bribes for action);
17. Taking City equipment or property off City premises for personal use or using City equipment or property for personal use, where prohibited, including but not limited to: physical property, tools, equipment, City communication systems, or Intellectual Property;
18. Failure to follow orders, written directives, or Departmental policies and regulations, from the Supervisor, Department Head or City Manager;

19. Failure to perform assigned work;
20. Unsatisfactory job performance or inefficiency;
21. Failure to report a conflict of interest to immediate supervisor;
22. Abusing or being wasteful of materials, property or working time;
23. Failing to report to the Department Head when absent, or being absent without authorized leave;
24. Excessive or habitual absence or tardiness;
25. Discussion of confidential City business with unauthorized persons;
26. Refusal to report in an official emergency, when the employee's position is subject to such reporting;
27. Discourteous treatment of the public or other employees.
28. Failure to cooperate with employee's supervisor or fellow employees;
29. Unapproved outside employment or activity that violates the City's Outside Employment policy, or other enterprise that constitutes a conflict of interest with service to the City;
30. Any conduct that impairs, disrupts or causes discredit to the City, the employee's City employment, to the public service, or other employee's employment;
31. Working overtime without prior authorization; and
32. Violation of any City Ordinance, personnel rule provision, policy or departmental rule.

13.3.2 Administrative Leave

A department head may place an employee on an administrative leave with pay pending a potential disciplinary action. Administrative leave with pay is authorized: 1) when the department head believes that the employee's continued presence at the work site could have detrimental consequences for City operations; or 2) pending investigation into charges of misconduct. If the charges against the employee are substantiated by the investigation, appropriate disciplinary action may be taken in accordance with these procedures.

13.3.3 Types of Discipline

The types of personnel actions and/or discipline are:

1. Counseling Memo

A counseling memo may become part of the employee's permanent record, and may not be appealed under this policy. The employee shall have the right to have a written rebuttal attached to the Counseling Memo if placed in the employee's personnel file.

2. Oral Admonishment or Reprimand

An oral admonishment or reprimand may be memorialized in writing, may become part of the employee's permanent record, and may not be appealed under this policy. The employee shall have the right to have a written rebuttal attached to the Oral Admonishment or Reprimand if placed in the employee's file.

3. Written Admonishment or Reprimand

A department head may reprimand an employee by furnishing him/her with a written statement of the specific reasons for reprimand. A copy of the reprimand may become part of the employee's permanent record, and may not be appealed. The employee shall have the right to have a written rebuttal attached to the reprimand if placed in the employee's personnel file.

4. Suspension

The department head may suspend an employee from his or her position for cause. Documents related to a suspension shall become part of the employee's permanent record. An employee subject to suspension will receive prior written notice and appeal as provided herein. FLSA-exempt employees are not subject to suspension except in work day or work week increments for violations of workplace conduct rules. FLSA-exempt employees who believe they have been disciplined in violation of this policy may use the Complaint Procedure in Section [7.14].

5. Demotion

The department head may demote an employee from his or her position for cause. Documents related to a demotion shall become part of the employee's permanent record. An employee subject to demotion shall be entitled to the prior written notice and appeal as provided herein.

6. Reduction in Pay

The department head may reduce an employee's pay for cause. A reduction in pay for disciplinary purposes may take one of two forms: 1) a decrease in salary to a lower step within the salary range; or 2) a decrease in salary paid to an employee for a fixed period of time. Documents related to a reduction in pay shall become part of the employee's permanent record. An employee subject to a reduction in pay shall be entitled to prior written notice and appeal as provided herein. FLSA-exempt employees are not subject to reduction in pay.

7. Discharge

The department head may discharge an employee from his or her position for cause. Documents related to discharge shall become a part of an employee's permanent record. A discharged employee is entitled to prior written notice and appeal based upon the terms described herein.

13.3.4 Skelly Process

The *Skelly* process is a pre-disciplinary procedure for suspension, demotion, reduction in pay, or discharge.

Only regular, for-cause employees have the right to the conference and appeal processes outlined in this section.

1. Notice of Intent to Discipline

The employee will be provided a written notice of intent to discipline that contains the following:

- (a) The level of discipline intended to be imposed;
- (b) The specific charges upon which the intended discipline is based;
- (c) A summary of the misconduct upon which the charges are based;
- (d) A copy of all written materials, reports, or documents upon which the intended discipline is based;

- (e) Notice of the employee's right to respond to the department head regarding the charges either orally during an informal conference, or in writing, or both;
- (f) The date and time by which the employee and his or her representative, if any, may respond to the department head, either orally during the informal conference, or in writing, or both, after no less than seven (7) days from the date of the notice; and
- (g) Notice that the failure to respond at the time specified shall constitute a waiver of the right to respond prior to the imposition of discipline.

2. Employee's Response

If the employee requests an informal conference to respond orally to the charge(s), the conference must be scheduled at least seven (7) calendar days after the date of the Notice. The conference will be an informal meeting at which the employee has an opportunity to rebut the charges against him or her and present any mitigating circumstances. The department head will consider the employee's presentation before taking any final disciplinary action.

The employee's failure to make an oral response at the arranged conference time, or the employee's failure to cause his or her written response to be delivered by the date and time specified in the notice, constitutes a waiver of the employee's right to respond prior to the imposition of the discipline. In that case, the proposed disciplinary action will be imposed on the date specified.

The employee may have a representative present during his or her conference with the department head regarding the notice of intent to discipline.

3. Final Notice of Discipline

Within five (5) calendar days of receipt of the employee's timely written response or within five (5) calendar days of the informal conference, or after the expiration of the employee's time to respond to the notice of intent, the department head shall: a) dismiss the notice of intent and take no disciplinary action against the employee; b) modify the intended disciplinary action; or c) impose the intended disciplinary action. In any event, the department head shall prepare and provide the employee a notice that contains the following:

- (a) The level of discipline, if any, to be imposed and the effective date of the discipline;

- (b) The specific charges upon which the discipline is based;
- (c) A summary of the misconduct upon which the charges are based;
- (d) A copy of all written materials, reports, or documents upon which the discipline is based; and
- (e) A statement of the nature of the employee's right to appeal.

13.4 Disciplinary Appeal

Regular employees may appeal a final notice of discharge, demotion, suspension, or reduction in pay, to an administrative hearing before the Appeals Board by filing a written request of appeal, either personally with the City Manager or by Certified Mail to the City Manager within ten (10) days from the date of the Department Head's decision.

13.4.1 Appeals Board

There is hereby created an Appeals Board consisting of three members. These members shall be appointed by the City Council. One member shall be a local government professional who shall serve as Chairperson for the Appeals Board. One member shall be appointed by the City Council from a list of five individuals presented to them by the City Manager. The third member shall be selected by the appellant and shall be a current full-time employee of the City.

13.4.2 Hearing

The Appeals Board shall conduct a hearing in accordance with the laws of the State of California and the hearing shall be private unless the employee requests a public hearing. The Board may have present at said hearing such officers and witnesses as may be required. The decision of the majority of the Appeals Board shall be transmitted to the City Manager and shall be advisory only. The City Manager, as the appointing authority, shall have the final decision.

13.4.3 Date and Time of Appeal Hearing

The Chairperson, in consultation with the City Manager, will set a date for an appeal hearing within a reasonable time after receipt of a timely written answer and request for appeal. An employee who, having filed a timely written answer and request for appeal, and who has been notified of the time and place of the appeal hearing, and who fails to appear personally at the hearing, may be deemed to have abandoned his or her appeal. In this case, the Chairperson may dismiss the appeal.

13.4.4 Identification of Issues, Witnesses and Evidence

No later than ten (10) days prior to the appeal hearing, each party will provide each other and the Chairperson a statement of the issues to be decided, a list of all witnesses to be called (except rebuttal witnesses), a brief summary of the subject matter of the testimony of each witness, and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City will use numbers to identify its evidence; the employee shall use alphabet letters. Neither party will be permitted to call any witness during the hearing who has not been identified pursuant to this section, nor use any exhibit not provided pursuant to this section, unless that party can show that they could not have reasonably anticipated the need for the witness or exhibit. The Chairperson will state at the beginning of the hearing his or her decision as to the precise issue(s) to be decided.

13.4.5 Conduct of the Appeal Hearing

1. Subpoenas

The City Clerk has authority to issue subpoenas in the name of the City prior to the commencement of the hearing. Each party is responsible for serving his/her/its own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually testify unless the City agrees to a different arrangement.

2. Continuances

The Chairperson may continue a scheduled hearing only upon good cause shown, and upon payment of any cancellation fees.

3. Record of the Proceedings

All disciplinary hearings may, at the discretion of the Chairperson, be recorded, either by a court reporter or otherwise. Any party who requests a transcript of the proceedings must pay for his/ her/its own copy of a transcript.

4. Authority of the Appeals Board or Designee Advisory Hearing Officer

As further detailed herein, the Appeals Board has authority to control the conduct of hearing and to affirm, modify, or revoke the discipline. The Appeals Board may delegate the conduct of the hearing to an Advisory Hearing Officer, who shall provide the Appeals Board and the City Manager an advisory decision in writing within forty-five (45) days after the completion of the hearing and the

receipt of briefs, if any. The parties shall select the Advisory Hearing Officer by requesting a list of seven qualified arbitrators from the State Mediation and Conciliation Service. The parties shall flip a coin to determine who strikes first and will then alternate striking arbitrators until one name remains. Each party shall be responsible for paying one-half of the Advisory Hearing Officer's fees.

5. Conduct of the Hearing

- (a) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner the Appeals Board, or the Advisory Hearing Officer, decides is the most conducive to determining the truth.
- (b) Any relevant evidence may be admitted if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.
- (c) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in civil actions. An objection is timely if made before submission of the case.
- (d) The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
- (e) Irrelevant and unduly repetitious evidence may be excluded.
- (f) The Appeals Board and/or Advisory Hearing Officer shall determine relevancy, weight and credibility of testimony and evidence.
- (g) During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon the request of either party.

6. Burden of Proof at the Hearing

The City has the burden of proof by a preponderance of the evidence.

7. Right to Due Process

The employee shall have the following due process rights during the hearing:

- (a) All witnesses shall be sworn in for the record prior to testifying at the hearing. The Chairperson or Advisory Hearing Officer or court reporter shall request each witness to raise his or her right hand and respond to the following: “Do you swear that the testimony that you are about to give at this hearing is the truth, the whole truth, and nothing but the truth?”;
- (b) The right to be represented by legal counsel or another chosen representative, at his or her own expense;
- (c) The right to call and examine witnesses on his or her behalf;
- (d) The right to introduce evidence;
- (e) The right to cross-examine opposing witnesses on any matter relevant to the issues;
- (f) The right to impeach any witness regardless of which party first called him or her to testify; and
- (g) The right to rebut evidence against him or her.

8. Hearing to Be Closed to the Public

The hearing will be closed to the public unless the employee requests that it be open.

9. Presentation of the Case

The parties will address their remarks, evidence, and objections, to the Appeals Board or Advisory Hearing Officer. All parties and their counsel or representatives shall not disparage the intelligence, morals, or ethics of their adversaries or of the Chairperson or Advisory Hearing Officer. The Appeals Board or Advisory Hearing Officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. The Appeals Board or Advisory Hearing Officer may alter the order of witnesses, limit redundant or irrelevant testimony, or directly question the witness. The hearing shall proceed in the following order unless the Appeal Board or Advisory Hearing Officer directs otherwise:

- (a) The City shall be permitted to make an opening statement.

- (b) The employee shall be permitted to make an opening statement.
- (c) The City shall produce its evidence.
- (d) The employee shall produce his or her evidence.
- (e) The City, followed by the employee, may offer rebuttal evidence.
- (f) Closing arguments of no more than twenty (20) minutes shall be permitted at the discretion of the Appeals Board or Advisory Hearing Officer. The City shall have the right to argue first, the employee may argue second, and the City may reserve a portion of its argument time for rebuttal.
- (g) The Appeals Board, the Advisory Hearing Officer, or the parties may request the submission of written briefs. The Appeals Board or the Advisory Hearing Officer will determine whether to allow written briefs, the deadline for submitting briefs, and the page limit for briefs.

10. Written Findings and Decision

The Appeals Board shall render a statement of written findings and decision after the hearing has been completed and the briefs, if any, have been submitted. If the Appeals Board has delegated the hearing to an Advisory Hearing Officer, the Advisory Hearing Officer shall render a proposed statement of written findings and decision to the City Manager within forty-five (45) days after the completion of the hearing and the receipt of briefs, if any. The City Manager may accept, modify, or reject the Appeals Board or Advisory Hearing Officer's proposed statement of written findings and decision. If the City Manager seeks to modify or reverse the proposed decision, the City Manager shall review the proposed statement of written findings and decision, the evidence and transcript of proceedings, and the briefs, if any. The City Manager shall render a final statement of written findings and decision.

11. Proof of Service of the Written Findings and Decision

The Appeals Board shall send its final statement of written findings and decision, along with a proof of service of mailing, to each of the parties and to each of the parties' representatives.

12. Statute of Limitations

The City Manager's written findings and decision is final. There is no process for reconsideration. Pursuant to Code of Civil Procedure, section 1094.6, the parties have ninety (90) days from the date of the proof of service of mailing of the written findings and decision to appeal the decision to the Superior Court in and for the County of Mendocino.

The City Manager may establish any administrative procedures he or she deems necessary to carry out the intent of this procedure and to assure a uniform and well understood process.

SECTION 14. DRUG AND ALCOHOL FREE WORKPLACE POLICY

14.1 Policy

The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or any controlled substance is prohibited in both City workplaces and wherever City business is performed.

A city employee is prohibited from working or responding to work on a call back if impaired by alcohol or any controlled substance.

An employee must notify his or her supervisor before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of City equipment. If there is a question regarding an employee's ability to perform assigned duties safely and effectively while using prescribed medications, the City may require medical clearance.

Compliance with this policy is a condition of City employment. Disciplinary action will be taken against those who violate this policy.

Employees who are required to participate in the City's "Federally Mandated Commercial Drivers License Holders Drug/Alcohol Testing Education Program" are subject to requirements contained in the City's Policy.

14.2 Scope of Policy

This policy applies to all City employees when they are on City property or when performing City-related business elsewhere.

14.3 Searches

In order to promote a safe, productive and efficient workplace, the City has the right to search and inspect all City property, including but not limited to lockers, storage areas, furniture, City vehicles, and other places under the common control of the City and employees. No employee has any expectation of privacy in any City building, property, or communications system. For police officers, searches are done in accordance with the Public Safety Officers Procedural Bill of Rights

14.4 Drug and Alcohol Testing

Except as provided otherwise in a collective bargaining agreement or as to safety-sensitive employees subject to Department of Transportation ("DOT") requirements, the City has discretion to test a current employee for alcohol or drugs in the following instances:

14.4.1 Reasonable Suspicion Testing

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those persons reasonably suspected of using or being under the influence of a drug or alcohol at work. Testing must be approved by the Human Resources Director, the department head, or a designee.

“Reasonable suspicion” is based on objective factors, such as behavior, speech, body odor, appearance, or other evidence of recent drug or alcohol use which would lead a reasonable person to believe that the employee is under the influence of drugs or alcohol. In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion and discuss the matter with the Director or department head. If there is a reasonable suspicion of drug or alcohol abuse, the employee will be relieved from duty and placed on sick leave until the test results are received.

14.4.2 Post-Accident Testing

The City may require alcohol or drug screening following any work-related accident or any violation of safety precautions or standards, whether or not an injury resulted from the accident or violation, provided that the “reasonable suspicion” factors described above are met.

14.4.3 Employee Responsibilities

A City employee must:

1. Not report to work or be on standby or on-call status while his or her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
2. Not possess or use controlled substances (illegal drugs or prescription drugs without a prescription) at any time, or use alcohol at any time while on City property or while on duty for the City at any location;
3. Not directly or through a third party manufacture, sell, distribute, dispense, or provide controlled substances to any person, including any employee, at any time; or manufacture, sell, distribute, dispense or provide alcohol to any employee while either or both are on duty;
4. Notify his or her supervisor, before beginning work, when taking any medications or drugs, prescription or nonprescription, which may interfere with the safe and effective performance of duties or operation of City equipment;

5. Notify the department head of any criminal conviction for a drug violation that occurred in the workplace within no more than five (5) days after such conviction;
6. Notify the supervisor immediately of facts or reasonable suspicions when he or she observes behavior or other evidence that a fellow employee poses a risk to the health and safety of the employee or others; and
7. Submit to drug or alcohol testing and searches in accordance with this policy and applicable laws.

14.4.4 Management Employee Responsibilities

1. Notify the state or federal granting agency which has funded the work or program, if any, of any criminal drug statute convictions for a violation that occurred at a site where work is/was being done with a specific grant or contract.
2. Record factors supporting “reasonable suspicion” as defined above and consult with other management staff in order to determine whether there is reasonable suspicion to test.
3. Take appropriate disciplinary action for any criminal drug statute conviction that occurred in a City workplace, up to and including termination, or require that the convicted employee participate satisfactorily in a drug abuse assistance or rehabilitation program as a condition for returning to duty.
4. Take appropriate disciplinary action for any violation of this policy.

14.4.5 Drug-Free Awareness Program

The following is the City’s drug-free awareness program:

1. Distribution to each City employee and volunteer of a brochure on the dangers of drug abuse.
2. Notification to each City employee and volunteer of the availability of counseling and treatment of drug-related problems through the City’s Employee Assistance provider.

SECTION 15. GRIEVANCE PROCEDURES

15.1 General

The goal of this grievance procedure is to make every reasonable effort to resolve applicable complaints as near as possible to the point of origin.

15.1.1 Definitions

1. Grievance

Subject to the exclusions listed in this Rule, a grievance is defined as any dispute that: 1) is job-related; 2) is wholly or partially within the province of the City to rectify or remedy; 3) concerns terms and conditions of employment; 4) involves the interpretation, application, or alleged violation of these Rules; 5) is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

2. Grievant

A grievant is an employee who is personally affected by an act or omission that occurred no more than fourteen (14) days prior to the reporting of the grievance, provided that the act or omission comes within the definition of “grievance” as described herein.

3. Days

“Day(s)” shall mean day(s) when the City’s main administration office is open for business.

4. Exclusions from the Grievance Procedure

The following matters are excluded from the definition of “grievance:”

- (a) Requests for changes in wages, hours, or working conditions, including any impasse or dispute in the meeting and conferring process or matter within the scope of representation;
- (b) Resignation due to election to City Council or marriage to a co-worker;

- (c) Requests for changes in the content of employee evaluations or performance reviews, oral or written warnings, reprimands or counseling;
- (d) Challenges to a reclassification, layoff, transfer, denial of reinstatement, or denial of a step or merit increase;
- (e) Challenges to any disciplinary action;
- (f) Challenges to examinations or appointment to positions;
- (g) Management of the City generally or issues of City or Department policy;
- (h) Determination of the nature, necessity or organization of any service or activity conducted by the City, including the decisions to expand or reduce services or the workforce, and/or to impose layoffs;
- (i) Methods of financing;
- (j) Determination of and/or change in facilities, equipment, methods, technology, means or size of the work force;
- (k) Determination of or change in the location, number of locations, relocations and types of operations, processes or materials to be used in carrying out City functions;
- (l) Determination of work assignments and schedules;
- (m) Determination of productivity or performance programs and standards.
- (n) Determination of standards, policies, and procedures for selection, training, and promotion of employees; and
- (o) Establishment, implementation, and modification of Department organizations, supervisory assignments, chains of command, and reporting responsibilities.

15.2 Step 1

Within fourteen (14) days from the event giving rise to a grievance or from the date the employee could reasonably be expected to have had knowledge of such event, the grievant shall orally discuss

his or her grievance with his or her supervisor. The supervisor will investigate and attempt to resolve the matter and shall provide the employee with an oral response within fourteen (14) days after the discussion. If the employee is not satisfied with the response, he or she may proceed to Step 2.

15.3 Step 2

If the grievant is not satisfied with the resolution proposed at the informal level (Step 1), he/she may, within fourteen (14) days of the receipt of such response, file a formal written grievance with his or her immediate supervisor on the approved form provided by the City. The immediate supervisor shall, within fourteen (14) days, have a meeting with the grievant and within fourteen (14) days thereafter give a written response to the grievant on the approved City form. A copy of the immediate supervisor's response will be filed in the grievance file. If the grievant is not satisfied with the response, he or she may proceed to Step 3.

15.4 Step 3

If the employee is dissatisfied with the Immediate Supervisor's response, he or she may, within fourteen (14) days, appeal to the Department Head on the form approved by the City for that purpose. The grievant shall provide the Department Head with a copy of the Step 2 response. Within fourteen (14) days after receiving the appeal and Step 2 response, the Department Head may, at his or her discretion, schedule a meeting with the grievant. The Department Head shall provide a response in writing within fourteen (14) days of receipt of the appeal or the meeting with the grievant, whichever occurs later, on the approved form. A copy of the Department Head's response will be filed in the grievance file. If the grievant is not satisfied with the response, he or she may proceed to Step 4.

15.5 Step 4

If the grievant is dissatisfied with the Department Head's response, he or she may, within fourteen (14) days of the Department Head's response, file a written appeal to the City Manager on the approved City form.

Within fourteen (14) days of receiving the written appeal, at his or her discretion, the City Manager may schedule a meeting with the grievant. Within fourteen (14) days after the meeting or receipt of the appeal, whichever is later, the City Manager shall provide the grievant with a written response.

The City Manager's decision is final and binding and shall be limited in that 1) it will neither add to, detract from, nor modify the language of these Rules or any applicable memorandum of understanding, and 2) the decision shall be confined to the precise issue(s) raised by the grievance and submitted by the grievant.

Any monetary award in favor of the grievant may not exceed wages or benefits that the grievant has actually lost as a result of the matters alleged in the grievance. In no event shall any grievance award include any compensatory damages or attorneys' fees.

15.6 General Ground Rules for Grievances

All employee grievances must follow this chain of appeal.

15.6.1 Withdrawal

A grievant may withdraw any grievance at any time, without prejudice, by giving written notice to the City representative who last took action on the grievance, and by providing a copy to the Human Resources Division.

15.6.2 Time Limits

All references to number of days will be understood as calendar days. Time limits may be waived upon consent of both parties.

Beginning with Step 2 of the Grievance Procedure, all grievances must be in writing, using the approved City Grievance Form.

15.6.3 Representation

An employee may have a representative of his or her choice present at all stages of the grievance procedure, except that no one may be represented by an employee he or she supervises, and no employee may be represented by his or her supervisor or department head. If the employee's representative is a fellow employee, that employee will receive time off from his or her work assignment for the time of the grievance meeting or hearing plus reasonable travel time. Forty-eight (48) hours prior to the grievance meeting, the employee shall inform the management employee with whom he or she is meeting as to whether he or she shall be represented at the grievance meeting and shall identify the representative.

15.6.4 Settlement of Grievance

Any grievance will be deemed settled when it is not appealed to the next step within the specified time limit, unless an extension of time to a definite date has been mutually agreed upon in writing. Any grievance that the grievant fails to timely move to the next step shall be deemed resolved on the basis of the last disposition.

15.6.5 Grievance of an Order

If an employee is given an order that he or she wishes to grieve, the employee must first comply with the order and file a grievance later, unless the assignment endangers the health or safety of the employee or others or if the employee reasonably believes that the requested assignment violates the employee's constitutional rights.

15.6.6 No Retribution

Employees shall have freedom from reprisal for use of the Grievance Procedures.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Employment of Relatives

For purposes of this Policy, “relative” is defined as a spouse, domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law. “Spouse” means two persons who have a valid marriage and who are wife and husband.

The City shall not base any employment decision to appoint, promote or transfer a person on whether or not that person has a relative presently employed by the City, except that the Department Head or City Manager shall have discretion to prohibit such appointment, promotion or transfer when any of the following would occur:

A direct or indirect supervisory relationship; or

A potential for creating an adverse impact on supervision, safety, security, morale or efficiency exists that is greater for relatives than for unrelated persons.

If two City employees who work in the same department become spouses or domestic partners while both are employed by the City, the Department Head or City Manager has discretion to transfer one of the employees to a similar position in another department, or will make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security or morale. Although the wishes of the employees in question will be given consideration, the department head retains sole discretion to determine which employee is to be transferred based upon City needs, operations, or efficiency. Notwithstanding any provision in these Policies, any such transfer that results in a salary reduction is not disciplinary and is not subject to any grievance or appeal.

If accommodations cannot be made to avoid the problems that would arise if both employees remained employed by the City, the employees involved shall decide which of the two shall resign. If the two employees cannot decide, then the employee with the least seniority shall be required to resign. Notwithstanding any provision in these Rules, any such separation is not considered disciplinary and is not subject to any grievance or appeal.

16.2 Employment Status of City Council Members

City Council Members shall not be employed by the City. If a City employee chooses to run for the City Council, prior to taking out his or her election papers he or she must either resign his or her City position or request a leave of absence without pay as provided in [Section 9.11] of this Manual. A leave of absence granted under this provision shall extend for the duration of the election campaign. If elected to the City Council, the employee on leave must immediately resign his or her regular position. Such resignation is not subject to appeal or grievance.

16.3 Safety Program

The City of Willits is committed to providing and maintaining a healthy and safe work environment for all employees. Accordingly, the City of Willits has instituted an Injury and Illness Prevention Program designed to protect the health and safety of all personnel. Every employee will receive a copy of the City of Willits General Safety Rules and will receive health and safety training as part of the Injury and Illness Prevention Program. A complete copy of the Injury and Illness Prevention Program is kept by the Human Resources Director and is available to employees for review.

Every employee is required to know and comply with the City of Willits' General Safety Rules and to follow safe and healthy work practices at all times. Employees may be subject to discipline for engaging in any unsafe or unhealthy work practice or for violating established safety rules. Each employee also is required to report immediately to his or her supervisor any potential health or safety hazards, and all injuries or accidents. First Aid supplies are located in each Department. The location of the nearest doctor and/or medical facility is posted in each Department.

Supervisors are responsible for obtaining first aid and proper medical care, and for filling out all appropriate medical forms, Occupational Safety and Health forms, and Workers' Compensation Employer's Records of Industrial Injury forms. In the event of death or critical injury, the Department Head and City Manager must be notified immediately. If the Department Head cannot be reached, the City Manager must be notified. The Department Head must report the injury or death within twenty-four (24) hours to the appropriate government officials and to the City of Willits Workers' Compensation insurance carrier.

Supervisors must notify the Safety Coordinator immediately upon learning of a concealed hazardous condition that poses a significant danger to the health or safety of employees. On learning of the hazardous condition, the Safety Coordinator must either have the condition corrected or notify in writing the California Division of Occupational Safety and Health and all employees who are at risk. If the condition poses an immediate risk of serious harm or death to employees, the Safety Coordinator must have the condition corrected or give written notice immediately. In all other cases, corrective action or notification must take place no later than fifteen (15) days of any supervisor's or manager's actual knowledge of the condition.

16.4 Use of City Property and Equipment

City property is to be used only for conducting City business unless otherwise authorized. City property includes, but is not limited to: telephones, desks, computers (including hardware and software), file cabinets, lockers, communications stored or transmitted on City property (such as e-mail and voicemail), vehicles and other City property used by City employees in their work.

City property may be monitored and searched by at any time and for any reason. Messages sent or received on City equipment (i.e., voicemail or e-mail messages) may be saved and reviewed by

others. As a result, City employees have no expectation of privacy in the messages sent or received on City property or equipment.

16.4.1 City Business Use and Incidental Personal Use Only

The City's computer system and telephone system are to be used only by authorized employees and for the purpose of conducting City business. Incidental personal use of City telephones, e-mail and internet services by employees is allowed as long as 1) it is not discriminatory, harassing, retaliatory, abusive, illegal or inappropriate and 2) does not interfere with employees' duties and is limited to break times or non-work hours.

16.4.2 Computer Use

The City's computer system, including the mainframe/network/stand-alone computers, peripheral devices, software, e-mail, online or Internet access, and all information stored on the computer system, is the property of the City.

16.4.3 Access to Computer System

The City provides authorized employees access to the computer system in order to assist them in performing their job duties for the City. Access to the computer system is at the City's sole discretion.

16.4.4 Employee Privacy and City Access to All Computer Documents

All computer documents, including e-mail and stored files, are City documents. The City reserves the right to access, review, print and disclose computer documents for legitimate business reasons, including to investigate suspected misconduct, locate needed information, satisfy a law or a governmental request, or protect the City's interests.

Employees should understand, therefore, that they should not expect privacy with respect to any messages or information created or maintained on the City's computer system, including personal information or messages. The City may, at its discretion, inspect all files or messages on its computer system. The City may also monitor its computer system at any time in order to determine compliance with its policies, for purposes of legal proceedings, to investigate suspected misconduct, to locate information, or for any other legitimate business purpose.

Employees should also understand that deleting or erasing information or messages from the City computer system does not ensure that they are confidential. Deleting or erasing information from the computer system is usually ineffective. Employees

should understand that the City may electronically recall or recreate any information kept on the City's computer system even if the employee has deleted or erased it.

16.4.5 No Use in Violation of Law or City Policy

The City's computer system must not be used in violation of any law or any City policy, including the City's policies on discrimination and harassment. It is impossible to list every type of computer system use that would be a violation of the law or City policy. This does not apply to police service employees in the normal course and scope of their employment. Without exhausting all the possibilities, the following are examples:

1. Using the computer system for any unlawful purpose or to store or transmit unlawful material.
2. Storing or transmitting sexually explicit images, messages, or cartoons, or communications that contain ethnic slurs, racial epithets, or anything that could be construed as harassing or disparaging others based on race, national origin, ethnicity, religion, age, gender, sexual orientation, marital status, color or physical or mental disability.
3. Storing or transmitting libelous or defamatory material.
4. Violating any copyright or software license.
5. Using threatening, obscene or abusive language on the computer system.
6. Using the City's computer system for to pursue personal business or activities, such as selling personal items or soliciting for personal charities.

16.4.6 Other Prohibited Activities.

In addition to the above, employees must not engage in any of the following activities in connection with the City's computer system:

1. Installing software on the computer system (including virus checking and screen savers) without prior authorization of the systems manager.
2. Copying software on the City's computer system for transfer to another computer for work purposes without prior authorization of the systems manager.
3. Copying software on the City's computer system for personal use.

4. Connecting computers, including laptops, not owned or leased by the City to the City's computer system without prior authorization of the systems manager.
5. Using the access code, log on or passwords of another employee to gain access to that employee's e-mail or computer records, unless for business necessity.
6. Disclosing access codes, log-ons or passwords, or otherwise making the City's computer system available, to anyone not authorized to have such access.

16.4.7 Discipline

Failure to follow this policy may result in discipline.

SECTION 17. CHILD ABUSE AND NEGLECT REPORTING POLICY

This Policy identifies City positions covered by the California Penal Code's "Child Abuse and Neglect Reporting Act" (Penal Code, sections 11164 – 11174.4) and the legal requirements for employees in those positions.

17.1 Mandated Reporters

City employees subject to the requirements of the Penal Code sections cited above and the requirements of this Policy are considered "mandated reporters" and include: 1) Any employee of the City's Police Department, and 2) any City employee whose duties require direct contact and supervision of children.

The City may amend this Policy from time to time to identify mandated reporters. Each mandated reporter will be notified that his or her position has been identified as such and provided with instructions and resources for identifying and reporting child abuse. Each mandated reporter will be required to sign a "Receipt and Acknowledgment of Child Abuse and Neglect Reporting Policy" form provided by the City.

17.2 Mandated Reporter Duties

When a mandated reporter, in the course and scope of his or her employment or in his or her professional opinion, has knowledge of, observes, or reasonably suspects a child is the victim of abuse or neglect, the mandated reporter is required to follow these steps:

Immediately report your suspicions to the police department. A mandated reporter, in addition, may report directly to Mendocino County Child Protective Services. If you believe the child may be in imminent danger, call 911.

You must also immediately notify your department head regarding your suspicions and the action you have taken in response.

Within thirty-six (36) hours of reporting your suspicions, you must complete a "Suspected Child Abuse Report." The written report must contain all information that led you to make the oral report. The report must be given to your department head.

Section 18. TELECOMMUNICATION DEVICES

18.1 Applicability & Purpose: This policy and procedure applies to the use of telecommunication devices by employees, including the assignment of City cellular telephones, existing City wire line phones and other electronic computer telecommunication devices as an effective means of conducting the business of the City. Violation of this policy may result in disciplinary action except for police officers in the normal scope of their employment and duties.

18.2 Definitions

- A. Existing wire line phones. Includes all City desk top phones.
- B. Cellular Telephone. A wireless telephone.
- C. Other electronic devices. PDA, palms and pocket PC's.

18.3 General Policy on the Use of City Telecommunication Devices

- A. All City telecommunication devices, regardless of the type (cellular telephones, existing wire line phones, etc) are provided as a tool to conduct City-related business. All City employees shall use such devices in a responsible, appropriate, and safe manner. All employees assigned communications equipment shall assume the responsibility to use the equipment in accordance with the provisions of this policy.
- B. Toll calls outside the local service area for reasons other than official use and "900" Calls, are expressly forbidden. Employees should not place directory assisted calls unless it is an emergency. Calls to user-pay telephone numbers (e.g. "900"), collect calls or any third party access codes such as 1010 for Long Distance, other than that provided by the City, are prohibited unless absolutely necessary for purposes of contacting vendor company help lines.
- C. Employees are prohibited from installing any third party equipment to City phones (e.g. caller ID devices) unless approved by the employee's supervisor in writing.
- D. Employees shall comply with the City's policy prohibiting harassment when using City telecommunication devices.
- E. Employees have no expectation of privacy as to data residing in telecommunications devices and /or voice mail. The City may inspect that data at any time and without notice.
- F. Employees shall protect City telecommunications devices from loss or damage.

18.4 Use of City Cellular Phones

- A. City cellular telephones are issued on an as-needed basis with the approval of the Department Head.

- B. City cell phones should only be used by City employees in the performance of their official duties. Personal use of City cell phones is *strictly prohibited* and will result in disciplinary action and reimbursement of charges for personal use.
- C. Employees shall acquaint themselves with the cellular rate plan that applies to their cell phone and use best efforts to make the most economical and cost efficient use of the cellular phone. .
- D. An employee assigned a City phone is responsible for its good care and will be required to reimburse the City's cost for any damage, or lost telephone due to negligence.
- E. Cellular telephones are unique in that they may have charges for both in-coming and outgoing calls. In addition, local calls can still incur airtime charges if the plan minutes are exceeded. A call may be made from a cellular telephone only if it is not practical to be made at any other time with a provided desk phone. Because cellular phones have additional "air time" and possible other charges, employees are expected to use a regular telephone when available.
- F. Employees are prohibited from using the camera function on City cellular phones, except for work-related purposes.
- G. If a cellular telephone is damaged, fails to work properly, or is stolen or lost, the employee shall notify the Department Head.
- H. Employees assigned a City cell phone shall complete a Cellular Phone Use Agreement before using the cellular telephone.

18.5 Use of Cellular Phone While Operating a Vehicle

Use of a handheld cell phone while driving, in the course of conducting City official business, is prohibited except as provided by law. If, in the course of City official business, a City employee needs to make a call or receives a call while she/he are driving, he/she must pull over to the side of the road in a safe manner to complete the call. This includes answering a call, dialing a number, and talking on the phone.

18.6 Personal Use of City Wire Line Telephones

A. Personal calls from City wire line phones must be restricted to those incidental purposes outlined in this policy. Employees are authorized to make reasonable, but limited, use of City wire line phones for necessary personal calls that meet the following criteria:

1. The call does not adversely affect the performance of job duties by the employee.
2. It is of reasonable duration and frequency.
3. It reasonably could not have been made at another time.

Examples of circumstances that may be authorized use during regular work hours are:

1. Calls to home or doctor if employee is injured or becomes sick at work.
 2. Calls to notify an employee's family or other appropriate parties to inform them of a schedule change caused by official business or transportation schedule changes or delays.
 3. Calls within the local commuting area, which is the area from which the employee regularly commutes, when an employee is required to work overtime without advance notice. The call may be to advise family or other appropriate parties of the schedule change and to make alternate transportation arrangement or child care/dependent care arrangements.
 4. Daily, brief calls within the local commuting area to speak to a spouse, minor children, dependent parents, or those responsible for their care.
 5. Brief calls within local commuting area to places that can only be reached during working hours such as a local government agency, a physician's office, home or a garage for emergency repairs.
- B. Telephone users shall make every effort to avoid using directory assistance (both local and long distance) since such calls result in charges to the City. Collect calls shall not be accepted unless from a Public Official, or call is deemed an emergency. An employee must advise his or her supervisor in writing of the need to accept a collect call. Departments that frequently need to make calls to other calling areas should purchase and keep the appropriate telephone directory on hand.

18.7 Use of Personal Cell Phones

- A. Employees are required to limit personal cell phone usage during working hours to breaks or lunch periods. Usage outside of the break and lunch periods should be minimal and must follow the guidelines in this Policy.

- B. Personal cell phones must be in silent or vibrating mode and must not be disruptive to co- workers.

- C. Employees are prohibited from using the camera function on personal cellular phones in the workplace.

- D. The above policy does not apply to employees in the normal course of their employment and duties.