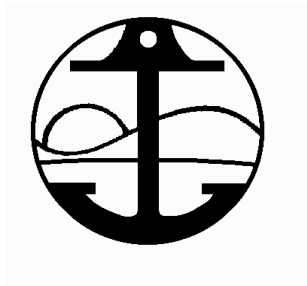


City of Pittsburg Personnel Rules



Adopted by the City Council
on July 7, 2003

SUMMARY OF AMENDMENTS TO THE PERSONNEL RULES

Resolution	Date	Section Amended	General Description of Amendment
03-9849	07-07-2003	All	Personnel Rules are adopted
03-9952	11-17-2003	Rule 6	New Personnel Rule
03-9952	11-17-2003	Rule 21	New Personnel Rule
	11-17-2003	Starting at page 49	Renumbering of pages
05-10431	11-21-2005	Rule 22, 24.2, 25, and 38.3	Removing the disciplinary process, modifying the employee conflicts of interest, reducing the maximum length of an unpaid leave of absence, and amending the reasons to verify sick leave usage
06-10638	09-25-06	Rule 14.7	Appeal of Ratings is amended by providing specific timelines when an employee must act and describes the minimum elements that the employee's performance evaluation appeal must contain.
06-10638	9-25-06	Rule 25	Striking the words "Without Pay" from the title.
06-10638	9-25-06	Rule 39.4	Adding as City-paid time the military inactive duty training and referencing the federal Uniformed Services Employment and reemployment Rights Act.
08-10969	3-3-08	Rule 28	Amending policy and complaint procedure and repaginated the whole document
08-11136	12-15-08	Rule 6 and 7	Amending the Anti-Nepotism Policy and adding Consensual Romantic or Sexual Relationship Policy
09-11154	02-02-08	Rule 6.5	Amending the Hiring of Relatives of Elected Officials
10-11442	05-27-10	Rule 27 and 28	Amending the Pregnancy Disability Leave and Family Medical Leave policies
N/A	07-27-10	Page formatting	Corrected page formatting only.
20-13760	04-06-20	All	Amended all sections of the Personnel Rules.
23-14415	12-18-2023	Rule 23, 25 and 26.14	Amended Bereavement Leave, CFRA and Sick Leave

CITY PITTSBURG
PERSONNEL RULES
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1 General Provisions

1.1 Purpose

The purpose of these Personnel Rules is to establish a system of personnel administration in order to provide for effective personnel management practices; to promote fairness and equality in the recruitment, appointment, retention, promotion, and termination of employees on the basis of merit and fitness; and in order to provide the public with the highest quality of public service.

1.2 Conflicts with Other Policies

These Personnel Rules will not create any additional or parallel rights which already exist in a Memorandum of Understanding and in no event will be considered to create an additional or supplemental appeal right from a personnel decision.

Whenever these Personnel Rules contain a provision relating to a subject matter that is also referred to in a Memorandum of Understanding, then the provisions of said Memorandum of Understanding shall prevail.

Whenever there is a conflict between Personnel Rules and the City of Pittsburg Municipal Code, then the Municipal Code shall prevail.

<p>This Priority Chart is for Informational Purposes Only. Priorities Listed from Highest to Lowest</p>	
1.	MOU or Employment Contract
2.	Municipal Code
3.	Personnel Rules
4.	City Manager's Adopted Administrative Policies
5.	Department Policies and Procedures

1.3 Notice

These Personnel Rules, any changes thereto, and any department directives or regulations related to these rules, regulations, policies and procedures shall be made available to all City employees. The most current version of these Personnel Rules shall be on the City's website.

1.4 Scope

Except where otherwise indicated, these Personnel Rules shall apply to all offices, positions and employees of the City of Pittsburg except:

1. Elected officials and members of appointive boards, commissions, and committees; and
2. Independent contractors engaged under a contract (through accounts payable) to supply expert, professional, technical or any other services.

- 1.5 Administration
The City Manager shall administer the City's personnel system and may delegate any of the powers and duties to the Human Resources Director or may delegate the appointing authority granted by the City Council to any other officer or employee of the City.
- 1.6 Relationship to Other Administrative Procedures
The City Manager and Department Heads may develop and implement operating procedures; provided, however, that these Personnel Rules shall prevail.
- 1.7 Severability
If any provision in these Personnel Rules is held invalid, then the remainder of these rules, regulations, policies and procedures and their application shall not be affected.
- 1.8 Interpretation
The City Manager and the Human Resources Director are responsible for the interpretation of these Personnel Rules.
- 1.9 Gender and Number
The masculine pronoun, whenever used herein, shall include the female pronoun and the singular shall include the plural, except where the content requires otherwise.
- 1.10 Amendments
The City Manager or their designee is authorized to amend these rules, subject to the approval of the City Council.

2 Definition of Terms

- 2.1 **Advancement**
A salary increase within the limits of a pay range established for a class.
- 2.2 **Allocation**
The assignment of an individual position to an appropriate class on the basis of the type, difficulty and responsibilities of the work assigned. As used in these Personnel Rules, employees are appointed to positions; positions are allocated to classes.
- 2.3 **Anniversary Date**
The month and day of an employee's appointment to a position.
- 2.4 **Appointing Authority**
The City Manager, or by delegation, their designee(s). The City Council is the appointing authority for the City Attorney and the City Manager.
- 2.5 **Appointment**
The employment of a person by the City in a position. The types of appointments are detailed in these rules.
- 2.6 **City**
The City of Pittsburg; to also include the Pittsburg Redevelopment Agency, Pittsburg Housing Authority, Pittsburg Power Company, and any other governing body in which the City Council of the City of Pittsburg serves as the majority membership of the governing board, unless specifically excluded in these rules.
- 2.7 **Class or Classification**
A position or group of positions that are sufficiently similar in duties, responsibilities, authority, and qualifications to warrant combining them under a single title.
- 2.8 **Class Series or Classification Series**
The placement of two (2) or more classifications within a group where the classifications within the series perform similar types of job duties and are primarily distinguished by the level of responsibility and the complexity of the assigned duties.
- 2.9 **Class Specifications or Classification Specifications**
A written description of a class of work, including an appropriate class title, a description of the level of the work assigned, and a description of the desirable knowledge, skill and ability standards for positions assigned to the class.
- 2.10 **Compensation**
Salary and other direct pay including all employee benefits.

- 2.11 **Competitive Service**
All positions of employment in the service of the City except those positions that are excluded under Municipal Code 2.52.040.
- 2.12 **Contract Employee**
An employee who is exempt from the Competitive Service and is employed pursuant to an individual agreement approved by the City Council or designee.
- 2.13 **Day**
Means calendar day unless otherwise stated.
- 2.14 **Demotion**
The movement of an employee from one position to a position in another class having a lower maximum base rate or pay.
- 2.15 **Disciplinary Action**
Disciplinary action may include a written reprimand, suspension, demotion, reduction in pay, or a dismissal of an employee.
- 2.16 **Dismissal**
The involuntary separation of an employee.
- 2.17 **Domestic Partnership or Registered Domestic Partnership**
Domestic partner or registered domestic partner as defined in California Family Code section 297.
- 2.18 **Elected Officials**
The elected City Clerk, elected City Treasurer, and the elected City Council Members.
- 2.19 **Eligible**
A person whose name is on a City employment list.
- 2.20 **Employee**
A person legally employed by the City in a position.
- 2.21 **Employment Eligibility List**
A list of qualified candidates for potential appointment to a position within a class.
- 2.21.1 **Open Employment List**
A list of names of persons who have taken an open-competitive examination for a class in the Competitive Service and have been determined to be qualified.
- 2.21.2 **Promotional Employment List**
A list of names of persons who have taken a promotional examination for a class in the Competitive Service and have been determined to be qualified.

2.22 Examination

The process of recruitment for employment, including the testing, selection and evaluation processes used to measure the relative fitness of persons applying for a position with the City.

2.22.1 Open-Competitive Examination

A recruitment for a particular class which is open to all persons meeting the qualifications for the class.

2.22.2 Promotional Examination

A recruitment for a particular class which is open only to existing regular employees meeting the qualifications for the class.

2.22.3 Continuous Examination

An open competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores, for a period of not more than one year.

2.23 Full-Time Employee

An employee who works at least forty (40) hours per work week. For purposes of health care enrollment eligibility under the Patient Protection and Affordable Care Act (2010), the Internal Revenue Service guidance defines full-time as an average of thirty (30) hours per week.

2.24 Human Resources Director

A management position assigned by the City Manager to manage the day-to-day operations of these Personnel Rules and other duties as specified in the class description.

2.25 Layoff

Indefinite termination of service without fault on the part of the employee because of lack of work, lack of funds, or other causes unrelated to the employee's job performance.

2.26 Leave of Absence

Authorized absence, with or without pay, by an employee from work.

2.27 Limited Term Employee

A person who is employed to perform a specific assignment or position for a limited period of time. Limited term employees shall be considered exempt from the Competitive Service. Limited term employees may also be referred to as "seasonal employees."

2.28 Part-Time Employee

An employee who works less than full-time.

- 2.29 **Position**
A group of duties and responsibilities assigned or delegated by competent authority and requiring employment of one person on either a part-time or full-time basis. A position may be occupied or vacant.
- 2.30 **Probationary Employee**
An employee, in a regular position within the Competitive Service, who is completing a probationary period as defined within these Personnel Rules.
- 2.31 **Probationary Period**
A working test period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position.
- 2.32 **Promotion**
The movement of an employee from a position in one class to an existing vacant position in another class having a higher maximum rate of pay. Movement within a class series is not considered to be a promotion.
- 2.33 **Provisional Appointment**
The appointment of a person who possesses the minimum qualifications established for a particular class and who has been temporarily appointed to a position in that class in the absence of available eligibles. Compensation reported to CalPERS for the temporary appointment shall comply with applicable retirement laws, rules, and regulations.
- 2.34 **Reclassification**
The reassignment of a position by raising it to a higher class, reducing it to a lower class, or by moving it to another class at the same level as measured by a change in the kind, difficulty, and responsibility of the work performed. Movement within a class series is considered to be a reclassification.
- 2.35 **Reemployment**
The reappointment, without examination, of a former employee who had permanent status and who resigned in good standing to the last class the employee previously held.
- 2.36 **Regular Employee**
An employee who is employed in a full-time or part-time position of indefinite term, who has completed the probationary period as required in these Personnel Rules.

- 2.37 Reinstatement
The reappointment, without examination, of a former employee who has previously been laid off, or demoted in lieu of being laid off, and whose name appears on a reinstatement list.
- 2.38 Salary Range
The minimum, maximum, and intermediate salary steps that are assigned to a class and the positions within a class.
- 2.39 Seniority
The total consecutive length of service of an employee with the City of Pittsburg in probationary and regular status adjusted for any periods during which the employee was on unpaid status as provided by these Personnel Rules.
- 2.40 Separation
Any termination of employment, including death, discharge, lay-off, resignation, retirement, or work completion.
- 2.41 Supervisor
An employee with the responsibility for organizing, directing, and evaluating the work of other employees.
- 2.42 Suspension
The temporary loss of pay and loss of work, for a limited period of time, of an employee for disciplinary purposes.
- 2.43 Transfer
Either: (1) the movement of an employee from one position to another position in the same class, but to another department; or (2) the movement of an employee from one position to a position in another class with the same salary range and with the same minimum qualifications.
- 2.44 Vacancy
An authorized position that is not occupied.
- 2.45 Week
A period of seven (7) consecutive calendar days.

3 Classification Plan

3.1 Purpose

The purpose of the classification plan is to provide a complete inventory of all classes, to provide accurate class specifications, and to ensure that each position is allocated to the appropriate class.

3.2 Preparation of Plan

The Human Resources Director, or a person or agency employed for this purpose, shall ascertain and record the duties and responsibilities of all positions in the City and shall recommend to the City Manager or designee a classification plan for such positions. The classification plan shall consist of classes of positions defined by class specifications, including the title. The classification plan shall be developed and maintained so that all positions which are substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same salary range may be made to apply to all positions in the same class.

3.3 Approval, Amendment and Revision of Plan

Any proposed amendment or revision to the classification plan shall be initiated by or submitted to the Human Resources Director who shall provide a recommendation to the City Manager or designee. The classification plan shall be approved, and may be amended from time to time, by the City Manager or designee after notification to any recognized employee organization that will be affected by a proposed amendment.

3.4 Allocation of Positions

Following the approval of the classification plan, the City Manager or designee shall allocate every position to one of the classes established by the classification plan.

3.5 Reclassification

Positions, the assigned duties of which have been materially changed by the City so as to necessitate reclassification, whether new or already created, shall be allocated by the City Manager to a more appropriate class, except that if the reclassification requires the expenditure of funds which exceeds the amount authorized by the City Council, the reclassification shall not take place until additional funding is approved by the Council.

3.6 Interpretation of Class Specification

The following principles shall be applied when interpreting specifications for the various classes of positions:

- a. The specifications are descriptive only and are not restrictive. They are intended to indicate the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities and qualification requirements. Use of a particular expression or illustration shall not be held to exclude others not mentioned if such others are similar in kind or quality.
- b. In determining the class to which any position should be allocated, the specification shall be considered as a whole. Consideration is to be given to the general duties, the specific tasks, the responsibilities, the minimum qualifications and the relationships to other classes in order to obtain an inclusive picture of the kinds of positions that the class is intended to include.
- c. The duties statement shall be construed as a general description of a kind of work usually performed by the incumbent of a position that is properly allocated to the class, and not as prescribing what the duties of any position shall be, nor as limiting the expressed or implied power of the authority now or hereafter vested with the right to prescribe or alter the duties of any position.
- d. The typical tasks shall be construed as examples only, illustrative of the duties as outlined by the general statement. These examples are not intended to be complete or exclusive and the fact that the actual task performed by the incumbent of a position does not appear therein shall not be taken to mean that the position is necessarily excluded from the class, provided that the tasks constituting the main work or employment are duly covered by the general statement of duties. On the other hand, any one example of a typical task without relation to the general statement of duties and all other parts of the specifications shall not be construed as determining whether a position should be allocated to the class.
- e. The statement of minimum qualifications constitutes a part of the description of the kind of employment included within the class, and expresses the minimum and any additional desirable qualifications expected of an appointee. Such personal character qualifications as honesty, sobriety, and industry are deemed to be included in the statement of minimum qualifications and need not be specifically mentioned.

4 Recruitment

4.1 Applications and Applicants

All examinations for classes shall be publicized by such methods as the Human Resources Director deems appropriate. Job announcements shall specify the title and pay of the class for which the examination is announced, the nature of the work performed, required training and experience, the manner of making application, and other pertinent information.

4.2 Application Forms

The application form may require such information as deemed necessary by the Human Resources Director and consistent with applicable state and federal laws.

4.3 Disqualification

The Human Resources Director or designee may reject any application that is incomplete, was not submitted by the specified filing date, and/or which indicates on its face that the applicant does not possess the qualifications for the position. Applications also may be rejected if the person:

- (1) Has made a false statement in the application;
- (2) Has been discharged from employment for reasons which indicate unfitness for performing the duties and responsibilities of the class or position;
- (3) Has directly or indirectly obtained information regarding examinations to which the applicant was not entitled or has otherwise defrauded the examination process;
- (4) Has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
- (5) Does not satisfactorily complete any element of the selection process;
- (6) Is unable to perform the essential functions of the class or position, with or without reasonable accommodation if disabled; or
- (7) For any material cause which in the judgment of the Human Resources Director or designee would render the applicant unsuitable for the position, including but not limited to a prior resignation from the City, termination from the City, or prior disciplinary action.

When an application is rejected, the applicant may be notified of the rejection. At the discretion of the Human Resources Director, an applicant may be asked to correct an application that is missing required information; provided, however, that all filing deadlines are met by the applicant.

4.4 Selection Process

The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the opinion of the Human Resources Director, measure the relative capabilities of the persons examined to execute the duties and responsibilities of the class to which they seek appointment. Examinations shall consist of selection techniques which will test the qualifications of candidates such as, but not necessarily limited to, achievement and aptitude tests, review of work history and/or education, written tests, personal interviews, performance tests, physical ability tests, skill tests, evaluation of daily work performance, work samples, medical tests, psychological tests, successful completion of prescribed training, or any combination of these or other tests. Applicants meeting the minimum qualifications are not guaranteed advancement through any portion or phase of the selection process. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class and covering only factors related to such requirements.

4.5 Promotional Examinations

Promotional examinations may be conducted whenever, in the opinion of the City Manager or designee, the needs of the service require. Promotional examinations may include any of the selection techniques described in Section 4.4, or any combination of them.

4.6 Conduct of Examinations

The City may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Human Resources Director or designee shall see that such duties are performed. The Human Resources Director shall arrange for the use of public buildings and equipment for the conduct of examinations.

4.7 Notification of Examination Results and Review of Papers

Each candidate in an examination shall be given notice of their results, and if successful, notice of their placement on the employment list.

A candidate shall have the right to inspect their test answers for any written examination within five (5) working days after the notification of examination results. However, the rating given by any oral board member shall not be disclosed.

Any error in computation, if called to the attention of the Human Resources Director within five (5) working days after notification of examination results, shall be corrected. Such corrections shall not, however, require invalidation of appointments previously made.

5 Anti-Nepotism Policy

5.1 Policy

It is City policy not to discriminate in its employment or personnel actions with respect to its employees and applicants on the basis of marital or registered domestic partner status. Notwithstanding this policy, the City reserves the right to reasonably regulate, for reasons of supervision, safety, security or morale, the assignment of spouses and registered domestic partners within the same department, division, facility or unit. The City further reserves the right to decline to hire or promote the immediate family member of any employee based on the identification of a potential conflict of interest. Promotional advancement shall require the written approval of the Department Head, Human Resources Director, and City Manager if the promotion places one spouse, registered domestic partner, or immediate family member under the direct supervision or within the direct "chain of command" of another.

5.2 Definitions

For purposes of this policy, the following definitions shall apply:

- a. Spouse is as defined in California Civil Code 4100.
 - a. Marital status is defined as an individual's state of marriage, divorce or dissolution, separation, or annulment.
- b. Immediate family member means an individual's parent, grandparent, child, grandchild, or sibling. The term "immediate family member" also includes an individual who falls within one of these categories by marriage, a previous marriage, adoption or registered domestic partnership.
- c. Registered domestic partner is as defined in California Family Code 297.

5.3 Employees Who Are Spouses or Registered Domestic Partners

The City will investigate to determine if there are any reasonable modifications or changes in procedure that can be made to minimize operational concerns regarding supervision, safety, security or morale whenever the employment status of two employees results in either:

- (1) One spouse or registered domestic partner directly supervising another; or
- (2) Two spouses or registered domestic partners working within the same department or division.

In the event that no reasonable modifications or changes in procedure are available, or that any modifications or changes would affect safety, security, supervision or morale, the City reserves the right to transfer or reassign one of the employees. While the wishes of the involved parties will be considered, the controlling factor in determining which relative shall be transferred shall be the positive operation, efficiency, and needs of the City. There is no guarantee that

the new position will be within the same classification or at the same salary level.

If an employee does not accept a transfer or reassignment, or in situations where no transfer or reassignment is available, the City may request the voluntary resignation of one of the employees and if one of the employees does not voluntarily resign, the City will retain one employee and terminate the other. Factors the City might use in evaluating which employee to retain include, for example, performance, tenure, position within the organization, or other factors deemed relevant by the appointing authority or designee.

5.4 Employees Who Are Immediate Family Members

The City may attempt to make reasonable modification or changes in procedure when the relationship between two or more employees is that of immediate family members and not that of spouses or registered domestic partners. In addition, the City may attempt to transfer or reassign immediate family members to a suitable position within the City. Factors the City might use in evaluating which employee to retain in the current position and reassign the other can include, for example, performance, tenure, position within the organization, or other factors deemed relevant by the appointing authority or designee.

5.5 Policy Exceptions

Spouses or registered domestic partners, or immediate family members of employees may continue to work in the same department subject to approval by the Department Head, the Human Resources Director, and the City Manager or designee.

5.6 Appeals

Any permanent employee who was employed in a position within the competitive service who is separated from City service under this Personnel Rule may utilize the disciplinary appeal procedure as identified under the applicable collective bargaining agreement or, if none, the Grievance Procedure as described in these Personnel Rules. Other actions (for example, a transfer, demotion or lost opportunity for overtime or supplemental pay) are not subject to appeal.

5.7 Immediate Family Members of Elected Officials

No person who is the spouse, registered domestic partner, or immediate family member of a current City elected official shall be eligible for regular position appointment.

Additionally, the provisions of this section shall apply to all current members of the Housing Authority's governing board.

The spouse, registered domestic partner or immediate family member of an elected official currently employed as of the date the elected official assumes office shall not be subject to automatic exclusion of employment. The City Manager may,

however, utilize the provisions of this policy to transfer, reassign, or terminate the employee, if necessary, for the efficient operation of City business.

6 Anti-Fraternization Policy

6.1 Purpose

The purpose of this policy is to prevent a conflict of interest or adverse impact on supervision, safety, security, or morale when supervisory employees or co-workers engage in consensual romantic or sexual relationships. Romantic or intimate relationships among employees create serious problems in terms of objective management, an unreasonable possibility of favoritism, conflict of interest, misunderstandings and claims of harassment and/or discrimination.

6.2 Policy

The City reserves the right to reasonably regulate, for reasons of supervision, safety, security or morale, the assignment of employees involved in a romantic or sexual relationship within the same department, division, facility or unit. The City discourages, but does not forbid, fraternization between managers or supervisors and subordinate employees or between co-workers.

6.3 Reporting Requirements

Any employees currently or previously involved in a sexual, romantic, or personal relationship, where a potential conflict of interest may occur within the workplace shall disclose the relevant details to their Department Head and/or the Human Resources Director. Reports made to a Department Head will be forwarded to the Human Resources Director. Failure to report the relationship or disclose pertinent facts may lead to disciplinary action.

6.4 City Response

The City will investigate reports to determine if: (1) the relationship creates a conflict of interest, causes disruption, creates a negative or unprofessional work environment, or presents concerns regarding supervision, safety, security or morale; and (2) if there are any reasonable modifications or changes in procedures that can be made to minimize operational concerns.

If a determination is made that the relationship creates operational concerns that cannot be minimized by reasonable modifications or changes in procedure, the City reserves the right to make such employment decisions as it deems necessary to minimize operational concerns, including but not limited to transfer of one or both parties to the relationship, adjusting lines of reporting or communication, and requiring the parties to acknowledge in writing the voluntariness of any such relationship.

In the event that no reasonable modifications or changes in procedure are available, or that any modifications or changes would affect safety, security, supervision or morale, the City reserves the right to transfer or reassign one of the employees. When the involved employees are co-workers, the wishes of the involved parties will be considered; however, the controlling factor in determining which employee shall be transferred shall be the positive operation, efficiency, and

needs of the City. In situations where one of the employees involved in the relationship is a supervisor, the appointing authority shall transfer the supervisory employee from the position of influence over the other party to the relationship. There can be no guarantee that the new position will be within the same classification or at the same salary level.

If an employee does not accept a transfer or reassignment, or in situations where no transfer or reassignment is available, one of the employees may voluntarily resign. Factors the City might use in evaluating which employee to retain include, for example, performance, tenure, position within the organization, or other factors deemed relevant by the appointing authority or designee.

6.5 Appeal

Any regular employee who was employed in a position within the Competitive Service who is separated from City service under this Personnel Rule may appeal the decision to separate by utilizing the disciplinary action procedure as identified under the applicable collective bargaining agreement or, if none, the Grievance Procedure as described in these Personnel Rules. Actions other than separation (for example, a transfer or lost opportunity for overtime or supplemental pay) are not subject to appeal.

7 Veterans' Preference

7.1 Policy Statement

The City will grant veterans as defined in this Policy with preference points in entrance examinations for positions with the City. No preference is provided for promotional examinations, nor to a current employee in a regular position.

7.2 Definition of Veteran

For purposes of this Personnel Rule, "veteran" means any person who has served in active duty or reserve status in the Armed Forces of the United States in time of national emergency, state military service, or during any expedition of the Armed Forces.

7.3 Preference Provisions

1. Eligibility List by Rank: Eligible veterans who obtain a passing score and are placed on an employment eligibility list will receive an additional five (5) points added to their score. The veteran shall be placed on the employment eligibility list at the appropriate ranking after the additional points are added.
2. Pass/Fail or Block Eligibility List: Eligible veterans who obtain a passing score and are placed on an employment eligibility list will receive a veterans' preference notation and such individuals shall be considered prior to the appointing authority's consideration of other equally ranked eligibles.

7.4 Notice of Veterans' Status and Request for Preference

Any individual applicant for entrance employment with the City wishing to receive veterans' preference must submit proof of their veteran status in the form of a DD-214 along with the original employment application.

7.5 Currently in the Military Service

Candidates who are in the military service at the time of an examination, and who are discharged from military service during the duration of the employment list, may apply for Veterans' Preference upon discharge from the military. If all the eligibility criteria and documentation requirements described in this rule have been met, then the candidate's placement on the employment list will be adjusted accordingly.

7.6 Those Not Eligible for Veterans' Preference

Veterans' Preference shall not be given to those applicants who:

1. Are competing in a promotional examination or for a classification not included within the Competitive Service; or
2. Are retired from the Armed Forces at or above the rank of Major, or its equivalent; or

3. Were discharged more than five (5) years prior to the final filing date stated on the job announcement.
4. Were discharged for a reason other than “general or honorable.”

8 Employment Eligibility Lists

8.1 Employment Lists

As soon as possible after the completion of an examination, the Human Resources Director shall prepare an employment eligibility list consisting of the names of candidates who qualified in the selection process. Multiple employment lists for a single class are permitted. When multiple employment lists exist, an eligible shall be considered based on their overall rating as opposed to when they were placed on an employment eligibility list.

8.2 Duration of Lists

Promotional and open-competitive employment lists shall remain in effect for six (6) months, unless exhausted sooner or abolished by the Human Resources Director. The Human Resources Director may, at their discretion, extend the duration of an employment list, in six month increments, such that the total duration of an employment list is twenty-four (24) months.

8.3 Consideration of Applicants

Any applicant on the employment list may be considered for appointment, and such consideration of applicants shall be termed "the rule of the list" such that any individual on the list may be appointed. However, no person on an employment list shall be considered for appointment unless all other eligibles with a higher or equal employment list ranking have been interviewed by the appointing authority or designee.

8.4 Background Investigations

As part of the examination process and in the process of considering any applicant on the employment list for appointment, it shall be City policy to obtain as much job-related/pre-employment information as possible, within the confines of the law, from current and/or former employers of potential new City employees before a formal employment offer is extended. The Human Resources Director or designee may conduct such investigation of an applicant's training, experience, and mental, physical and personal fitness as may be necessary to determine suitability for appointment.

8.5 Precedence

The names of eligibles shall be certified in accordance with the following priority:

1. Reinstatement List
2. Transfer List
3. Promotional List
4. Reemployment List
5. Open-Competitive List

8.6 Removal of Names from List

The name of any person appearing on an employment list shall be removed by the

Human Resources Director if the person: (1) requests in writing that their name be removed; (2) fails to respond to a notice mailed to the last designated address; (3) no longer meets the eligibility requirements for appointment; or (4) is subsequently hired by the City. The person affected shall be notified of the removal of the name by a notice mailed to the last known address. It shall be the sole responsibility of those individuals on an eligibility list to provide the City with information regarding any change of address or telephone number. The names of persons on promotional lists who resign from City service shall automatically be dropped from such lists upon resignation.

The name of any person appearing on an employment list may be removed by the Human Resources Director following an interview after which the appointing authority indicates they no longer wish to consider the qualified candidate further.

8.7 No Guarantee of Employment

No person who appears on an eligibility list is guaranteed employment with the City. The City Manager or designee, Human Resources Director, and/or appointing authority may opt not to hire any and/or all persons whose names appear on an eligibility list.

9 Medical Standards

9.1 Post-Offer, Pre-employment Examinations

A post-offer, pre-employment medical examination may be required for applicants in select classes. Any pre-employment physical will be done in accordance with the standards set forth in the Americans with Disabilities Act or other applicable law to determine whether the employee can perform the essential duties of the position, with or without reasonable accommodation.

If the results of a pre-employment examination may result in the disqualification of an applicant, the applicant will be notified and given an opportunity to submit an independent medical opinion for consideration before a final decision on the disqualification is made.

No appointment may be made official until a positive determination is made that the applicant can perform the essential functions of the position, with or without reasonable accommodation.

9.2 Fitness for Duty Examinations

An employee may be required to undergo a physical and/or mental evaluation (i.e., a medical examination) to determine their capacity to perform the duties of their position. An employee may be required to submit to an examination by a competent medical practitioner whenever there is a reasonable suspicion that an employee is physically or mentally unfit to perform the duties of their position, may subject others to infection or may subject the employee or third persons to the risk of injury.

9.3 After Absence

The City may require a medical examination and/or medical release before an employee may return to work following an absence due to illness, injury, or surgery.

9.4 After Classification Change

A standard medical examination may be required before an employee is appointed to a classification with more rigorous physical or medical standards. Any medical examination will be done in accordance with the standards set forth in the Americans with Disabilities Act or other applicable law.

10 Appointment

10.1 Appointing Authority

All appointments shall be made by the appointing authority. All vacancies shall be filled from an appropriate employment eligibility list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be permitted.

10.2 Notice to Human Resources Director

Whenever a vacancy is to be filled, the appointing authority or designee shall notify the Human Resources Director. The Human Resources Director shall advise the appointing authority or designee as to the availability of eligibles on employment eligibility lists for the class.

10.3 At-Will Appointment

Except as defined as being within the Competitive Service or as defined in an employment agreement, all appointments, regardless of type, are at-will appointments which may be terminated with or without cause and with or without notice at any time by either the employee or the City. Nothing in these Personnel Rules or in any document or statement shall limit the right to terminate employment at-will. Only the City Council may approve or authorize an employment agreement or an exception modification to this at-will appointment provision and any such employment agreement, exception or modification must be in writing.

10.4 Types of Appointments

10.4.1 Regular Position Appointment

Appointment to a position which works an ongoing schedule, whether part-time or full-time, and for which the City Council has authorized the providing of health and welfare benefits. Regular positions that are included in the Competitive Service must serve a probationary period as provided in these rules.

10.4.2 Temporary Position Appointment

Appointment to a position which is not a regular position appointment. Temporary position appointments are limited to a maximum of nine hundred ninety-nine (999) paid hours during any fiscal year. Temporary positions do not receive health and welfare benefits, accrue vacation, sick leave or other paid leaves, or receive any other benefits accorded to regular position appointments, except as otherwise required by applicable law. Temporary appointments are also referred to as "seasonal" appointments and not included in the Competitive Service.

10.4.3 Limited Term Appointment

Appointment to a position for a limited period of time in order to perform a specific assignment or complete work expected to be of limited duration. Limited term appointments are considered exempt from the Competitive Service.

10.4.4 Provisional Position Appointment

In the absence of appropriate employment eligibility lists, a provisional appointment may be made by the appointing authority. An employment eligibility list shall be established within six (6) months for any position filled by provisional appointment. No person who is provisionally appointed shall work in excess of nine hundred ninety-nine (999) hours during the fiscal year.

A provisional appointment does not guarantee that the employee will be selected for regular appointment. If appointed to a regular position, the employment period as a provisional appointment does not count towards the regular appointment's probationary period, if any.

If an appropriate employment eligibility list exists, then a provisional appointment may still be made by the appointing authority; provided, however, that the total employment of a person so provisionally appointed shall not exceed 200 (two hundred) hours.

10.5 Emergency Appointment

To meet the requirements of an emergency condition that threatens life, property, or the general welfare of the City, the City Manager may employ such persons as may be needed for the period of the emergency, without regard to the regulations as to appointment in these rules.

11 Compensation

11.1 Salary Plan

Salary ranges are set for each class by the City Council. No person may be paid less than the minimum, nor more than the maximum of the salary range established for the class in which employed. No change in the salary range of a class may be made without City Council approval.

11.2 Advancement through the Pay Plan

Advancement within a salary range is based on performance and requires the approval of the City Manager. Advancement through the steps of a salary range are not automatic.

Employees are eligible to be considered for a salary range advancement after either six (6) months or after twelve (12) months following initial appointment/promotion to a classification and a determination of satisfactory service. Thereafter, an employee with satisfactory service may be eligible for advancement within the salary range once every twelve (12) months. The City Manager, with the recommendation of the Human Resources Director, and based upon meritorious service may provide an employee with a salary range advancement more frequently than every twelve (12) months or a salary range increase greater than one (1) salary step.

11.3 Salary Payment

Employees are paid every other Thursday, for the two (2) week period ending the Saturday prior to pay day. When a payday falls on a City-recognized holiday, payment will be made on the prior day.

11.4 Salary Upon Initial Appointment

New employees shall be paid at the first step of the salary range for the employee's classification. Exceptions to this provision may be made at the sole discretion of the City Manager, except that an employee may not receive more than the maximum salary established for the class to which appointed.

11.5 Salary Upon Promotion

An employee who is promoted from a position in one (1) class to a position in a higher class, shall have their salary adjusted to the first step on the salary range for the higher class that is at least five percent (5%) greater than the employee's salary before promotion, except that under no circumstance shall the employee receive a salary that is greater than the maximum salary established for the class to which promoted.

11.6 Salary Upon Transfer

An employee who transfers to another position shall have no change made in their salary or salary advancement consideration date.

11.7 Salary Upon Demotion

Whenever an employee is demoted, whether such demotion is voluntary or otherwise, the employee's salary shall be adjusted to be within the salary range for the class to which the employee is demoted. The specific rate of pay within the range shall be determined by the City Manager, whose decision shall be final. An employee who is demoted to a position that they previously held shall not be placed at a step that is lower than the step held by the employee before the promotion.

11.8 Salary Upon Reclassification

When an employee's position is reclassified, the employee's salary shall be determined as follows:

1. If the position is reclassified to a class with a higher salary range than the previous class, the employee's salary shall be determined in the same manner as if the employee had been promoted.
2. If the salary of the employee is the same or less than the maximum of the salary range of the new class, the salary of the employee shall not change; provided, however, that the employee shall not receive less than the minimum salary established for the class to which reclassified.
3. If the salary of the employee is greater than the maximum of the range of the new class, the salary of the employee shall be designated as a "Y-Rate" and shall not change during continuous City service until the maximum of the salary range to which the class is assigned exceeds the "Y-Rate" salary of the employee.

11.9 Salary Upon Reinstatement

An employee who is reinstated (as defined under section 2.37) shall be placed at no lower than the same salary step they held at the time of separation from City service.

11.10 Salary Upon Reemployment

An employee reemployed (as defined under section 2.35 and Rule 17) shall be placed at no lower than the same salary step they held at the time of separation from City service.

11.11 Timing of Salary Adjustments

The date of changes to an employee's salary shall be effective the first day of the payroll period following the date of approval of the change. Exceptions to effective dates of change require approval by the City Manager.

12 Probationary Period

12.1 Objective of the Probationary Period

The probationary period shall be regarded as part of the selection process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to their position.

12.2 Probationary Period

Unless otherwise provided in a collective bargaining agreement, all original and promotional appointments to a regular position, excluding at-will employees, shall be tentative and subject to a probationary period of twelve (12) months of actual active duty service in the regular position.

The probationary period of an employee who is absent from work, temporarily reassigned to perform work in another classification, or temporarily assigned to perform modified or light duty may be extended by the same amount of time as the absence or reassignment, so as to result in a probationary period of active working duty in the regular position for the required twelve (12) months of active duty service.

Employees who transfer to another position in the same classification shall not be required to undergo a new probationary period in the same position into which transferring provided the employee has completed the probationary period for the classification at the time of transfer.

The appointing authority may extend an employee's probationary period by up to six (6) months. Notice of any such extension will be provided in writing to the employee in advance of completion of the probationary period. The probationary period shall not exceed eighteen (18) months of active duty service.

12.3 Rejection of Probationer

During the probationary period, an employee may be released at any time by the appointing authority, with or without cause and with or without prior notice to the employee. An employee who is rejected during the probationary period has no right to appeal or grieve the decision to reject. Nothing in this policy is intended to limit the reasons for which an employee may be released during the probationary period.

12.4 Promotional Probationary Period

An employee who has previously completed the requisite probationary period and who is rejected during a subsequent probationary period for a promotional appointment shall be reinstated to the former position from which the employee was appointed. If the employee was dismissed for cause from employment during the promotional probationary period, the employee shall not be entitled to such reinstatement rights.

13 Performance Evaluation

13.1 Policy and Purposes

It is the policy of the City that regular reports shall be made on all employees regarding efficiency, competency, conduct and merit. This responsibility shall be borne by the City Manager, the Department Heads, and their subordinate supervisors. It shall be the responsibility of the Human Resources Director to provide and prescribe the forms and procedures to be used in such performance reports and to assist in the training of supervisory personnel, so that performance reporting will be carried out in a sound, effective and timely manner.

Performance evaluations are an important part of the City's personnel policies. They provide an objective, consistent, and fair way to gauge each employee's on-the-job effectiveness. The evaluation process should inform an employee of their standing and communicate expected standards of performance. It is also used to discuss City and department goals, employee goals, work standards, areas where improvement is needed, career development potential, and possible opportunities.

13.2 Timing of Evaluations

Performance evaluation reports shall be rendered at least once annually for all regular employees. An employee may be rated at more frequent intervals at the discretion of the City Manager or the Department Head. An employee who receives an overall rating of anything less than meets minimum requirements should be re-evaluated within three (3) months of receiving such rating.

Performance evaluation reports of all probationary employees should be rendered at least quarterly during the probationary period. An employee who has received an overall rating of less than meets minimum requirements and who is not released from employment should be re-evaluated at least one (1) month after receiving a less than meets requirements rating. Nothing in this section shall preclude the City from releasing a probationary employee from employment with or without cause and/or with or without notice at any time.

13.3 Evaluation Procedures

The Human Resources Director should notify departments approximately one (1) month prior to the due date for annual performance evaluations.

The immediate supervisor of the employee being evaluated is expected to conduct the performance evaluation using the form prescribed by the Human Resources Director. Where an employee has worked under several supervisors, each supervisor should contribute to the evaluation. Whenever a supervisor is transferred or leaves the City, they ideally should prepare, prior to their leaving, a preliminary evaluation of the employees working under them.

Each performance evaluation shall be discussed with the employee. The employee shall sign the report as a means of acknowledging its content. Such

signature shall not necessarily mean the employee agrees in total with the contents of said report. The employee shall have the opportunity to make their own comments regarding their work performance, either in a written statement attached to the evaluation, or orally.

After the evaluation has been completed and signed, a copy shall be given to the employee and the supervisor. The original is to be filed with the Human Resources Department.

13.4 Less than Meets Minimum Requirements Ratings

1. Rating Intervals. An employee who receives an overall performance rating of less than meets minimum requirements should be rated at a more frequent interval, as provided in these Personnel Rules.
2. Promotional Examinations. An employee who receives an overall rating of less than meets minimum requirements in their most recent performance evaluation shall not be eligible to participate in any promotional examinations until at least an overall meets minimum requirements rating has been established.
3. Salary Advancements. An employee who receives an overall rating of less than meets minimum requirements shall not be eligible for any salary step advancement until an overall rating of at least meets minimum requirements has been established.

13.5 Late Performance Evaluations

Performance evaluation reports must be submitted within three (3) months of the employee's classification date. If the supervisor fails to render a performance evaluation within the specified timeframe, then the employee shall receive a salary step increase, if available, and the employee's overall performance shall be assumed to be satisfactory.

13.6 Consideration for Promotion

In promotional examinations and selection of employees, past performance evaluations shall be given consideration.

13.7 No Appeal

An employee does not have the right to formally appeal or grieve any matter relating to a performance evaluation. Instead, within seven (7) days following the receipt of the performance evaluation, the employee may request that the Director of Human Resources conduct an objective review of performance evaluation rating(s) which do not correspond with documented job performance in the evaluation. The Director of Human Resources will issue an assessment from their review of the evaluation within fourteen (14) days of receipt of the review request from the employee. The employee may also comment on the evaluation in a written statement, which will be placed with the evaluation in the employee's

personnel file. Written statements in response to an evaluation must be submitted within fourteen (14) days of when the evaluation is provided to the employee in order to be included with the evaluation in the employee's personnel file.

14 Resignations and Job Abandonment

14.1 Notification

An employee wishing to leave the City's employment in good standing shall submit a letter of resignation to their immediate supervisor, Department Head, or the Human Resources Director at least fourteen (14) days before leaving employment. The letter of resignation should include the effective date of resignation and reason(s) for leaving. Resignations are irrevocable and shall be promptly forwarded to the Human Resources Director. Resignations shall become effective upon receipt by the City, without the necessity of any written acceptance, unless the employee is notified otherwise. The resignation of an employee who fails to give notice as provided in this section shall be reported to the Human Resources Director by the Department Head immediately.

14.2 Failure to Notify

Failure of an employee to provide proper notice shall be entered on the service record of an employee and may be cause for denying future employment by the City.

14.3 Failure to Report to Work (Job Abandonment)

An employee who fails to report to work, to return from an authorized leave of absence, and/or fails to call off from work for three or more consecutively scheduled work days is deemed to have voluntarily resigned employment through job abandonment. A regular employee who has passed probation will receive notice of the City's intent to terminate for job abandonment, an opportunity to respond, and a final notice of termination for job abandonment before being separated under this provision. At the discretion of the City Manager or designee, an employee separated for job abandonment may be reinstated upon proof of justification for such absence, such as severe accident, severe illness, or mental or physical impairment which prevented notification. No employee has any right to grieve or appeal a separation due to job abandonment or to an evidentiary or disciplinary appeal following a separation due to job abandonment.

14.4 Use of Accrued Leaves

The use of vacation, sick leave, administrative leave, compensatory time off, holidays, or any other paid time off in lieu of hours worked may not be used to extend an employee's resignation date beyond the employee's last day worked. Only the City Manager may waive this rule.

15 Layoff

15.1 Layoff Policy

Whenever the City Manager and/or City Council determines in their sole discretion that it is necessary to abolish any position of employment, the employee holding that position may be laid off, transferred, or demoted without disciplinary action and without the right of appeal.

15.2 Notification

An employee being laid off shall be given at least fourteen (14) days prior notice.

15.3 Order of Layoff

In each class, employees shall be laid off in the inverse order of their seniority and according to employment status in the following order: temporary, regular part-time, probationary full-time, and regular full-time. In this chapter, probationary status means the probationary period required upon the initial employment with the City leading to a regular position.

For purposes of layoff, seniority shall be defined as an employee's tenure in a class. When an employee retreats to a lower class, seniority for that class shall include the tenure of all higher classes. Seniority includes time accrued in regular full-time and regular part-time service. In this chapter, length of service for regular part-time employment is calculated on a pro-rata basis. Employment in a temporary appointment position does not count in calculating seniority.

In cases where there are two or more employees with the same employment status and 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 ninety (90) days as follows:

First, all employees having ratings of less than minimum requirements; second, all employees having ratings of meeting minimum standards; and third, all employees having ratings of exceeds minimum standards.

15.4 Employee Options

Whenever a regular or probationary employee has been notified that they will be laid off from their current position, the employee shall have the following options:

1. If an employee has held status in a lower classification, they may retreat to that lower classification if the employee has more seniority than at least one of the incumbents in the lower class. If an employee has not held status in a lower class, then no retreat rights accrue to the employee. An employee exercising retreat rights must provide written notice to the Human Resources Director within seven (7) days of receipt of notice of layoff. An employee retreating to a lower class shall be placed on the salary step representing the least loss of pay. An employee who does not timely exercise retreat rights will forfeit the

ability to retreat to a lower class and will be laid off.

2. If an employee has not held status in a lower classification, or if the lower classification is occupied by a more senior employee, the employee may be eligible for transfer to a vacant position if the employee is qualified and capable of performing the duties of the vacant position as determined by the City Manager or designee. Employees who are transferred in lieu of layoff will be paid at the rate of pay for the new position at a step to be determined by the City Manager and shall serve a new probationary period. Any employee who does not accept a transfer within seven (7) days after receipt of notice of layoff will forfeit the ability to transfer and will be laid off.
3. Accept the layoff.

15.5 Reinstatement List

The names of all regular and probationary employees laid off or demoted (either through a transfer or exercise of retreat rights) in lieu of layoff shall be placed on a reinstatement list, provided their performance has been satisfactory. Said reinstatement list shall remain in effect for twelve (12) months, unless exhausted sooner.

Reinstatement lists shall take precedence over all other employment lists except that employees on such lists shall not have the right to displace working employees.

Failure to promptly respond to and accept a reinstatement offer within seven (7) days of the date of the offer shall result in removal from the reinstatement list. It shall be the employee's responsibility to advise the City of the employee's current contact information.

Reinstatement will result in removal from the reinstatement list except when reinstatement is in a lower class.

15.6 Reinstatement

A former employee appointed from a reinstatement list shall be reinstated to the salary range and step held at the time of layoff and have the following benefits restored:

1. Accrued but unused sick leave.
2. Seniority at the time of layoff for vacation accrual, future reduction in force, and department purposes as defined within department operating procedures (e.g., work schedule preferences, vacation scheduling preferences).

A former employee shall not accrue any benefits during the period of time they were on layoff.

15.7 Layoff of At-Will Employees

By definition, employment at-will may be terminated by either the employee or the City at any time with or without cause and with or without notice. Nothing in this chapter shall require the City Manager to allow a displaced at-will employee to displace an employee in a lower class or require the City Manager to place a displaced at-will employee on a reinstatement list.

16 Transfer

Transfers may be voluntary or involuntary. No person shall be transferred to a position for which they do not possess the minimum qualifications. Upon notice to the Human Resources Director, an employee may be transferred by the appointing authority at any time from one position to another position in the same or a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both Department Heads must consent to the transfer unless the City Manager orders the transfer. Transfers shall not be used to effectuate a reclassification, promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the Municipal Code, these Personnel Rules, and/or a collective bargaining agreement.

Whenever possible, an employee being transferred from one position to another position in the same class or a comparable class will receive five (5) business days' notice. If an employee disputes an involuntary transfer, the employee may, within two business days of receiving notice of his or her pending transfer, file a written appeal with the City Manager or designee setting forth the reasons for the appeal. Any appeal filed must be based upon an alleged violation of the requirements for transfer or the procedure followed.

The decision as to whether or not to transfer an employee shall be at the sole discretion of the appointing authority and is not subject to any grievance or appeal procedure.

17 Reemployment

With the approval of the appointing authority, an employee appointed to a regular position who completed at least twelve (12) months of continuous service, successfully passed an initial new hire probationary period, and resigned with a satisfactory record may be reemployed to a vacant position in the same or comparable class. Reemployment must occur within twelve (12) months following resignation. The reemployed employee is not subject to another new hire probationary period. No credit for former employment shall be granted in computing vacation, sick leave, or other benefits except on the specific approval of the City Manager.

The decision as to whether or not to reemploy a former employee shall be at the sole discretion of the appointing authority and is not subject to any grievance or appeal procedure.

18 Medical Separations

18.1 Medical Separation

An employee who becomes unable to perform the essential functions of his or her position due to a disability or other medical condition may be medically separated from employment. Prior to medical separation, the City will determine what accommodations, if any, can be reasonably provided to the employee in accordance with City policy and any applicable law. In addition, if appropriate, the City may consider an employee's potential eligibility for disability retirement benefits.

Before medically separating a regular employee, the Human Resources Director or designee will provide the affected employee with notice of the proposed decision to medically separate. The notice shall: (1) inform the employee of the action intended, the reason for the action and the proposed effective date; and (2) inform the employee of the right to respond to the proposed action and to whom to respond. After review of any timely response, the Human Resources Director or designee shall notify the employee of any final action to be taken and the effective date of that action. A medical separation may be appealed pursuant to the grievance procedures contained in these Rules.

18.2 Right to Use Accrued Leaves

Except as provided in a collective bargaining agreement or employment agreement, vacation, sick leave, administrative leave, compensatory time off, holiday, paid time off or other accrued leave may not be used to extend an employee's employment separation date beyond the employee's last day of actual work, unless approved by the City Manager. Use of sick leave shall be authorized only upon proper medical verification that the use of such leave complies with the rules pertaining to the use of sick leave.

18.3 Rehire of Employee Retired or Separated for Disability

An employee who is retired or otherwise separated on account of disability may apply for reemployment with the City if the medical condition causing the disability improved such that the employee may perform the essential functions of the position for which they are applying, with or without reasonable accommodation.

19 CalPERS Disability Retirement Applications by Safety Members

19.1 Application

The following procedures shall be utilized to process an application for disability retirement benefits by a local safety member as defined by the California Public Employees' Retirement System (CalPERS):

19.2 Initial Determination

Upon receipt of an application for disability retirement benefits from a safety member, an initial determination will be made by the Human Resources Director upon medical and other available evidence. The applicant may be required to submit to a medical examination in order for the Human Resources Director to obtain sufficient information to make a recommended determination. The recommended determination of the Human Resources Director will address the following: (1) whether the applicant is incapacitated from the performance of duty pursuant to the standard for disability retirement under the Public Employees' Retirement Law (PERL); and (2) if the applicant is determined to be incapacitated, whether the cause of such incapacitation was industrial or non-industrial. The City Manager will review the recommendation of the Human Resources Director and make a final determination. This final determination shall be made within six (6) months of the date of the request for such determination from CalPERS unless this time requirement is voluntarily waived in writing by the applicant. The City Manager will provide written notice of any final determination to CalPERS and applicant.

19.3 Appealing an Initial Determination

An applicant may appeal the City Manager's determination on the issue of incapacity by requesting a hearing as provided in Section 19.4 below. An applicant may appeal the City Manager's determination as to the issue of causation by filing an appeal with the Workers' Compensation Appeals Board (WCAB) for a Finding of Fact determination as to causation. Any appeal of the City Manager's determination on an application must be filed within thirty (30) calendar days of the date on the notice of determination. The City Manager's determination shall not be subject to review under the grievance procedure.

19.4 Hearing

If the applicant requests a hearing on the issue of incapacity, the hearing shall be held in conformity with the Administrative Procedures Act. When an applicant requests a hearing, the City will notify CalPERS. The City will also notify the Office of Administrative Hearings and will request a hearing date and a pre-hearing conference with an Administrative Law Judge. The applicant will be informed of the hearing date, time and location. The hearing shall be conducted before the Administrative Law Judge. The hearing shall be recorded. The burden of proof is on the applicant to demonstrate incapacity.

Following the hearing, the Administrative Law Judge will issue a Proposed

Decision. The Proposed Decision will include a determination of issues, findings and summary of facts. The Proposed Decision will be reviewed and acted upon by the City Council. The Council will either:

- a. Adopt the Proposed Decision as its own Decision.
- b. Make changes in the Proposed Decision and adopt it as its own Decision.
- c. Reject the Proposed Decision and in doing so either:
 - i. Make its own decision without hearing additional evidence; or
 - ii. Make its own decision following the acceptance of additional evidence; or
 - iii. Remand the case back to the administrative law judge to take additional evidence and to issue a new or revised Proposed Decision.

The Council's decision and findings shall be served by the City on the applicant and the applicant's designated representative, if any, by U.S. Postal Service mail (with at least mail delivery confirmation) or by personal service. The City shall also notify CalPERS of the decision. The City Council's decision shall be final and is not subject to review under the grievance procedure.

20 Disciplinary Action

20.1 Disciplinary Action

The City Manager or designee may discipline any employee; provided however that no regular employee in the Competitive Service will be disciplined except for cause. Unless otherwise provided in an applicable collective bargaining agreement, discipline of a regular employee in the Competitive Service will be in accordance with this Rule. Employees who are excluded from the Competitive Service or who have not completed probation are considered at-will employees, serving at the pleasure of the City Manager, and are not entitled to appeal or grieve any disciplinary taken against them.

20.2 Types of Disciplinary Action

Disciplinary action may take the form of a verbal or written reprimand, suspension, pay reduction, demotion or dismissal.

20.3 Notice of Proposed Disciplinary Action

Written notice of any proposed suspension, demotion, reduction in pay, or discharge shall be given to a regular employee in the Competitive Service. Such notice shall include all of the following:

1. A statement of the level of discipline proposed;
2. The charge(s) upon which the proposed discipline is based;
3. A summary of the facts upon which the charges are based;
4. A copy of all written materials, reports or documents upon which the proposed discipline is based;
5. Notice of the employee's right to respond to the charges within seven (7) calendar days from the date of the notice, either in person during an informal conference or by providing a written response or both;
6. Notice of the employee's right to have a representative of their choice at the informal conference should they choose to respond orally; and
7. Notice that the failure to respond by the time specified shall constitute a waiver of the right to respond prior to the imposition of discipline.

If the employee exercises their right to respond to the notice, the individual proposing the discipline or their designee shall consider the employee's response before taking any final disciplinary action. The employee may use up to two (2) hours of City time to prepare a response to the notice. Time shall be prorated for any employee working less than full-time. Any additional time the employee may need to prepare the response must be conducted off City time. In no event shall an employee use overtime to prepare a response. 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 of proposed disciplinary action, constitutes a waiver of the employee's right to respond prior to the imposition of discipline. In that case, the proposed disciplinary action will be imposed on the date specified.

20.4 Final Notice of Discipline

After receiving the employee's timely written or oral response, or after expiration of the time to provide a written or oral response, the individual who proposed discipline or designee will either: (1) dismiss the notice of proposed disciplinary action; (2) modify the notice of intended disciplinary action; or (3) impose the proposed disciplinary action. The individual who proposed disciplinary action or designee will provide written notice of their decision. This written notice shall include all of the following:

1. The level of discipline, if any, to be imposed and the effective date of the discipline;
2. The specific charges upon which the discipline is based;
3. A summary of the facts upon which the charges are based;
4. A copy of all written materials, reports or documents upon which the discipline is based; and
5. A statement of the nature of the employee's right to appeal.

In all cases in which discipline is imposed, a copy of the final notice shall be placed in the employee's personnel file.

20.5 Appeal

A regular employee in the Competitive Service may appeal a suspension, demotion, reduction in pay, or discharge by requesting an administrative hearing before the City Manager or designee. The provisions of this section shall not apply to reductions in pay which are part of a general plan to reduce salaries and wages or to eliminate positions.

A disciplinary appeal must be submitted, in writing, to the City Manager or designee within five (5) calendar days of the date of the final notice of discipline. The employee may use up to two (2) hours of City time to prepare a disciplinary appeal. Time shall be prorated for any employee working less than full-time. Any additional time the employee may need to prepare the appeal must be conducted off City time. In no event shall an employee use overtime to prepare an appeal. Disciplinary appeals will be processed pursuant to Step 3 of the grievance procedure contained in these Rules.

20.6 Causes for Disciplinary Action

Grounds for discipline of an employee include, but are not limited to the following:

1. Dishonesty, including but not limited to making any false statement, omissions or misrepresentation of material fact, falsifying timecards, materially misrepresenting or concealing facts or making false statements about one's employment, including application for employment, promotion or appointment.

2. Incompetence or inefficiency in the performance of required duties.
3. Neglect of job duties.
4. Insubordination; or insulting or demeaning the authority of a supervisor or manager.
5. Conduct which discredits the City, the employee's City employment or the public service.
6. Any acts or omissions, which are either incompatible with or unfavorable to the public service, or which tend to bring reproach or discredit to the City.
7. Discourteous or non-cooperative treatment of the public, City elected officials or employees, City volunteers, including but not limited to rude, disrespectful, offensive or obscene comments or conduct, or failing to cooperate with an employee's supervisor or fellow employees.
8. Endangering self or others, or failure to follow adopted safety practices, or failure to properly use required personal protective gear or equipment.
9. Violating the City's drug-free workplace policy, including but not limited to reporting for duty or being on duty under the influence of any intoxicant or absenting oneself from duty or rendering oneself unfit to perform fully one's duties for reasons attributable to or produced by intoxicants.
10. Absence without authorized leave.
11. Excessive or unexcused absenteeism and/or tardiness.
12. Misuse of any leave, including sick, medical or disability leave, for purposes not authorized or provided for under the City's leave policies.
13. Unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam related to the employee's continued ability to perform his or her position.
14. Failure to immediately report a vehicle accident.
15. Failure to report to their supervisor any contact with law enforcement which may affect employment with the City.
16. Conviction of a crime, the nature of which has a direct bearing on continued employment.

17. Misuse or misappropriation of City property or funds; carelessness or negligence with the monies or other property of the City; appropriating to the employee's own use of any property of the City, or loaning, selling or giving away such property without legal authorization.
19. Theft.
20. Using or attempting to use political influence in attempting to secure promotion, leave of absence, transfer, change of rate of pay or character of work.
21. Inducing or attempting to induce a City employee to commit an unlawful act in violation of any lawful department or official regulation or order.
22. Unapproved outside employment or engaging in any activity that violates the City's Conflicts of Interest Code Policy, including taking for personal use, from any person, a fee, gift or other valuable thing in connection with official work when such fee, gift or other valuable thing is given in the expectation of receiving favored treatment.
23. Less than satisfactory performance.
24. Failure to maintain any license, certificate or credential required by the minimum standards for the employee's position, including failing to timely notify the City of any anticipated loss or lapse of such license, certificate or credential.
25. Violation of or failure to abide by any provisions of the City's Municipal Code, Personnel Rules, City Policies and Procedures, collective bargaining agreement (if applicable), administrative memorandum, or lawful official regulation or order of the City.
26. Violation of the City's Rule against harassment, discrimination and retaliation.
27. Failure to cooperate in an official inquiry or investigation into an alleged violation of these Personnel Rules.
28. Working overtime without prior supervisory authorization.
29. Violation of the City's Workplace Violence Prevention Policy.

20.7 Public Safety Officers Procedural Bill of Rights

Nothing in these Personnel Rules supersedes the City's obligations under the Public Safety Officers Procedural Bill of Rights Act.

21 Grievances

21.1 Grievance Definition

A grievance is defined as any dispute which involves the claimed violation, misinterpretation or misapplication of these Personnel Rules, excluding those provisions of these Personnel Rules which are specifically excluded from the grievance procedure or which provide that the decision of the City Council, City Manager or designee shall be final. In the event that an alternative complaint procedure is applicable to an employee's claim (e.g., harassment complaint procedure), the grievance shall be treated as having been submitted under that alternative procedure and will be processed accordingly. Any matter addressed through an alternative procedure may not also be raised as a grievance under this Rule. A grievant may be an employee, or any group of employees, or a represented bargaining unit.

The following are matters that are excluded from the definition of "grievance" and are not subject to the grievance procedure:

1. Challenges to any disciplinary action except for those actions where a right to appeal is provided by Rule 20;
2. Challenges to or requests for changes in the content of employee evaluations or performance reviews, verbal or written warnings or reprimands, or counseling memorandums;
3. Challenges to a reclassification, layoff, transfer, denial of reinstatement or denial of step or merit increase;
4. Requests for changes in wages, hours or working conditions, including any impasses or dispute in the meet and confer process or matter within the scope of representation as defined by the Meyers Milias Brown Act;
5. Challenges to examination or appointment to positions; and
6. Challenges to a rejection from probation.

21.2 Grievance Procedure

A grievance shall be processed in the following manner:

Step 1 – Informal Step

Within fourteen (14) days of when the grievant knew or should have known of the event giving rise to the grievance, the grievant will first try to resolve the grievance through discussion with the grievant's immediate supervisor. During this discussion, the grievant must clearly state that a grievance is being initiated. Within fourteen (14) days of this discussion, the immediate supervisor shall give the grievant their decision or response to the informal grievance. This response may be provided orally or in writing. If the employee is not satisfied with the reply, he or she may file a formal grievance.

Step 2 – Formal Step.

If the grievance is not resolved in Step 1, or if it is determined, for good and sufficient reason, that the grievant may initiate the grievance at Step 2, the grievant may file a formal, written grievance. The written grievance shall contain the following:

1. name of grievant(s)
2. class title(s)
3. department
4. mailing address(es)
5. a clear statement of the nature of the grievance (citing applicable sections of rules, regulations, resolutions, ordinances or existing practices)
6. the date(s) on which the event(s) giving rise to the grievance occurred
7. a proposed solution to the grievance
8. the date of execution of the grievance form
9. the signature of the grievant(s)
10. the signature of the bargaining unit representative, if such a representative is representing the grievant(s)
11. the date of the discussion meeting in Step 1 and the name of the supervisor involved

Any formal grievance must be filed within fourteen (14) days after either the response to the informal grievance is given or the time to provide a response to the informal grievance has expired if no response is given. If the response is initiated at Step 2, it must be filed within fourteen (14) days of when the grievant knew or should have known of the event giving rise to the grievance.

Upon receipt of a formal written grievance, the Department Head will investigate the grievance and may, in their discretion, schedule a meeting with the grievant in an attempt to resolve the grievance. The Department Head will issue their decision regarding the grievance in writing within fourteen (14) days of receipt of the written grievance, except that if the Department Head conducts a meeting with the grievant, the Department Head will issue their decision in writing within fourteen (14) days of that meeting.

Step 3. – Review of Department Head Decision

If the grievance is not resolved by the Department Head's decision in Step 2, or if the time for the Department Head to provide a decision under Step 2 has expired, the grievant(s) may appeal the written grievance to the City Manager or designee (other than the supervisor and/or Department Head involved) within fourteen (14) days of receipt of the Department Head's decision in Step 2.

The City Manager may either hear the grievance or assign the grievance to be heard by their designee. If the City Manager designates a hearing officer to hear the grievance, the fees and expenses of the hearing officer will be paid by the City. Each party, however, shall bear the cost of its own presentation, including preparation and post-hearing briefs, if any. Any decision by a designee will be advisory to the City Manager.

If the City Manager has heard the matter, the City Manager shall render a decision within thirty (30) days of the close of the hearing process. If the hearing is conducted by a designee, the City Manager shall either affirm, set aside or modify the decision within thirty (30) days of receipt of the designee's advisory decision, except that if the City Manager takes no action within thirty (30) business days of receipt of the advisory decision, the advisory decision shall become final and binding. Any decision by the City Manager shall be final and binding on the parties.

21.3 General Conditions of Grievances

1. The Human Resources Department will act as a central repository for all Step 2 and Step 3 grievance records.
2. Any time limit may be extended only by mutual agreement in writing.
3. An aggrieved employee may be represented by another individual at any stage of the proceedings at their request. Both employee and representative (if employed by City) will be entitled to attend proceedings without loss of compensation, should such proceeding conflict with the employee's and/or the representative's normal working hours.
4. Proposals to add to or change these Personnel Rules shall not be considered under this section, and no proposal to modify, amend, or terminate any collective bargaining agreement between the City and a represented bargaining unit may be considered under this section.
5. Failure by the grievant or grievant's representative to initiate or appeal a grievance within the prescribed time limits shall waive the right of the grievant, the grievant's representative, and the grievant's bargaining unit (if any) to initiate or appeal a grievance. In the case of no appeal, the last answer to the grievance shall be deemed to be the resolution to the grievance.

22 Employee Ethical Standards

22.1 General Policy

Employees of the City are required to discharge the duties and responsibilities of their positions with professional integrity, regardless of personal considerations. Employees are expected to recognize that the public interest, as articulated by City policy, is their primary concern. The conduct of City employees in their official capacity must be beyond reproach.

22.2 Employee Expectations

No City employee shall engage in any act which is in conflict, or creates an appearance of unfairness or conflict with the performance of official duties. To meet the standards set forth in this policy, employees must:

1. Disclose all financial interests which may constitute a conflict of interest with official duties, and disclose the nature and extent of personal interest in any business entity engaging in any transaction with the City as required under the City's conflict of interest resolution. An employee is prohibited from participating in any City decision which could affect his or her personal or financial interests in violation of the City's conflict of interest resolution.
2. Refuse to accept gifts, gratuities, favors, services or promise of future benefit from any person, firm, entity or corporation doing business with the City, where such gift, gratuity favor, service or promise could compromise independence of judgment or action as a public official or employee. Employees should disclose any offer of gift, favor, service or promise to their supervisor immediately.
3. Refrain from engaging in activities or employment that may appear to be, or are incompatible with public duties, whether on or off duty. Employees of the City should not become involved or affiliated with any agency or entity that receives funds from the City, either directly or indirectly, whether that association or affiliation may create a conflict of interest, or an appearance of a conflict of interest or impropriety.
4. Refrain from disclosing, promulgating, using, or validating information concerning City government or other employees and officials which is confidential or protected without prior authorization, including confidential information concerning property or affairs of the City, to advance a private interest with respect to any contract or transaction which is or may be the subject of official action of the City.
5. Refrain from using any City funds or property for personal or private gain. Employees must be absolutely honest in all dealings, in whatever capacity, with City funds, properties or facilities.

6. Refuse to represent private interests before government agencies in any matter in which the City is a party, or in which the employee's official position with the City is, or may be, a consideration in or influence the decision of such agency on the matter before it.
7. Comply with the provisions of the Political Reform Act, as regulated by the Fair Political Practices Commission, or any other state or federal laws governing conflict of interest matters.

22.3 Gifts on Behalf of the City

The City Manager and their designee is permitted to accept a gift, gratuity, or favor on behalf of the City and may distribute such gift, gratuity, and favor as they deem appropriate to City employees and elected officials in accordance with Fair Political Practices Commission regulations. Examples may include sporting events tickets or cultural events tickets.

22.4 Use of Public Property

No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for unauthorized personal convenience, for profit, for private use, or as part of secondary employment. City property is to be used solely for the purpose of conducting official City business. Any changes to previously authorized uses of public property will be communicated to employee sixty (60) days in advance of implementation to allow sufficient time for the employee to make alternative arrangements.

22.5 Political Activities

1. Employees are prohibited from using City time or property in any manner for any of the following reasons: to promote any political issue or candidate; to solicit funds for any political purpose; or to influence the outcome of any election.
2. No employee shall be eligible for appointment or election to any public office (including appointment to a City Board, Commission or Committee) when the holding of such office or position would be incompatible or would substantially interfere with the discharge of official duties.

22.6 Outside Employment

22.6.1 Incompatible Outside Employment Prohibited

No employee of the City shall engage in any employment, activity or enterprise that would detract from his or her effectiveness as a City employee or that is inconsistent, incompatible, in conflict with, or inimical to his or her duties as an employee of the City. An individual's outside employment, activity or enterprise is inconsistent, incompatible, in conflict with, or inimical to an employee's duties, functions or responsibilities set forth above if it:

1. Involves the use for private gain or advantage of the City's time, facilities, equipment, or supplies; or the badge, uniform, prestige or influence of the City;
2. Involves receipt or acceptance by an employee of any money or other consideration from anyone other than the City for the performance of an act which the employee would otherwise be required or expected to perform in the regular course of his or her duties as a City employee;
3. Involves the performance of an act in other than his or her capacity as an employee of the City, which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other City employee, City official or City officer;
4. Involves such time demands as would render performance of duties as a City employee less efficient.

22.6.2 Reporting Outside Employment

Employees seeking to engage in outside employment, whether it be accepting a second job, self-employment or otherwise, must submit written requests to engage in such employment to their Department Head. The request shall include:

1. The name and address of the employer;
2. A summary of the nature of employment;
3. The number of hours to be worked by day, week, month, and/or quarter as appropriate;
4. Whether the outside employment will utilize any city owned/controlled facilities, equipment, information, records, supplies, and/or uniforms;
5. Whether the outside employer will provide workers' compensation and liability insurance during said outside employment; and
6. The phone number of the employer in the event that the City should need to contact the employee under emergency or relief situations.

It is the responsibility of each Department Head to notify the Human Resources Director of outside employment request so that such requests can be considered. The Department Head, in conjunction with the Human Resources Director, will consider all requests and provide written notice to an employee of the determination on that employee's request. An employee may request review of that determination by the City Manager.

All employees holding or considering second jobs must obtain permission from their Department Head and the Human Resources Director in order to ensure that the job will not create a conflict of interest or interfere with the proper performance of their duties. An employee who engages in any outside employment without written authorization from the City, or who performs work that exceeds the scope of a written authorization, is subject to discipline, up to and including termination.

Outside employment is defined to mean any employment, activity or enterprise outside of an employee's normal City working hours wherein the employee is

compensated for specific hours or duties on a regular basis. Outside employment does not include sporadic employment or occasional employment unless the employee is required to perform work related to their position with the City or utilize any City owned/controlled facilities, equipment, information, records, supplies, and/or uniforms.

22.6.3 General Terms

During the workday, employees are expected to devote their full time to the performance of their assigned duties as City employees. Any approved outside employment must be performed during off-duty, unpaid hours.

Employees who have accepted outside employment are prohibited from using paid sick leave time to work on the outside job or as a result of an injury sustained while performing outside employment. Any employee who engages in outside employment while on sick leave shall be subject to discipline up to and including termination.

All provisions of this Section 22.6 shall apply to any outside employment held by an employee or officer on the effective date of this section, as well as any outside employment sought after such effective date. Provided, however, that as to any outside employment held on the effective date of this section, which was not previously approved in writing, the City Manager or designee shall allow a reasonable period, not to exceed six (6) months, for disassociation with such outside employment. In the event the employee refuses to comply, disciplinary action may be taken. This six (6) month grace period shall not apply to any outside employment that constitutes a violation of the City's Conflict of Interest Code. Employees engaged in outside employment in violation of the City's Conflict of Interest Code shall be required to immediately terminate such employment, or they may be subject to disciplinary action by the City, up to and including the termination of their City employment.

22.7 Procedures

22.7.1 Interpretation

Interpretations of this policy shall be referred to the City Manager.

22.7.2 Investigation

The City Manager or designee shall investigate, or may refer the matter to an outside agency for an investigation, all allegations and written complaints of unethical conduct.

Complaints or allegations that may be criminal in nature may be referred to an appropriate outside agency for investigation.

23 Sick Leave

23.1 General Application

Except as provided under the terms of an employment agreement, memorandum of understanding, or any other action providing for employee sick leave benefits, employees will accrue paid sick leave as provided in this Rule and in accordance with the Healthy Workplace, Healthy Families Act of 2014. All employees who earn sick leave, regardless of whether such leave accrued under this rule or under some other document approved by the City Council, are expected to abide by the usage and notice provisions described in this Rule.

23.2 Accrual of Leave

Unless provided under the terms of an employment agreement, memorandum of understanding, or any other action providing for employee sick leave benefits, employees will receive a sick leave bank allocation of forty (40) hours, effective the first pay period in 2024. Sick Leave accrual banks may carry over each year. Once an employee reaches the accrual cap of eighty (80) hours, the employee will not accrue any further sick leave hours until some paid sick time is used.

23.3 Sick Leave Use

Employees are eligible to begin using accrued sick leave upon accrual. The minimum increment for using sick leave is two (2) hours.

Sick leave may be used for the following reasons:

1. The employee's own illness, injury or medical condition;
2. Visits to a medical doctor, chiropractor, acupuncturist, dentist, optometrist, optician, psychiatrist or psychologist, medical or clinical laboratory on order of a doctor, or other licensed medical provider for the employee or the employee's family member;
3. To attend to the illness of the employee's family member; or
4. To seek medical treatment, counseling, social services or relief when the employee is a victim of domestic violence, sexual assault or stalking.

23.4 Family Member Defined

For purposes of this policy, a member means any of the following:

1. The employee's spouse or registered domestic partner;
2. The employee's child, including a biological, adopted, or foster child, step child, legal ward, or a child to whom the employee stands in loco parentis;

3. A biological, adoptive, or foster parent, stepparent or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;
4. The employee's grandparents;
5. The employee's grandchildren; and
6. The employee's siblings;
7. "Designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. Employees may designate one person per 12-month period for family care and medical leave.

23.5 Sick Leave Notice

An employee requesting to use sick leave should notify their immediate supervisor prior to the beginning of any working shift. The employee should notify his or her supervisor that the employee is unable to report for work and that the employee is requesting to use sick leave.

An employee is to request prior authorization for any absence due to attendance at any medical appointment. For the purpose of this section, "request prior authorization" shall mean that the employee has notified their supervisor as soon as reasonably practicable.

23.6 Sick Leave Upon Termination

The City will not pay employees for unused sick leave upon termination of employment. Unless otherwise provided in an employment agreement, memorandum of understanding, regulation or any other City Council action, employees who are rehired by the City within one (1) year from the date of separation will have any previously unused and accrued sick leave hours reinstated, up to a maximum of eighty (80) hours.

23.7 Sick Leave Verification of Illness

An employee may be required to provide a health care provider's statement verifying the employee's absence from work in the following instances:

- When an employee returns to work after three (3) days of absence on sick leave; or
- In the case of frequent use of sick leave; or
- When a pattern of sick leave use has been identified; or
- When a supervisor has reason to believe that sick leave is being abused.

23.8 Sick Leave Coordinated with Workers' Compensation Benefits

An employee who is collecting workers' compensation temporary disability benefits as a result of a City on-the-job illness or injury shall automatically use sick leave, if any, in addition to the provided workers' compensation benefits so that the

employee receives their full salary. If the employee does not have sufficient sick leave available, then other available paid leaves shall be used.

24 Pregnancy Disability Leave

24.1 General

A female employee who is disabled due to pregnancy, childbirth or related medical condition is eligible to take pregnancy disability leave (PDL). There is no length of City service requirement before an employee disabled by pregnancy is entitled to PDL. PDL is for any period(s) of actual disability caused by the employee's pregnancy, childbirth, or related medical condition – per pregnancy. Time off needed for prenatal or postnatal care; doctor ordered bed rest; gestational diabetes; pregnancy induced hypertension; preeclampsia; childbirth; postpartum depression; loss or end of pregnancy; or recovery from childbirth or loss or end of pregnancy are all covered by this PDL policy.

If affected by pregnancy or a related medical condition, an employee is also eligible to transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties, if such a transfer is medically advisable and can be reasonably accommodated. Employees disabled by qualifying conditions may also be entitled to other reasonable accommodations where doing so is medically necessary. If it is medically advisable for the employee to take intermittent leave or a reduced leave schedule, the City may require the employee to transfer temporarily to an alternative position with equivalent pay and benefits that can better accommodate recurring periods of leave.

24.2 Duration of Leave

An employee is entitled to up to four (4) months of PDL while the employee is disabled by pregnancy, childbirth or related medical condition. For purposes of this policy, "four months" means time off for the number of days the employee would normally work within the four (4) calendar months (one-third of a year, or 17 1/3 weeks or 122 days) following the commencement date of taking a pregnancy disability leave. For a full-time employee who works five eight-hour days per week, 40 hours per week, "four months" means 88 working and/or paid eight-hour days (693 hours of leave entitlement). Employees working a part-time schedule will have their PDL calculated on a pro-rata basis.

24.3 Requirements Regarding the Use of Paid Leave

PDL is unpaid time off. The City requires that employees use any accrued sick leave while using PDL. If an employee does not have any accrued sick leave available, the employee may, at her option, use any other available accrued paid leave (e.g. vacation, compensatory time off, administrative leave, floating holiday). The use of any paid leave will not extend the duration of the employee's PDL. The City encourages employees to contact the California Employment Development Department regarding eligibility for State Disability Insurance for the unpaid portion of their leave.

24.4 Continuation of Health Insurance Benefits

Employees who participate in the City's group health insurance plan shall continue to participate in the plan while on PDL under the same terms and conditions as if they were working. Employees should make arrangements with the Human Resources Department for payment of their share of the insurance premiums.

24.5 Notification Requirements

To receive reasonable accommodation, obtain a transfer, or take PDL, an employee must provide sufficient notice so that the City can make appropriate plans – thirty (30) days advance notice if the need for the reasonable accommodation, transfer or PDL is foreseeable, otherwise as soon as practicable if the need is an emergency or unforeseeable.

24.6 Certification by Health Care Provider

An employee is required to obtain a certification from her health care provider of her need for PDL or the medical advisability of an accommodation or a transfer.

A medical certification indicating the medical advisability of reasonable accommodation or a transfer is sufficient if it contains:

1. A description of the work restrictions and/or requested reasonable accommodation or transfer;
2. A statement describing the medical advisability of the reasonable accommodation or transfer because of pregnancy; and
3. The date on which the need for reasonable accommodation or transfer became or will become medically advisable and the estimated duration of the reasonable accommodation or transfer.

A medical certification indicating disability necessitating a leave is sufficient if it contains:

1. A statement that employee needs to take pregnancy disability leave because the employee became disabled by pregnancy, childbirth or a related medical condition;
2. The date on which the employee became disabled because of pregnancy; and
3. The estimated duration of the leave.

Upon request, the Human Resources Department will provide employees with a medical certification form that they can take to their doctor.

As a condition of an employee's return from PDL, the City requires the employee to obtain a release to return to work from her health care provider stating she is able to resume her original job duties.

24.7 Return to Work

If an employee does not return to work on the originally scheduled return date or request, in advance, an extension of the agreed upon leave with appropriate medical documentation, the employee may be deemed to have voluntarily terminated her employment with the City. Failure to notify the City of her inability to return to work when it occurs, or her continued absence from work because the leave must extend beyond the maximum time allowed, may be deemed a voluntary termination of employment with the City, unless the employee is entitled to a disability accommodation. Upon the employee's return from PDL, the employee will be reinstated to her same position in most instances.

25 Family Medical Leave

25.1 Policy Statement

This policy is intended to provide employees with information concerning entitlements and obligations associated with taking leave under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). Employees with additional questions regarding FMLA/CFRA leave, or regarding any leave entitlements and obligations that might arise when FMLA/CFRA leave is either not available or exhausted, should contact the Human Resources Department.

25.2 Employee Eligibility

The FMLA and CFRA provide eligible employees with a right to leave, health insurance benefits, and with some limited exceptions, job restoration. To be an “eligible employee”, you must meet both of the following criteria:

1. Have worked for the City for at least twelve (12) months (which need not have been consecutive).
2. Have worked at least one thousand two hundred fifty (1,250) hours during the twelve (12) months immediately preceding the commencement of the leave.

An employee who is not eligible for FMLA/CFRA leave at the start of a leave because the employee has not met the 12-month length of service requirement can meet this requirement while on leave because leave to which the employee is otherwise entitled counts towards the length of service requirement (but not the 1,250 hours requirement).

25.3 Employee Entitlements for FMLA/CFRA Leave

25.3.1 Basic FMLA/CFRA Leave Entitlement

The FMLA/CFRA provides eligible employees up to 12-workweeks of unpaid leave during a 12-month period for certain family and medical reasons. The 12-month period is determined based on a rolling twelve (12) month period measured backward from the date an employee first uses any FMLA/CFRA leave. In some instances leave may be counted under the FMLA but not CFRA, or under the CFRA but not the FMLA. Leave may be taken for one, or for a combination, of the following reasons:

1. Disability due to pregnancy, childbirth or related medical condition (counts only toward FMLA leave and California Pregnancy Disability Leave (“PDL”) leave entitlements);
2. Bonding and/or caring for a newborn child (counts toward FMLA and CFRA leave entitlements);

3. For placement with the employee of a child for adoption or foster care and to care for a newly placed child (counts towards FMLA and CFRA leave entitlements);
4. To care for the employee's spouse, registered domestic partner, child or parent (but not in-law) with a serious health condition (counts toward FMLA and CFRA leave entitlements; except that time to care for an employee's registered domestic partner does not count towards FMLA leave, only CFRA leave); CFRA expands leave to care for grandparent, grandchild, sibling and designated person. A "designated person" is any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. The City limits an employee to one designated person per 12-month period.
5. For the employee's own serious health condition (excluding pregnancy) that makes the employee unable to perform one or more of the essential functions of the employee's job (counts toward FMLA and CFRA leave entitlements); and/or
6. Because of any qualifying exigency arising out of the fact that an employee's spouse, son, daughter or parent is a military member on covered active duty status (or has been notified of an impending call or order to covered active duty status) in the Reserve component of the Armed Forces for deployment to a foreign country in support of a contingency operation or in the Regular Armed Forces for deployment to a foreign country (counts towards FMLA leave entitlement only).

Under the FMLA, a serious health condition is an illness, injury, impairment or physical or mental condition that involves a period of incapacity or treatment connected with inpatient care (e.g., an overnight stay) in a medical care facility, hospice, or residential health care facility; or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Under the CFRA, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity; or continuing treatment by a health care provider, including but not limited to treatment for substance abuse. The CFRA defines "inpatient care" broadly and includes a stay in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with inpatient care, or any period of incapacity. A person will be considered an "inpatient" when he or she is formally admitted to a health care facility with the

expectation that he or she will remain at least overnight and occupy a bed, even if the person is ultimately discharged or transferred to another facility and does not actually remain overnight. The CFRA defines “incapacity” as the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

Under the FMLA and CFRA, subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, caring for the parents of the military member on covered active duty and attending post-deployment reintegration briefings.

A leave of absence in connection with a workers’ compensation injury or illness or for which an employee receives disability or State of California Paid Family Leave benefits shall run concurrently with FMLA/CFRA leave, in accordance with federal and state laws.

25.3.2 Additional Military Family Leave Entitlement

In addition to the basic FMLA/CFRA leave entitlement described above, an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember is entitled to take up twenty-six (26) weeks of leave during a 12-month period to care for the servicemember with a serious injury or illness. Leave to care for a servicemember shall only be available during a single 12-month period and, when combined with other FMLA-qualifying leave, may not exceed twenty-six (26) weeks during the single 12-month period. The single 12-month period begins on the first day an eligible employee takes leave to care for the injured servicemember.

A “covered servicemember” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary retired list, for a serious injury or illness. These individuals are referred to in this policy as “current members of the Armed Forces.” Covered servicemember also includes a veteran who is discharged or released from military service under conditions other than dishonorable at any time during the five (5) year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. These individuals are referred to in this policy as “covered veterans.”

The FMLA definition of a serious illness or injury for a covered servicemember or covered veteran is distinct from the definition of “serious health condition” applicable to leave to care for a family member or the employee’s own illness or injury.

25.3.3 Intermittent Leave and Reduced Leave Schedules

FMLA/CFRA leave usually will be taken for a period of consecutive days, weeks or months. However, employees are also entitled to take FMLA/CFRA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the employee or covered family member or the serious injury or illness of a covered servicemember. Intermittent leave can also be taken for any qualifying exigency. Intermittent or reduced work schedule leave may be taken for absences where the employee or covered family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition, even if he or she does not receive treatment by a health care provider.

Employees are also eligible for intermittent leave for bonding with a child following birth or placement. Intermittent leave for bonding purposes generally must be taken in minimum two-week increments, but the City permits two (2) occasions where the leave may be for less than two (2) weeks.

25.4 Maintenance of Benefits

During FMLA/CFRA leave, eligible employees are entitled to receive group health plan, dental insurance, life and employee assistance program benefits (collectively group health plan coverage) on the same basis as if they had continued to work for the City for up to twelve (12) weeks. Employees on FMLA military leave also are entitled to receive group health plan coverage for the duration of those FMLA leaves. To receive uninterrupted coverage, the employee will have to continue to pay their share of group health plan coverage premiums, if any, in accordance with federal and state laws.

If an employee substitutes paid accrued leave as provided in this policy, the City will deduct the employee’s shares of group health plan coverage premiums as a regular payroll deduction. If the employee does not have accrued paid leaves to substitute for FMLA/CFRA leave and the time is unpaid, the employee must pay the employee portion of premiums either in person or by mail to the Finance Department by the first (1st) day of each month. The City’s obligation to maintain group health plan coverage ceases if an employee’s premium payment is more than thirty (30) days late. If an employee’s payment is more than fifteen (15) days late, the City will send a letter notifying the employee that coverage will be dropped on a specified date unless the employee’s share of premium is received before that date.

If an employee does not return to work for at least thirty (30) calendar days following the end of the leave period (unless the employee cannot return to work because of a serious health condition or other circumstance beyond the employee's control), the employee will be required to reimburse the City for the cost of the premiums the City paid for maintaining coverage during their unpaid FMLA/CFRA leave.

25.5 Job Restoration

At the end of FMLA/CFRA leave, subject to some exceptions including situations where job restoration of "key employees" will cause the City substantial and grievous economic injury, employees generally have the right to return to the same or equivalent positions they held before the FMLA/CFRA leave. The City will notify employees if they qualify as "key employees", if it intends to deny reinstatement, and of their rights in such instances. Use of FMLA/CFRA leave will not result in the loss of any employment benefit that accrued prior to the start of an eligible employee's FMLA/CFRA leave.

25.6 Notice of Eligibility for and Designation of FMLA/CFRA Leave

Employees requesting FMLA/CFRA leave are entitled to receive written notice from the City telling them whether they are eligible for FMLA and/or CFRA leave and, if not eligible, the reasons why they are not eligible. When eligible for FMLA/CFRA leave, employees are entitled to receive written notice of: (1) their rights and responsibilities in connection with such leave; (2) the City's designation of leave as FMLA/CFRA-qualifying or non-qualifying, and if not FMLA/CFRA-qualifying, the reasons why; and (3) the amount of leave, if known, that will be counted against the employee's leave entitlement.

The City will respond to a leave request within five (5) business days. Once given, approval shall be deemed retroactive to the date of the first day of the leave. The City may designate FMLA/CFRA leave retroactively with appropriate notice and provided that doing so does not cause harm or injury to the employee. In other cases, the City and employee can mutually agree that leave be retroactively designated as FMLA/CFRA leave.

25.7 Employee Obligations

25.7.1 Notice Obligations

Employees who take FMLA/CFRA leave must timely notify the City of their need for FMLA/CFRA leave. To trigger FMLA/CFRA leave protections, employees must inform the City's Human Resources Department of the need for FMLA/CFRA-qualifying leave and the anticipated timing and duration of the leave, if known. Employees may do this by either requesting FMLA/CFRA leave specifically, or explaining the reasons for leave so as to allow the City to determine that the leave is FMLA/CFRA qualifying. For example, employees might explain that:

- A medical condition renders them unable to perform the functions of their job;
- They are pregnant or have been hospitalized overnight;
- They or a covered family member are under the continuing care of a health care provider;
- The leave is due to a qualifying exigency caused by a military member being on covered active duty or called to covered active duty status; or
- If the leave is for a family member, that the condition renders the family member unable to perform daily activities or that the family member is a covered servicemember with a serious injury or illness.

Calling in “sick” without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA/CFRA leave under this policy. Employees must respond to the City’s lawful questions to determine if absences are potentially FMLA/CFRA-qualifying.

If an employee fails to explain the reasons for FMLA/CFRA leave, the leave may be denied. When an employee seeks leave due to a FMLA/CFRA-qualifying reason for which the City previously provided FMLA/CFRA-protected leave (e.g., in cases of use of intermittent leave), the employee must specifically reference the qualifying reason for the leave or the need for FMLA/CFRA leave.

25.7.2 Cooperating in the Scheduling of Leave

When planning medical treatment for the employee or family member or requesting to take leave on an intermittent or reduced schedule work basis, employees must make a reasonable effort to consult with the City and make a reasonable effort to schedule treatment so as not to unduly disrupt the City’s operations. Employees must make a reasonable effort to consult with the City prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the City and the employee, subject to the approval of the applicable health care provider. To the extent permitted by law, when an employee takes intermittent or reduced work schedule leave for foreseeable planned medical treatment for the employee or a family member, including a period of recovery from a serious health condition, or to care for a covered servicemember, the City may temporarily transfer the employee to an alternative position with equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave.

25.7.3 Submit Medical Certifications Supporting Need for Leave

Depending on the nature of FMLA/CFRA leave sought, employees may be required to submit medical certifications supporting their need for FMLA/CFRA-qualifying leave. There generally are three (3) types of FMLA/CFRA medical certifications: an initial certification, a recertification, and a return to work/fitness for duty certification.

It is the employee's responsibility to provide the City with timely, complete and sufficient medical certifications. Whenever the City requests that an employee provide an FMLA/CFRA medical certification, the employee must provide the requested certification within fifteen (15) calendar days after the City's request, unless it is not practicable to do so despite an employee's diligent, good faith efforts. The City will inform the employee if a submitted medical certification is incomplete or insufficient and provide the employee at least seven (7) calendar days to cure deficiencies. The City will delay or deny FMLA/CFRA leave to an employee who fails to timely cure deficiencies or otherwise fails to timely submit a requested medical certification.

With the employee's permission, the City (through individuals other than an employee's direct supervisor) may contact the employee's health care provider to authenticate a medical certification.

Whenever the City deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA/CFRA medical certifications.

25.7.3.1 Initial Medical Certifications

Employees requesting leave because of their own or a covered family member's serious health condition, or to care for a covered servicemember, must supply medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member. If employees provide at least thirty (30) days' notice of medical leave, they should submit the medical certification before leave begins.

If the City has reason to doubt an initial medical certification regarding an employee's own serious health condition, it may require the employee to obtain a second opinion at the City's expense. If the opinions of the initial and second health care providers differ, the City may, at its expense, require the employee to obtain a third, final and binding certification from a health care provider designated or approved jointly by the City and the employee. The City will reimburse the employee for any reasonable "out of pocket" travel expenses incurred to obtain second or third medical opinions. Except in very rare circumstances, the City will not require an employee to travel outside normal commuting distance for purposes of obtaining second or third medical opinions.

25.7.3.2 Medical Recertifications

Depending on the circumstances and duration of FMLA/CFRA leave, the City may require that an employee provide recertification of a medical condition giving rise to the need for leave. The City will notify the employee if recertification is required and will give the employee at least fifteen (15) calendar days to provide medical recertification. In cases of leave that qualifies under the CFRA, recertification will be requested only when the original certification has expired and additional leave is requested.

25.7.3.3 Return to Work/Fitness for Duty Medical Certifications

Unless notified that providing such certification is not necessary, an employee returning to work from an FMLA/CFRA leave that was taken because of the employee's own serious health condition must provide the City with a release to return to work from his or her health care provider stating that the employee is able to resume work. An employee taking intermittent leave may be required to provide a return to work release for such absences up to once every thirty (30) days if reasonable safety concerns exist regarding the employee's ability to perform his or her duties. The City may delay and/or deny job restoration until an employee provides a return to work/fitness for duty certification.

25.7.4 Submit Certifications Supporting Need for Military Family Leave

Upon request, the first time an employee seeks leave due to a qualifying exigency arising out of the covered active duty or call to covered active duty status of a military member, the City may require that the employee provide: (1) a copy of the military member's active duty orders or other documentation issued by the military indicating the military member is on covered active duty or call to active duty status and the dates of the military member's covered active duty service; and (2) a certification from the employee setting forth information concerning the nature of the qualifying exigency for which leave is requested. Employees shall provide a copy of new active duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies arising out of a different covered active duty or call to covered active duty status of the same or a different military member.

When leave is taken to care for a covered servicemember with a serious injury or illness, the City may require employees to obtain certifications completed by an authorized health care provider of the covered servicemember. In addition, and in accordance with the FMLA regulations, the City may request that the certification set forth additional information provided by the employee and/or the covered servicemember confirming entitlement to such leave.

25.7.5 Reporting Changes to Anticipated Return to Work

If an employee's anticipated return to work date changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide the City with reasonable notice (i.e., within two business days) of the employee's changed circumstances and new return to work date. If an employee gives the City unequivocal notice of the employee's intent not to return to work, the employee will be considered to have voluntarily resigned and the City's obligation to maintain health benefits (subject to COBRA requirements) and to restore the employee to a position will cease.

25.7.6 Substitute Paid Leave for and Unpaid FMLA/CFRA Leave

If leave is unpaid, the following requirements apply to the leave:

1. If an employee requests FMLA/PDL leave because of disability due to pregnancy, childbirth or related medical conditions, the employee must first

substitute any accrued paid sick leave for unpaid family/medical leave. An employee may make a written request to substitute accrued, unused vacation and compensatory time off hours for unpaid FMLA/PDL leave once the employee's sick leave time is exhausted.

2. If an employee requests FMLA/CFRA leave for their own serious medical condition, the employee shall first use all accrued sick leave for the unpaid family/medical leave. Once the employee has exhausted their sick time, the employee will be required to use any other paid accrued leaves, including paid vacation or compensatory time off.
3. If an employee requests FMLA/CFRA leave to care for a covered family member with a serious health condition, the employee must first substitute any accrued vacation and/or compensatory time off for unpaid family medical leave. Once the employee has exhausted their vacation or compensatory time off, the employee can use their available sick time.
4. If an employee requests leave to bond with a child, including adoption and foster care placement purposes, the employee must substitute any accrued vacation or compensatory time off for unpaid family/medical leave. The use of sick leave is not permitted for this purpose.

For purposes of this section, leave is not "unpaid" during any leave time for which an employee is receiving compensation from the State of California under the State Disability Insurance program or Paid Family Leave program, through the workers' compensation system or through the City's disability pay program. Employees will not be required to use accrued paid leaves for any time off under this policy for which they are receiving compensation under these programs. Where applicable and permitted by law, employees will be required to use vacation and/or sick leave during any waiting period applicable to these programs.

Upon written request, the City will allow employees to supplement disability insurance, paid family leave benefits, or workers' compensation benefits with accrued, unused sick leave, vacation and compensatory time off, so long as such leave accruals are used for purposes permitted by the policy which provides for the leave.

The substitution of paid time off for unpaid family/medical leave time does not extend the length of any FMLA/CFRA leave and the paid time off runs concurrently with the FMLA/CFRA entitlement.

26 Other Leaves

26.1 Unpaid Personal Leave

26.1.1 Requests for Leave

An employee who needs a leave of absence from work without pay shall file a written request with the Human Resources Department, stating the title of the employee's position, the beginning and ending dates of the requested leave and a full statement for such a request. A request for a personal leave shall be made upon forms prescribed from the City. The request shall normally be initiated by the employee, but may be initiated by the employee's supervisor or Department Head.

26.1.2 Reasons for Leave

A personal leave may be granted for the following reasons:

1. Illness or non-job related disability including pregnancy, beyond or in lieu of that covered by sick or other available leave;
2. Education or training which will benefit the City; or
3. Other personal reasons provided the needs of the City are considered.

26.1.3 Authorized Leaves of Absence

Upon written request of an employee setting forth the reasons for the request, and upon the recommendation of the Department Head, the City Manager may grant an employee holding a regular position appointment a leave of absence for a period not to exceed six (6) months. Absences of more than six (6) months require the approval of the City Council.

The Human Resources Department may grant an employee holding a regular position appointment a leave of absence without pay for a period not to exceed thirty-one (31) calendar days per calendar year.

26.1.4 Benefits While on Leave

Authorized leaves of absence without pay shall not be construed as a break in service. Rights accrued at the time leave is granted shall be retained by the employee. However, seniority, vacation leave, sick leave, holidays, increases in salary, or other City paid benefits will not be provided during the period of leave.

Unless otherwise required by law, the City is not required to maintain contributions toward group insurance programs or retirement benefits for any employee on an unpaid leave of absence. Unless otherwise required by law, the City will discontinue any employer contribution towards health, dental, disability and/or life insurance benefits if an employee is in an unpaid status on the first of any month. Instead, the employee will be permitted to continue coverage as allowed under the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

26.1.5 Return from Authorized Leaves of Absence

An employee returning from a personal leave may be required to provide medical documentation indicating the employee's fitness to return. If an employee requests to return to work prior to the scheduled end of his or her leave, the employee must first request approval from the Human Resources Department at least three (3) days prior to the date of returning to work. The Human Resources Department may request substantiating evidence (e.g., medical examination or doctor's written release).

26.2 Jury Duty and Court Appearances

26.2.1 Jury Duty

An employee who is summoned to serve on a jury must notify his or her Department Head as soon as possible after receiving notice of both possible and actual jury service. A leave of absence with pay will be granted to all regular employees for the period of any actual service, including any time during which the employee must be away from work to be present in court as the result of such a summons. Other employees will receive an unpaid leave of absence. While on jury duty, any payment except travel pay, meals and lodging received by the employee as a juror shall be remitted to the City. Time spent on jury duty is not work time for purposes of calculating overtime compensation.

26.2.2 Subpoenas

An employee who is subpoenaed to appear in court in a matter regarding an event or transaction which they perceived or investigated in the course of performing their official City job duties will be permitted to appear in response to the subpoena without loss of compensation. The time spent appearing in court in response to such a subpoena will be considered work time. Any payment except travel pay, meals and lodging receiving by the employee for such service shall be remitted to the City.

26.2.3 Exception for Employee-Initiated or Non-City Related Matters

An employee who is a named party in an action unrelated to the City and its activities, who is a named party in an action against the City, or who is serving as a paid expert witness is not eligible to receive compensation for time spent related to those proceedings. In such cases, an employee may request to receive time off without pay, or may use accrued vacation or compensatory time off for time spent related to those proceedings. The time spent in such proceedings is not considered work time.

26.3 Unpaid Leave for School Visits

26.3.1 School Activity Leave

Employees who are the parent, stepparent, guardian or grandparent of a child in kindergarten or grades one (1) through twelve (12), or attending a licensed day care facility, may take leave to participate in school activities. The total time off for school activities leave cannot exceed eight (8) hours in any calendar month or forty (40) hours in any school year. Employees requesting time off under this provision must first use accrued vacation time and/or compensatory time off for school activity leave. If an employee does not have any accrued vacation and/or compensatory time off, then unpaid leave will be granted.

Employees must provide reasonable advance notice to their Department Head. Employees may be required to provide their Department Head with documentation from the child's school or licensed day care facility as proof that the employee participated in the activity on a specific date and at a specific time.

If both parents are employed by the City, the parent who first gives notice to their Department Head will be covered by the above provisions. The other parent may take time off only if the other parent obtains the approval of their Department Head.

26.3.2 Required School Attendance

If an employee is a parent, guardian or grandparent with custody of a child who has been suspended from school and/or the employee receives notice from the child's school requesting that they appear pursuant to a request made under section 48900.1 of the Education Code, the employee may take unpaid time to appear at the school. An employee is permitted to use accrued leaves (such as vacation, compensatory time off, or administrative leave; but not sick leave) when taking time off under the provisions of this Personnel Rule; otherwise, such time shall be without pay.

The employee must, prior to the planned absence, give reasonable notice to their Department Head that the employee has been requested to appear at the child's school. Employees may be required to provide their Department Head with documentation that the employee is required to appear at the school on a specific date and at a specific time.

26.4 Military Leave

26.4.1 Policy

Authorized leaves of absence for military duty shall be granted in accordance with the provisions of state and federal law, including Section 395 of the California Military and Veterans Code and the Uniformed Services Employment Reemployment Rights Act.

26.4.2 Notification Requirements

An employee entitled to military leave shall give the City Manager or designee an opportunity within the limits of the military regulations to determine when such leave shall be taken.

26.4.3 Temporary Military Leave

An employee who is a member of the reserve corps of the Armed Forces of the United States or the National Guard, or the Naval Militia shall be entitled to a temporary military leave of absence while engaged in military duty ordered for purposes of active military training, inactive duty training, encampment, naval cruises, special exercises or like activity. Temporary military leave is available when the ordered duty does not exceed one hundred and eighty (180) calendar days, including time involved in going to and returning from that duty. An employee with at least one (1) year of City service who is on temporary military duty for purposes of inactive duty training will receive with pay during the period leave. An employee with at least one (1) year of City service who is on temporary military leave for any purpose other than inactive duty may receive up to thirty (30) days of paid military leave in a fiscal year.

26.4.4 Extended Military Leave

An employee who enlists, is ordered into active-duty service of any length or active-duty training in excess of one hundred and eighty (180) days, is ordered into active federal military duty as a member of the National Guard or Naval Militia will be granted an extended military leave. An employee with at least one (1) year of City service who is on extended military leave may receive up to thirty (30) days of paid military leave in a fiscal year.

26.4.5 Transition Period to Return to City Service

The time for an employee on military leave to return to City service is dependent on the duration of the employee's military leave. For absences of up to thirty (30) consecutive days, the service member is entitled to safe travel time from place of duty to their residence, plus eight (8) hours of rest. The service member must report to work at the beginning of their first normal shift on the first full calendar day following this period. For absences of thirty-one (31) to one hundred and eighty (180) days, the service member must return to work not later than fourteen (14) days after completing services. For absences of one hundred and eighty-one (181) days or longer, the service member must return to work not later than ninety (90) days after completing service. Employees are not eligible for military leave pay during any transition period, but can use available and accrued vacation and compensatory time off.

26.4.6 Pay While on Military Leave

Any individual who has been employed by the City for at least one (1) year and who is on an approved military leave will receive their regular salary or regular pay for the first thirty (30) calendar days of such leave in a fiscal year.

26.5 Time Off for Volunteer Firefighters, Reserve Peace Officer or Emergency Rescue Personnel

An employee who is volunteer firefighter, reserve peace officer, or “emergency rescue personnel” for an entity other than the City shall be permitted to take temporary leaves of absence, up to a total of fourteen (14) days per calendar year, to engage in fire or law enforcement training.

“Emergency rescue personnel” means any person who is an officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of California, or of a sheriff’s department, police department, or a private fire department, whether that person is a volunteer or partly paid or fully paid, while they are actually engaged in providing emergency services.

An employee is permitted to use accrued leaves (such as vacation, compensatory time off, or administrative leave; but not sick leave) when taking time off under the provisions of this Personnel Rule; otherwise, such time off shall be without pay.

Except in cases of emergency, employees must provide notice to their supervisor or the Department Head prior to utilizing leave under this policy.

26.6 Time Off for Voting

If an employee does not have sufficient time outside of working hours to vote in a statewide election, they may, without loss of pay, take off sufficient working time to vote. This time should be taken at the beginning or end of the regular work schedule, whichever allows the most free time for voting and the least time off from working, unless otherwise mutually agreed. An employee will be allowed a maximum of two (2) hours of voting leave on election day without loss of pay. If time off for voting is required, the employee must notify their supervisor of the need for leave at least two (2) working days prior to the election day.

26.7 Lactation Leave

The City shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee’s infant child. The break time, if possible, must run concurrently with rest and meal periods already provided to the employee. If the break time cannot run concurrently with rest and meal periods already provided to the employee, the break time will be unpaid.

The City shall make a reasonable effort to provide the employee with the use of a room or other location (other than a bathroom) in close proximity to the employee’s work area so that the employee may express milk in private. If the City is unable to provide a permanent lactation room, a temporary lactation location will be set up upon request and in compliance with the law.

26.8 Workers’ Compensation Leave

Employees injured in the performance of their duties shall be eligible for all rights, privileges and compensations provided for under the City's workers' compensation plan.

26.9 Leave for Victims of Violent Crimes or Domestic Violence

An employee who has been the victim of a violent 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 they are 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. Leave under this section is unpaid, except that an employee may be permitted to use accrued vacation, compensatory time off, and/or sick leave consistent with City policy.

26.10 Return from Leave

An employee who has been on a leave of absence due to injury or illness is expected to report to work upon being medically released to return to duty. This includes reporting when the employee has been released for modified duty. If an employee is released to return to modified duty, the City will determine if there is any modified duty available. If an employee is offered modified duty and they decline the offered work, the employee may be permitted to use accrued vacation or compensatory time off. The employee will not be permitted to use sick leave or administrative leave.

26.11 Failure to Return from Leave

Failure of an employee to return to work upon the end of any authorized or approved leave of absence will be deemed job abandonment under these Rules.

26.12 Holidays

Unless provided in a memorandum of understanding, written employment contract or pursuant to a resolution adopted by the City Council, no employee will receive paid holidays or additional compensation for performing work on a holiday.

26.13 Vacation Leave

Unless provided in a memorandum of understanding, written employment contract or pursuant to a resolution adopted by the City Council, no employee will accrue paid vacation.

26.14 Bereavement Leave

Unless provided in a memorandum of understanding, written employment contract or pursuant to a resolution adopted by the City Council, the use of paid leave up to three days and/or unpaid leave up to five days in the case of the death of an immediate family member including spouse, domestic partner, children, parents, grandparents, grandchildren, brothers, sisters, step-children, step-parents, half-brothers, half-sisters, fathers-in-law, and mothers-in-law. The leave must be used within six months of the date of death. Employees may utilize accrued leave for the remaining two days. The City may request certain documentation to be provided within 30 days of that death.

Effective the first pay period in 2024, the City will provide unpaid leave up to five days following a reproductive loss event, which includes the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction.

If an employee experiences more than one reproductive loss event within a 12-month period, the City will grant employees up to 20 days of reproductive loss within a 12-month period. Employees may utilize accrued leave, including accrued and available paid sick leave.

27 Equal Employment Opportunity

The City is an equal opportunity employer. The City prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, ancestry, national origin, sex, age, political opinion, physical disability, medical condition, sexual orientation, marital status or religious affiliation or any other basis protected by law. The City will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. Employees who believe they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedure in Rule 29.

28 Reasonable Accommodations

28.1 Accommodation of Individuals with Disabilities

The City recognizes and supports its obligation to reasonably accommodate job applicants and employees with disabilities who are able to perform the essential functions of the position, with or without reasonable accommodation. The City will provide reasonable accommodation to otherwise qualified job applicants and employees with known disabilities unless doing so would impose an undue hardship on the City or pose a direct threat of substantial harm to the employee or others.

An applicant or employee who believes he or she needs a reasonable accommodation of a disability should discuss the need for possible accommodation with the Human Resources Director or designee. Upon receiving an accommodation request, the City shall engage in a timely interactive process with the employee to identify possible reasonable accommodations.

28.2 Accommodation of Religious Beliefs and Practices

The City recognizes and supports its obligation to reasonably accommodate job applicants and employees with religious beliefs or practices who are able to perform the essential functions of the position, with or without reasonable accommodation. The City will provide reasonable accommodation to otherwise qualified job applicants and employees, unless doing so would impose an undue hardship on the City.

An applicant or employee who believes he or she needs a reasonable accommodation of a religious belief or practice should discuss the need for a possible accommodation with the Human Resources Director or designee.

29. Prohibition Against Harassment, Discrimination, and Retaliation

29.1 Policy Statement

The City is committed to providing all employees, applicants, officers, officials, volunteers, interns and contractors with a workplace that is free from harassment, discrimination or retaliation from any individual as defined in this policy. The City does not tolerate and prohibits harassment, discrimination or retaliation on the basis of race, religious creed, color, sex, national origin, ancestry, gender, gender identity, gender expression, sexual orientation, marital status, age, disability, medical condition as defined by state law (cancer or genetic characteristic), military service and veteran status, pregnancy, childbirth and related medical conditions, or any other basis protected by applicable state, federal or local law. Any violation of this rule will lead to disciplinary action, up to and including termination. Discrimination, harassment and retaliation are also prohibited by law.

29.2 Rule Coverage

The City's rule against harassment, discrimination and retaliation prohibits elected officials, appointed officials, officers, employees, volunteers, interns and contractors from harassing or discriminating against applicants, officers, officials, employees, volunteers, interns, contractors, and members of the public because: (1) of an individual's protected characteristic; (2) of the perception that an individual has a protected characteristic; or (3) the individual associates with a person who has or is perceived to have a protected classification.

29.3 Definitions

29.3.1 Protected Characteristic

Protected characteristic refers to an employee's race, religious creed, color, sex, national origin, ancestry, gender, gender identity, gender expression, sexual orientation, marital status, age, disability, medical condition as defined by state law (cancer or genetic characteristic), military service and veteran status, pregnancy, childbirth and related medical conditions, or any other basis protected by applicable state, federal or local law.

29.3.2 Discrimination

Discrimination is defined as treating an individual differently or granting a benefit to an individual because of the individual's protected characteristic.

29.3.3 Harassment

Harassment is defined as unwelcome conduct that creates an intimidating, offensive or hostile work environment that interferes with work performance and which is taken because of any protected characteristic. Harassing conduct denigrates or shows hostility or aversion towards an individual because of a protected characteristic. Harassing conduct can be:

- Verbal, including slurs, jokes, insults, epithets, gestures or teasing;

- Graphic, including offensive posters, symbols, cartoons, drawings, computer displays, or e-mails; and/or
- Physical, including physically threatening another, blocking someone's way or touching.

Such conduct violates this rule, even if it is not unlawful. To ensure compliance with this rule, employees are expected to behave in a professional and respectful manner at all times.

29.3.4 Sexual Harassment

Sexual harassment can include harassing conduct as defined above, as well as other unwelcome conduct, such as unwelcome or unsolicited sexual advances, requests for sexual favors, conversations regarding sexual activities and other verbal or physical conduct of a sexual nature. Examples of conduct that violates this policy include:

- Unwelcome sexual advances, flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movement;
- Requests for sexual favors or demands for sexual favors in exchange for favorable treatment;
- Obscene or vulgar gestures, posters, or comments;
- Sexual jokes or comments about a person's body, sexual prowess, or sexual deficiencies;
- Propositions, or suggestive or insulting comments of a sexual nature;
- Derogatory cartoons, posters, and drawings;
- Sexually explicit emails or voicemails;
- Uninvited touching of a sexual nature;
- Unwelcome sexually-related comments;
- Conduct or comments consistently targeted at only one gender, even if the content is not sexual; or
- Teasing or other conduct directed toward a person because of the person's gender.

All such conduct is unacceptable in the workplace and in any work-related setting, such as work-related trips and work-related social functions, regardless of whether the conduct is engaged in by an employee, official, contractor, vendor, or other third-party.

29.3.5 Retaliation

Retaliation means adverse conduct taken because an individual reported an actual or perceived violation of this policy, opposed practices prohibited by this policy, or participated in the reporting and investigation process described below. "Adverse conduct" includes but is not limited to: shunning and avoiding an individual who reports harassment, discrimination or retaliation; express or implied threats or intimidation intended to prevent an individual from reporting harassment, discrimination or retaliation; and denying employment benefits

because an applicant or employee reported harassment, discrimination or retaliation or participated in the reporting and investigation process described below.

29.4 Reporting Procedures

An applicant, employee, officer, official or contractor who feels he or she has been harassed, discriminated against or retaliated against in violation of this Rule should report the conduct immediately to either a supervisor, a Department Head, the Human Resources Director or the City Manager. Any supervisor or Department Head who receives a complaint alleging a violation of this policy must in turn direct the complaint to the City Manager or designee who will determine what level of investigation and response is necessary.

The City will promptly investigate the facts and circumstances of any claimed violation of this Rule. To the extent possible, the City will endeavor to keep the reporting employee's concerns confidential. Complete confidentiality may not be possible in all circumstances due to the need to fully investigate potential violations of this Rule and take effective remedial action.

Upon receipt of a complaint of a potential violation of this Rule, the City Manager or designee will be responsible for coordinating a thorough investigation (unless they are named in the complaint). The City Manager or designee may coordinate the investigation with the complainant's Department Head and may hire an outside investigator if deemed appropriate. The type of investigation undertaken, and the party chosen to conduct the investigation will depend on the nature of the complaint made and will be determined by the City Manager or designee. The City Manager or designee may take interim action, such as placing the alleged perpetrator on paid administrative leave or transferring the alleged perpetrator. If the complaint is made against the City Manager, the Mayor or the Mayor's designee will be responsible for coordinating the investigation.

During the investigation, the investigator will generally interview the complainant and the accused, conduct further interviews as necessary and review any relevant documents or other information. Upon completion of the investigation, the City shall determine if this policy has been violated based upon its reasonable evaluation of the information gathered during the investigation. The City will inform the complainant and the accused of the results of the investigation.

If it is determined that conduct occurred in violation of this Rule, the City will take corrective measures, if the City determines such measures are necessary. These measures may include, but are not limited to, counseling, suspension, or immediate termination. Anyone, regardless of position or title, who the City determines has engaged in conduct that violates this policy will be subject to discipline, up to and including termination.

29.5 Dissemination of Policy

All City officials, officers, employees, volunteers and interns shall receive a copy of this policy when they are hired. The policy may be updated from time to time and, as such times, will be redistributed to all employees.

30 Workplace Violence Policy

30.1 Policy Statement

The City is committed to providing a safe and secure workplace for employees. The City will not tolerate intimidating behavior, bullying, or acts or threats of violence in the workplace or while on City business from any individual. This rule applies to all City employees, officers, elected officials, volunteers and contractors. Any violation of this rule will lead to disciplinary action, up to and including termination.

30.2 Definitions

30.2.1 Assault

Assault is defined as attacking someone physically or verbally, causing bodily or emotional injury, pain, and/or distress. This may or may not involve the use of a weapon and includes actions such as: striking, hitting, punching, pushing, poking, kicking, grabbing, or pinching another person.

30.2.2 Bullying

Bullying is defined as unreasonable behavior that generally is persistent, and that demeans, intimidates and humiliates one or more employees or member of the public. Bullying can take many forms and includes, but is not limited to: slandering, ridiculing or maligning a person or their family; persistent name calling which is hurtful, insulting or humiliating; using a person as the butt of jokes, verbal assault, making non-verbal threatening gestures, and socially or physically excluding or disregarding a person in work-related activities. Such conduct can also occur via use of electronic or telephone communications, such as the internet, email, blogs, text messages, or misuse of cameras and/or recording equipment.

30.2.3 Intimidating Behavior

Intimidating behavior is defined as threats or other conduct that is intended to or can reasonably result in causing others to be afraid for their safety. Intimidation includes forcing a person into or deterring a person from taking some action by inducing concerns for their safety by means of any physical action, gesture and/or verbal comment.

30.2.4 Prohibited Weapon

The phrase "prohibited weapon" means

- Any loaded or unloaded firearm, even if the person has a valid permit for a concealed weapon.
- Any dangerous weapon such as switchblade knives, clubs, or metal knuckles.
- All knives with a fixed or fixable blade exceeding four (4) inches.
- BB or pellet guns, CO2 or spring action, spot marker or paint guns.

- Laser guns, stun guns, tasers, or unauthorized tear gas weapons, except that pepper spray, mace and similar small spray devices may be possessed for self-defense pursuant to Penal Code section 12403.7.
- Any “generally prohibited weapon” as defined by Penal Code Section 16590.

30.2.5 Threat

A threat is defined as any action (verbal, written or physical) that could be interpreted by a reasonable person as conveying intent to cause harm to a person or property. This includes threats that are made in jest but which others could perceive as serious.

30.2.6 Violence

Violence is defined as an action, whether verbal, written, or physical aggression, that is intended to cause, or is capable of causing injury to oneself or another, emotional harm, or damage to property.

30.2.7 Workplace

Workplace is defined as anywhere a City employee is conducting authorized City business, including but not limited to, vehicles en route to and from a location where City business is, will be, or has been conducted; all City-owned buildings, properties, garages, and parking facilities; and any work space occupied by City employees, whether or not the space is owned or leased by the City.

30.3 Prohibited Behavior

All employees, officials, officers, volunteers and City contractors are required to treat each other and customers with dignity and respect. To that end, all employees, officials, officers, volunteers and City contractors are prohibited from engaging in any of the following conduct in the workplace:

1. Assaulting or threatening another person.
2. Engaging in violence or making threats of violence directed at another person.
3. Engaging in intimidating behavior directed at another person, including but not limited to loud, disruptive, or angry behavior or language.
4. Engaging in bullying of another person.
5. Intentionally damaging City property or the property of another.
6. Threatening to damage City property or the property of another.
7. Throwing or kicking objects.

8. Fighting or challenging another person to a fight.
9. Being in possession of a prohibited weapon at any City workplace or in connection with the conduct of City business without regard to location, except that this prohibition shall not apply to any law enforcement officer or other City employee who is required by the City to carry one or more prohibited weapons in order to perform the duties of his or her position so long as the prohibited weapon is only used as authorized and in the performance of the employee's official duties.
10. Violating any law related to carrying a legal self-defense weapon.

30.4 Procedures for Responding to Acts of Workplace Violence

30.4.1 Immediate Steps

If an act or altercation constitutes an emergency – **CALL 911 IMMEDIATELY**. After the authorities have been contacted, immediately contact a supervisor, Department Head, Human Resources Department or City Manager. In situations that are not emergencies, employees should contact their immediate supervisor, Department Head, Human Resources Department, or City Manager. All reports of potential violations of this rule must be reported to the Human Resources Department.

Employees responding to an actual or potential act of violence should do their best to remain calm and not escalate the situation. Employees should not try to shout down the other person or make any aggressive moves towards the other person, including but not limited to, unnecessary use of defensive sprays or defensive weapons or take any unnecessary action that may result in injury to themselves or others.

30.4.2 Investigation

Upon receipt of a report of a potential violation of this policy, the Human Resources Department shall immediately undertake or direct an investigation into the allegations at issue. The investigation will typically include, but may not be limited to, interviews with reporting individual, the accused, and any other individual who are believed to have relevant knowledge concerning the allegations. All witnesses will be admonished that retaliation against those who participate in the investigation process is prohibited.

30.4.3 Corrective Action and Discipline

Any employee determined to have violated this rule will be subject to appropriate disciplinary action, up to and including termination. Disciplinary action may also be taken against any employee who knowingly condones or ignores a potential violation of this policy or otherwise fails to take appropriate action to enforce this rule. Any contractor found to be responsible for violating this rule will be subject to appropriate sanctions.

30.5 Protective and Restraining Orders

The City reserves the right to seek a “stay away” or restraining order against any person who violates this policy to the fullest extent allowed by law. The City may also seek a restraining order against individuals who are not City employees who pose a threat to City employees or others conducting business on City property.

Employees who have previously sought a restraining order against an individual and/or are protected by an existing order, should provide to their Department Head and the Human Resources Department: (1) a copy of the petition or application and declarations used to seek the order; (2) a copy of any temporary protective or restraining order which is granted; and (3) a copy of any protective or restraining order which is made permanent. Employees should inform the Human Resources Department or their Department Head of any violations or attempted violations of the order and any changes to the order. Employees must also inform their Department Head and the Human Resources Department when the order is lifted.

30.6 Searches

The City may need to conduct searches for purposes of enforcing this policy, to the extent allowed by law. The discovery of any violation of this policy during a search will result in disciplinary action, up to and including termination. The discovery of any violation of any other City policy as a result of a search will also result in disciplinary action, up to and including termination. Any illegal activity discovered during a search is subject to referral to the appropriate law enforcement authorities.

30.7 Responsibilities

30.7.1 Individual Employees, Contractors and Volunteers

Every City employee, official, officer, appointed officer, contractor and volunteer is required to:

1. Conduct themselves consistently with this workplace security rule and refrain from engaging in any threatening or bullying behavior in the workplace;
2. Refrain from engaging in any acts of violence in the workplace;
3. Immediately report any potential violation of this policy to a supervisor, Department Head, Human Resources Department, and/or the City Manager. Failure to report any known threats, acts of violence or other violation of this policy may result in disciplinary action; and
4. Report to their supervisors, Department Head, Human Resources Department, and/or City Manager, any situations that occur outside the workplace which may affect workplace security (e.g., instances where protections orders have been issued, threats occurring outside the workplace, physical violence by a co-worker or any individual that could impact the workplace.)

5. Cooperate with any investigation into potential violations of this policy conducted by the City by responding fully and truthfully to all questions posed during the investigation; and
6. Maintain the confidentiality of any investigation conducted by the City under this policy by not disclosing the substance of any investigatory interview, except as directed by their Department Head or with official legal and/or union representation as allowed under local, state or federal laws.

30.7.2 Elected and Appointed Officials, Department Heads, Managers and Supervisors

In addition to the responsibilities listed above for all employees, all elected officials, appointed officials, officers, Department Heads, managers and supervisors are responsible for the following:

1. Be familiar with this policy and model behavior that is consistent with it;
2. Inform all employees, contractors and volunteers under their direction of this policy and its complaint procedure;
3. Immediately report any potential violation of this policy to the Human Resources Department and/or City Manager;
4. Receive complaints that allege violations of this policy in a fair and serious manner, document steps taken to resolve the problem, and follow up with the complaining employee to ensure that the employee feels safe and there has been no further violation of this policy;
5. Ensure compliance by employees, contractors and volunteers under their direction with the provisions of this policy;
6. Implement appropriate disciplinary action based upon the findings of any investigation conducted pursuant to this policy;
7. Regularly monitor the work environment and take immediate and appropriate action to potential and actual violations of this policy; and
8. Participate in periodic training and schedule employees for training.

30.8 Record Keeping

The Division of Occupational Safety and Health (known as Cal OSHA) requires entry on the Injury Illness Log of any injury which requires more than first aid, is a lost time injury, requires modified duty or causes loss of consciousness. Assaults should be entered on the log and any required reports shall be kept of each recorded assault.

31 Alcohol and Drug-Free Workplace

31.1 Policy Statement

The City is committed to providing a safe and healthy work environment for employees. It is also the City's goal to provide the best service possible to the public. To achieve these goals, the City is committed to providing an alcohol and drug-free workplace. The City has adopted this policy governing the use, possession and sale of drugs and alcohol by its employees.

This policy prohibits the manufacture, use, possession, distribution, trade, and/or offer for sale of alcohol, illegal drugs or intoxicants. This policy applies during all working hours, lunch hours and whenever conducting business or representing the City, while on-call, on-standby, and on or off City property including vehicles. This policy applies to any individual who conducts business for the City, is applying for a position with the City, or conducts business on the City's property. This policy also applies to all City employees, appointed and elected officials, volunteers, interns, consultants, contractors, and those under the control of contractors.

31.2 Prohibited Substances

31.2.1 Alcohol

Employees may not use, be under the influence, or possess alcohol under any of the following circumstances: while on City property, while performing their duties (whether or not on City property) or while on City time when alcohol would impair, to any extent, the employee's ability to perform their duties or to operate any City equipment. "Alcohol" is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

31.2.2 Drugs or Controlled Substances

No employee shall possess, use, sell, transfer, manufacture, purchase or transport drugs or attempt to do so or report to work with drugs in his or her system. No employee shall possess, use, sell, transfer, manufacture, purchase or transport prescription drugs, or attempt to do so, or report to work with prescription drugs in his or her system, unless the prescription drug has been lawfully prescribed to the employee. "Drug" or "drugs" are defined as any controlled substance that is not legally obtainable under state or federal law, or a prescription drug obtained or used without benefit of a prescription by a licensed physician. "Drug" or "drugs" includes medicinal or recreational marijuana, regardless of whether the marijuana was lawfully obtained under state law.

31.2.3 Prescription Drugs

No prescription drug shall be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug shall be used only in the manner, combination, and quantity prescribed. "Prescription drug" is defined as any substance that can be lawfully

obtained or possessed pursuant to a prescription by a licensed physician. Prescription drug does not include medicinal marijuana.

Employees shall ask the prescribing physician and/or in the case of a medication available over-the-counter, review product packaging, to determine whether the use of a prescription drug or over-the-counter medication may impair their ability to perform normal job duties or to safely operate City equipment. An employee taking any over-the-counter medication or prescription drug marked “do not drive,” “do not operation heavy equipment,” or similarly labeled, shall inform the appropriate supervisor or the Human Resources Department of the use of the medication or drug prior to reporting for duty. When informing a supervisor and/or the Human Resources Department, the employee should not identify the name of the medication being used or the reason for its use.

The City will then evaluate and respond to this information on a case-by-case basis. The appropriate supervisor, in conjunction with the Human Resources Department, shall determine whether the employee may work, full duty or light duty, based on the written opinion of the employee’s medical provider that the use of the medication may impair the employee’s ability to perform specific duties. Upon determination that an employee is unable to safely perform his or her normal duties, or that a modified work assignment is not available, an employee may be directed not to work and to return home on paid leave or other leave as appropriate. In the event there is a question regarding an employee’s ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified treating physician may be required.

An employee’s failure to provide any notice required under this section in a timely manner can result in discipline, up to and including termination.

31.3 Prohibited Conduct

City employees and officials are prohibited from the following acts:

1. Being under the influence of, or in possession of alcohol, drugs, or controlled substances when reporting for work.
2. Ingesting, injecting, or otherwise using alcohol, drugs, or controlled substances while performing job duties, except in accordance with Section 31.2.3 above regarding prescription drugs and/or over-the-counter medications where applicable.
3. Being under the influence of alcohol, drugs, or any controlled substances while subject to being called to duty, including stand-by time.
4. Performing a safety-sensitive function within four (4) hours of using alcohol or while using alcohol.
5. Directly, or through a third party, manufacturing, selling, distributing, dispensing, otherwise attempting to manufacture, sell, or distribute alcohol, drugs, or controlled substances during work hours, including rest breaks, or while on City property.

6. Use of City property or premises to manufacture, sell, or distribute alcohol, drugs, or controlled substances.
7. Absence or tardiness as a result of having been under the influence of alcohol, drugs, or uncontrolled substances during non-work time.
8. Refusing to submit immediately to any alcohol, drug, or controlled substance test required by this policy when directed by the City. Refusal includes but is not limited to:
 - a. A refusal to provide a urine sample for testing;
 - b. An inability to provide a urine sample without a valid medical explanation;
 - c. A refusal to complete and sign a testing authorization form;
 - d. An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;
 - e. Tampering with or attempting to adulterate or substitute a urine specimen;
 - f. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
 - g. Obstructing the collection procedure or testing process in any way; or
 - h. Leaving the scene of an accident involving a City vehicle or during working hours without a valid reason as to why authorization from a supervisor or manager was not obtained.
9. Consuming alcohol during the eight (8) hours immediately following an accident or drugs or controlled substances during the thirty-two (32) hours immediately following an accident in which the employee was involved, or until the employee undergoes a post-accident alcohol or drug test, whichever occurs first.
10. Refusal to submit to a search of personal properties when directed by the City, upon reasonable suspicion and in accordance with any applicable laws.

Whenever the City has reason to believe that federal, state or local drug laws are being violated, the City may refer the matter to the appropriate law enforcement agency for investigation and possible criminal prosecution.

31.4 Conviction of a Drug Statute

To fulfill its obligations under the Federal Drug-Free Workplace Act of 1988, the City requires that any employee who is convicted of any criminal drug statute, for a violation occurring in the workplace, provide written notice of that conviction to the City Manager no later than five (5) calendar days after the conviction. In case of such conviction, the City may take appropriate personnel action up to and including termination or require the employee to satisfactorily participate in and complete a substance abuse assistance or rehabilitation program. Any employee who fails to provide this notice will be subject to discipline, up to and including termination.

The City shall encourage employees affected by substance abuse or addiction to seek professional help voluntarily at an early stage. However, if an employee is found to be using or under the influence of alcohol or drugs in the workplace, the employee will be subject to appropriate disciplinary action, up to and including termination.

31.5 Pre-Employment Testing

The City requires certain job applicants to take a drug and alcohol test after a conditional job offer has been given. Those applying for certain positions within the City, including jobs classified by the City as safety-sensitive positions, may be required to take and pass a mandatory drug and alcohol test as soon as practical following their acceptance of an offer of employment that is conditioned upon passing a pre-employment physical and/or drug/alcohol test.

Any external job applicant who refuses to submit to testing, or attempts to tamper with or adulterate a test sample, will be considered to have refused to participate in the testing process and shall not be hired. In addition, the applicant will not be considered for employment for a safety-sensitive position for one (1) year from the applicant's refusal to participate in the testing process.

Any external job applicant who tests positive for drugs and/or alcohol or unauthorized prescription drug use shall not be hired. In addition, the applicant will not be considered for employment for a safety-sensitive position for one (1) year from the applicant's last positive drug test as stated in recruitment and selection documentation.

31.6 Reasonable Suspicion Testing

If a trained Department Head or supervisor has reasonable suspicion to believe that a City employee is under the influence of alcohol and/or controlled substances in violation of this policy, after consultation with the City Manager or the Human Resources Director, the trained Department Head or supervisor may require the employee to submit to an alcohol and/or drug test. An employee's refusal to submit to such a test is cause for discipline, up to and including termination.

The decision to require an employee to submit to a reasonable suspicion alcohol and/or drug test shall be based on a trained individual's determination that reasonable suspicion exists that the employee is in violation of this policy. The determination must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the employee. Such observations can include the employee's activity or inactivity, equilibrium, attention span, mental and physical reactions, slurring of speech, physical or verbal altercation, unfocused vision, odor of intoxicants on the breath or clothing of the employee or information obtained from a reliable person with personal knowledge of the work or other conduct or behavior of the employee which would lead a reasonable person to believe, based on observation, that the employee is under the influence of drugs and/or alcohol. The observations may

also include indications of the chronic or withdrawal effects of controlled substances. If possible, the Department Head or supervisor will obtain the assistance of another trained individual or witness to observe and document the above behavior factors.

The Department Head or supervisor shall arrange to safely transport employees who refuse to submit to testing home. If the employee refuses to accept the arrangements to transport the employee home, or if the employee insists on driving their own vehicle, and, in the trained individual's judgment, the employee is not in a condition to operate a vehicle safely, the Department Head or supervisor has the discretion to summon law enforcement or medical assistance to assist in the safe transport of the employee off City property.

Pending the outcome of an alcohol or drug test, an employee will be assigned to appropriate duties until test results are received unless, in the Department Head's judgment, the continued presence of the employee at a City workplace poses a significant safety risk to themselves, other City staff or members of the public, or is disrupting the workplace. In that event, the Department Head or designee shall arrange to safely transport the employee home and the employee shall be placed on paid administrative leave pending receipt of test results.

The Department Head or supervisor who observes the employee's behavior on which reasonable suspicion testing is based must have received at least sixty (60) minutes of training on alcohol abuse and an additional sixty (60) minutes of training on controlled-substances abuse. The training must cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The person who decides that reasonable suspicion exists to conduct a controlled substance test shall not conduct the controlled substance test of the employee.

If an alcohol test is not conducted within two (2) hours of the observation, the Department Head must prepare and maintain a record stating the reasons the alcohol test was not promptly administered. No alcohol test may be administered if eight hours have passed following the observation.

A written record must be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor or Department Head who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

31.7 Post-Accident Testing

Post-accident drug and alcohol testing may be conducted on employees following an accident. An "accident" is defined as an occurrence involving a City vehicle, a private vehicle being driven on City business, or operation of power equipment that results in 1) a fatality; 2) injury to a person requiring immediate treatment at a

medical facility, except for minor injuries such as muscle strains, sprains, minor lacerations, or abrasions; 3) receipt of a citation under State or local law for a moving traffic violation arising from the accident; or 4) disabling damage to any vehicle licensed for operation on a public roadway.

An employee shall notify their supervisor (or any on-duty supervisor if their supervisor is not on duty or not available) and their Department Head immediately following an accident. The employee shall refrain from using alcohol for eight (8) hours following the accident or until the employee undergoes a post-accident alcohol test or a supervisor determines that a post-accident alcohol test is not required as provided below. Any employee leaving the scene of an accident without appropriate authorization prior to submitting to an alcohol or drug test or without being released by the supervisor will be considered to have refused the test. If all efforts to contact a supervisor while at the scene of an accident have been exhausted and have failed, the employee should contact police dispatch to request law enforcement assistance and, upon clearance by law enforcement, report back to City Hall and remain there until a supervisor, Department Head or the City Manager have been contacted.

The supervisor at the site of an accident should:

1. Attend to any emergency needs of any injured persons.
2. Take the employee involved in the accident aside and give the employee a direct verbal order to stand by at the site until the supervisor has determined if the accident is one requiring a post-accident alcohol or drug test.
3. Evaluate the accident to determine whether a post-accident test is required under this policy and document with written notes the supervisor's decision to require or to not require a post-accident drug or alcohol test.

If the supervisor at the accident site affirms that a post-accident alcohol or drug test of the employee is required, the supervisor should take the following steps:

1. Inform the employee that the test is required by this policy.
2. Arrange for transport of the employee to the designated collection site to take the necessary tests. The person transporting the employee will stay with the employee, verify the employee's identification at the collection site, and later return the employee to the employee's reporting station.
3. Ensure that the employee does not perform any safety-sensitive duties until the employee is cleared by the post-accident test results. The supervisor should ensure that the employee involved in the accident does not operate the vehicle any further. If necessary, the supervisor will move the vehicle or request another employee not involved in the accident to do so.

If the supervisor at the site of the accident determines that the accident does not meet the criteria for a post-accident alcohol or drug test, the employee may continue to perform their job duties.

If an employee is taken into police custody at the site of an accident and tested for being under the influence of alcohol and/or a controlled substance, and the site supervisor has affirmed that the accident is one requiring post-accident alcohol and/or drug testing, the City will rely on the results of the police tests in lieu of additional alcohol and drug test administered by the City.

If a post-accident test is required, the employee will be tested as soon as possible. Testing should be completed within two (2) hours where feasible and should not exceed eight (8) hours for an alcohol test and thirty-two (32) hours for a drug test.

If a post-accident alcohol test is not administered within two (2) hours following the accident, the supervisor shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight (8) hours, the City shall cease attempts to administer an alcohol test and shall prepare and maintain the same record.

If a post-accident drug test is not administered within thirty-two (32) hours following the accident, the City shall cease attempts to administer a drug test and shall prepare and maintain on file a record stating the reasons the test was not properly administered.

31.8 Department of Transportation Testing for Safety Sensitive Positions

In addition to the above requirements, applicants for and employees in safety-sensitive positions, as defined by the Department of Transportation, shall be subject to pre-employment, reasonable suspicion, post-accident, random and other testing as required under federal law. The City Manager or designee is responsible for overseeing the City's compliance with Department of Transportation regulations for the drug and alcohol testing of safety-sensitive employees. Employees in safety-sensitive positions will be provided with a copy of the City's administrative order for alcohol and drug testing requirements for commercial motor vehicle drivers.

31.9 Employee Assistance

The Employee Assistance Program ("EAP") is available to assist employees who may have a drug and/or alcohol problem. The City encourages employees who have a drug and/or alcohol problem to seek confidential assistance from the EAP. An employee is responsible for seeking assistance before the employee's drug and/or alcohol problem leads to a violation of any City drug and/or alcohol policy, or before the employee is asked to submit a reasonable suspicion drug and/or alcohol test. The City shall not take adverse action against an employee making such an admission as long as the employee has not self-identified in order to avoid testing under federal regulations or the City's policies. An employee's voluntary disclosure of a substance or alcohol abuse problem will not terminate any investigation, criminal or administrative, initiated prior to the disclosure.

Employees must request a leave of absence if time off from work is necessary for any treatment or rehabilitation services, whether or not covered by the employee's medical plan. An employee who voluntarily discloses a drug and/or alcohol problem and requests time off to obtain treatment for a drug and/or alcohol problem will not be automatically terminated by the City. Employees who request time off for treatment or rehabilitation services may be permitted to use accrued sick, vacation or other paid leave for approved absences. In addition, such employees may also be eligible for leave under the Family Medical Leave Act and/or the California Family Rights while receiving treatment. Any costs for treatment or rehabilitation services are the sole responsibility of the employee.

31.10 Violations of this Rule

Any employee who engages in an act prohibited by any part of this rule will be subject to disciplinary action, up to and including termination. In appropriate circumstances and solely within its discretion, the City may consider the employee's commitment to recovery and/or the employee's agreement to enter into an Employer-Employee contract or "Last Chance Agreement" detailing conditions of continuing employment as a mitigating factor in assessing the appropriate disciplinary action. The City reserves the right to terminate the employment of any employee who is unable to perform the essential functions of their job after the City has complied with any duty it may have to reasonably accommodate the employee's disability. An employee who refuses to obey an order to take an alcohol or drug test pursuant to this rule will be terminated.

31.11 Confidentiality

All controlled substance or alcohol test results shall be kept confidential and not subject to disclosure except as provided in this policy or otherwise required by state or federal law.

31.12 Alcohol and Drug-Free Awareness

The City shall distribute and explain this policy to all current employees, new employees, volunteers, and contractors.

32 **Smoking**

Smoking, including the use of electronic cigarettes, is prohibited in all City-owned or leased buildings and in any City vehicle. Smoking is also prohibited within twenty (20) feet of entrances, exits, or operable windows of City-owned or leased buildings.

33 Use of City Vehicles or Driving While on City Business

33.1 Use of City Vehicles

Supervisors will attempt to coordinate work so that City vehicles are available and operational for the performance of City work. Except as otherwise provided in this policy, City owned and City-leased motor vehicles are to be used only for City business, and are to be stored in prescribed locations when not in use.

City-owned and City-leased vehicles are to be operated only by City employees. Persons not having business with the City shall not be permitted to ride in City-owned and City-leased vehicles.

Before operating a City vehicle, the vehicle operator should verify that the vehicle is in good operating condition before embarking on a trip. Any employee operating a City-owned vehicle, regardless of frequency, is responsible for the proper care and operation of that vehicle while under the employee's control. Any defects or mechanical issues involving a City-owned vehicle must be reported immediately to the employee's supervisor and the Fleet Manager.

Any vehicle damage to a City-owned vehicle beyond normal wear and tear or that includes defects affecting the safe operation of the vehicle must be documented and reported immediately to the employee's supervisor and the Fleet Manager. Damage sustained to a privately-owned vehicle while being used for City business shall be the responsibility of the employee/owner.

33.2 Use of Personal Vehicles

If an employee is authorized by the Department Head or designee, to use their personal vehicle in the performance of City work, reimbursement will be on the basis of total miles driven and at the rate specified in the Internal Revenue Service Guidelines that are in effect at the time that the mileage was incurred, unless otherwise required by law. Employees are responsible for requesting mileage reimbursement in accordance with City policy. Proof of adequate insurance covering collision, personal injury and property damage must be provided upon request. Employees conducting City business in their personal vehicle shall carry only those persons associated with said business while performing work on behalf of the City.

33.3 Driver's License

Any employee driving either a City vehicle or authorized to use a personal vehicle in the performance of City business is required to have a valid driver's license. Employees who may be assigned work entailing the operation of a City vehicle will be required to submit to a Department of Motor Vehicles driving record check as a condition of employment. This records check shall be processed by the Human Resources Director or designee. A report indicating a suspended or revoked license status or indicating an unsafe driving record may be cause to deny or terminate employment.

Periodic checks of employee's drivers' licenses through visual and formal Department of Motor Vehicles review checks shall be made by the Human Resources Director or designee. Any employee who does not hold a valid driver's license will not be allowed to operate a City vehicle until such time as they obtain a valid license and may be subject to disciplinary action.

Any employee performing work which requires the operation of a City vehicle must notify their immediate supervisor in those cases where their license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the Department of Motor Vehicles. Any employee who fails to report such revocation or suspension to their supervisor and continues to operate a City vehicle shall be subject to the full range of disciplinary action, up to and including dismissal from employment.

33.4 Special Licenses

Employees operating City vehicles are to comply with applicable federal, state and local laws governing the safe operation of said vehicles. If the use of City vehicles requires the operator to secure special licenses and/or permits, the City will pay for those licenses and/or permits. If medical costs are incurred in the acquisition of said licenses and/or permits, the City shall pay that portion not covered by the employee's health insurance provider.

33.5 Long-Term Assignments

The City Manager may assign certain City-owned vehicles on a long-term basis to certain named City employees. Such assignment may be revoked with or without prior notice by the City Manager.

33.6 Vehicle Safety

Any individual operating a motor vehicle in the performance of City business shall obey all federal, state and local laws. It is the responsibility of the vehicle operator to ensure that all persons in the vehicle use seat belts and have them properly adjusted before starting the engine.

Safe driving practices, as well as the California Vehicle Code, require the use of a hands-free device while using cellular telephones during the operation of a motor vehicle. Employees shall not send or review text messages or emails while operating City vehicles or privately-owned vehicles on City business. Employees shall not operate laptop computers, navigational devices, or any other device that may cause vehicle operator distraction while operating a vehicle in the course of conducting City business. Employees shall either park vehicles or use a hands-free device when using such equipment. With the exception of extraordinary circumstances, operators of authorized emergency vehicles are to comply with this hands-free requirement while driving.

When cargo, materials or tools are being transported, the vehicle operator is

responsible for ensuring that all items are properly secured. No person shall be allowed to ride on running boards, fenders, hoods, tailgates, beds or other locations of the vehicle not designated or approved by the vehicle manufacture for passenger seating. An exception to this shall be vehicles designed and equipped for passengers outside the cab area. Employees shall not, under any circumstance, operate a City vehicle or a privately-owned vehicle on City business when: (1) under the influence of alcohol or any controlled substance in violation of the City's Drug and Alcohol policy; or (2) any physical or mental impairment causes the employee to be unable to drive safely.

33.7 Citations

Any citation or arrest while operating a City vehicle or a privately-owned vehicle on City business is the personal responsibility of the employee. The employee will not attend court appearances, traffic school or resulting Department of Motor Vehicle (DMV) appointments on City time for such citations and arrests and must arrange such appearances by requesting appropriate time off. Any judgment or sentence handed down by the court will be satisfied by the employee alone. All fines and court costs, to include subpoena of witnesses and/or attorney fees, if any, are also at the sole cost of the employee, unless it is the direct result of negligence by the City in furnishing a vehicle designed for, or not properly equipped or negligently maintained for use on a public roadway.

Any City employee who receives a citation, including a red light camera citation, while operating a City vehicle or a privately-owned vehicle while on City business shall report the citation immediately to their supervisor.

33.8 Smoking in Vehicles

Employees shall not smoke or use any tobacco products while in or operating any City-owned or City-leased vehicle.

34 Safety

34.1 General Statement

The City recognizes the necessity of maintaining safe working conditions and practices in order to ensure employee safety.

The City has adopted an Injury and Illness Prevention Plan. This Plan describes the City's overall safety commitment as well as the safety responsibilities of all employees. A copy of the Injury and Illness Plan shall be made available to all employees.

34.2 Employee Responsibilities

Each employee is required to follow all established safety rules, procedures and practices, necessary to minimize risk of injury to themselves and others, including those rules and procedures described in the Injury and Illness Prevention Plan.

Unsafe acts by employees shall be immediately pointed out by the supervisor and proper procedure discussed. Employees shall report all unsafe conditions to their supervisor or Department Head. Unsafe acts by employees or failure to report an unsafe condition may result in disciplinary action.

34.3 Incident Reporting

Employees are required to report all work-related injuries, accidents, and property damage that occur while on duty or in a City vehicle to their supervisor or Department Head. If the incident occurs after regular work hours, the employee must telephone the City's emergency number and file a verbal report as soon as possible.

In the case of a vehicle accident involving another vehicle, the employee is required to obtain: the driver's license number, vehicle license number, names of the insurance company covering the other driver and, if the accident is investigated by a law officer, the name and title of the officer. All of this information will be given to the employee's supervisor or Department Head and the City's business office the same day of the accident or next business day if the accident occurred when the City's business office was closed.

35 Electronic Media

35.1 Purpose

The purpose of this policy is to govern the use of Electronic Media (i.e., voice mail, email, the internet/World Wide Web) by all City employees and elected officials. Because the use of voice mail, email and the internet/World Wide Web raises issues of privacy, liability and records retention, the City has adopted this Electronic Media Policy. The term "Electronic Media" includes computers, laptops, tablets, internet access, email, voicemail, cellular telephones, pagers, and other electronic communication devices.

35.2 Policy

Electronic Media are provided for the use of City employees for City business-related purposes. Electronic Media may not be used for any prohibited purpose, including illegal activities, messages that may constitute discrimination or harassment under City policy or state or federal law, or other inappropriate purposes as defined below.

The City prohibits the display, transmission or downloading of sexually explicit images, messages, or cartoons, or any transmission or use of voice mail, email, or internet/World Wide Web communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, religion, color, creed, national origin, sex, sexual orientation, marital status, age, or the presence of any sensory, mental or physical disability.

Unless otherwise authorized by law, voice mail, email, or internet/World Wide Web systems may not be used to solicit or proselytize others for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations.

35.3 City's Right to Access Information

The City reserves the right to enter, search, monitor, copy and/or retrieve computer files, voice mail, email, internet or any type of electronic file of any employee or elected official, without notice, for business purposes, including, but not limited to, investigating theft, disclosure of confidential business or proprietary information, use of the system for personal reasons or for any other purpose unrelated to City business, or monitoring work flow or productivity.

Although City employees may have individual passwords or passcodes to electronic media items such as e-mail, voice mail, and computer network systems, these items are accessible at all times by the City, and may be subject to periodic unannounced examinations by the City. All passwords and passcodes must be given to the City upon request. The City reserves the right to override any password or passcode created by an employee.

Although the City reserves the right to access Electronic Media, employees are strictly prohibited from accessing another employee's personal file or voice mail or email messages without the latter's express permission. In addition, the voice mail, email and networks systems are not to be used in a way that may be disruptive, offensive to others, or harmful to morale.

Even though employees may have deleted information or files from any of the electronic media, it does not mean that the information or files are permanently deleted from the system.

Employees should be aware that any electronic media messages and information created or stored on City owned electronic media may constitute "public records" and may be subject to disclosure to the public under the California Public Record Act, Government Code 6230, or otherwise discoverable (e.g., in response to a subpoena).

35.4 Radio Waves

Use of radio equipment, such as but not limited to two-way radios and Nextel lines, shall be used in a professional manner for business purposes only.

35.5 Voice Mail

Although employees and elected officials have passwords or codes that restrict access to voice mail messages left for them on the system, employees and elected officials should be aware that the City can access any messages stored in the voice mail system and may do so for any reason at any time. Therefore, employees and elected officials may not assume that such messages are confidential.

The City's telephone system, including its voice mail system, is the property of the City, and is designed and intended for City business-related purposes. Employees and elected officials are required to reimburse the City for any special charges for their personal telephone calls.

35.6 Email

Email is a business tool that shall be used in a professional manner for business purposes. When the City becomes the target of litigation, all records maintained by the City are subject to subpoena and review by the other party, including email. Therefore, email is neither personal nor private. Marking a message as "private" or "confidential" does not exempt information from being disclosed with limited exception. Email addressed to, generated by, or received on City computers or servers is the property of the City. As with voice mail, although employees and elected officials have passwords that restrict access to their computers, the City may access any files or email messages stored on or deleted from the computer or network system. The City reserves the right to access such information for any purpose at any time.

35.7 Internet/World Wide Web Access

Use of on-line information services such as the Internet and the World Wide Web is intended for City business purposes. Personal use should be kept to a minimum and occur only during the employee's meal and break periods.

35.8 Computers, Computer Software, Laptops, Tablets and Computer Files

The City's computers, software, laptops, tablets and files stored on the City's computer or network shall be considered City property. These devices shall be subject to search for any reason. In addition, all software that resides on any of the City's computers shall be licensed and shall be considered City property. Computers will be used for valid business purposes only; reasonable personal use is allowed at the sole discretion of the City.

No employee will install software on any City computer without first receiving permission from the City Manager or designee. No employee may alter or tamper with any City computer or interfere with their operation. All hardware failures will be immediately reported to an employee's supervisor, Department Head or the Information Technology Department. Personnel will not attempt hardware repair unless directed to do so by the Information Technology Director or designee.

35.9 Virus Scanning

City staff provided with a City owned desktop or laptop computer will receive a computer with anti-virus software installed and configured. An employee who believes that a City provided computer has been infected with a virus is required to report the issue to the Information Technology Department immediately.

35.10 Prohibited Uses of the City's Electronic Media

Prohibited uses of electronic media include, but are not limited to the following:

1. Illegal activities under local, state and/or federal law;
2. Anything that may be construed as harassment or disparagement of others based on race, religion, color, creed, national origin, sex, sexual orientation, marital status, age, or the presence of any sensory, mental or physical disability will not be tolerated. This includes, but is not limited to, slurs, obscene messages, sexually explicit images, cartoons or messages;
3. Sending threatening messages;
4. Unless otherwise allowed by law, soliciting or proselytizing others for commercial ventures, religious or political causes, outside organizations, or other non-job related matters;
5. Intentionally disrupting network traffic or crashing the network and connected systems (for example, sabotage, intentionally introducing a computer virus);

6. Unauthorized attempts to access others' files with no substantial business purpose, or vandalizing the data of another user;
7. Forging electronic mail messages;
8. Communicating confidential City information to unauthorized individuals within or outside of the City; and
9. Inappropriate use, which is deemed by the City to be a violation of the intended use of any of the Electronic Media.

35.11 Violations of Policy

Violations of this policy will be reviewed on a case-by-case basis and may result in discipline up to and including dismissal.

36 Public Employees as Disaster Service Workers

Government Code Section 3100 et seq. declares public employees as disaster service workers and requires employees to report to work (and if not possible, then to the next closest public employer) following the effects of natural, manmade, or war-caused emergencies. The City shall establish and maintain a method, or methods, of informing employees of their disaster service worker status. Employees who fail, without good cause, to honor their obligations as disaster service workers shall be subject to disciplinary action up to and including dismissal from employment.

37 Mandated Reporting

37.1 Purpose

The City of Pittsburg recognizes the importance of the safety and well-being of the children, elderly or dependent adults entrusted to its care. In support of this responsibility, the City shall take all necessary steps to comply with its obligations under the Child Abuse and Neglect Reporting Act (“the Act”) (Cal. Pen. Code §§ 11164 – 11174.3) and the Elder Abuse and Dependent Adult Civil Protection Act (Cal. Welfare and Institutions Code §§15600 *et seq.*).

37.2 Mandated Reporter Designation

37.2.1 “Mandated Reporter” for purposes of reporting child abuse or neglect generally includes all City employees who have direct contact or supervisory control over children and children programs.

State law (Penal Code §11165.7) includes an extensive list of categories of employment for mandated reporters. The following positions are excerpts from that list, as the positions that would apply to City employees and programs:

- Teacher
- Instructional Aide
- An administrator of a day camp
- An administrator or employee of a youth recreation program or youth organization
- An administrator or employee whose duties require direct contact and supervision of children
- An administrator or employee of a licensed community care or child day care facility
- Athletic coaches employed by a private or public school
- Peace Officer
- All employees of the Police Department, sworn or non-sworn

37.2.2 “Mandated Reporter” for purposes of reporting elder or dependent adult abuse or neglect includes any licensed City employee who provides care or services for elder or dependent adults, including administrators and supervisors of said programs. [W & I Code §15630(a).]

All employees of the Police Department (sworn and non-sworn) are considered “mandated reporters” for purposes of reporting elder and dependent adult abuse. [W&I Code §15630(a).]

37.3 Acknowledgement of Position and Training

Upon employment or retention by the City of an individual who is determined to be a mandated reporter in connection with the law and this directive, the individual shall sign an acknowledgement which states that the individual is aware of the mandated reporter requirements under Penal Code § 11166.

The original signed acknowledgement form shall be retained by the responsible department if a volunteer or shall be placed in the employee's personnel file.

The City shall be responsible for providing periodic training to staff as necessary for identifying potential indicators of abuse and neglect to children, elders or dependent abuse.

38 Standard Hours of Work and Overtime

38.1 Work Week or Work Period Defined

The workweek for the City begins at 12:01 a.m. on Sunday and ends seven (7) days later at midnight on the following Saturday. Employees assigned to work an alternative work schedule may have an alternative workweek as designated by the City Manager or the Human Resources Director. The work period for employees engaged in law enforcement activities shall be a twenty-eight (28)-day consecutive period.

38.2 Work Schedule

The work schedule for each Department will be established by the Department Head with the approval of the City Manager or designee. The work hours for each employee will be scheduled by the Department Head or designee. Typically, employee work schedules are comprised of five (5) eight (8) hour shifts in a seven (7) day period.

When the efficiency of City services is benefited by variations to the "5/8" work schedule, Department Heads are authorized to prescribe such variations after meeting and conferring regarding the impacts of the work period change with the appropriate recognized employee organization. Except as provided elsewhere in this Rule, variations shall not exceed forty (40) hours in a consecutive seven (7) day period.

Employees shall be in attendance at work during their regular hours of work and shall not absent themselves during working hours for any reason without prior approval of their supervisor.

38.3 Changes in Working Schedules

The workdays and hours to which employees are assigned shall be stated on the department work schedule(s). Should it be necessary in the interest of efficient operations to establish schedules departing from the normal workday or workweek, the City will give notice of such change to the individual as far in advance as is reasonably practical.

38.4 Overtime Policy

It is the policy of the City that overtime work is kept to a minimum and shall be authorized in advance by an employee's Department Head or designee. Overtime eligible employees are not permitted to work overtime except as authorized and approved. Overtime shall be assigned by the Department Head or designee to meet essential operating needs.

Working overtime without advance approval is a violation of these rules and grounds for discipline, up to and including termination. Employees are expected to report all hours worked in a work-reporting period.

38.5 Overtime Defined

For an employee on a seven (7)-day work week, overtime is defined as all hours an overtime-eligible employee actually works in excess of forty (40) hours in the workweek. For an employee engaged in law enforcement activities, overtime is defined as all hours the overtime-eligible employee actually works in excess of one hundred seventy-one (171) hours in the work period.

Overtime is compensated at 1.5 times the employee's regular rate of pay, as defined under the Fair Labor Standards Act ("FLSA"). All overtime entitlements shall be computed to the nearest tenth of an hour (six minimum increment).

An employee's eligibility to receive overtime compensation for services performed shall be determined in accordance with the FLSA. Those employees who are classified as "exempt" under the FLSA shall not be eligible to receive overtime or to accrue Compensatory Time Off ("CTO").

38.6 Compensatory Time Off

An overtime eligible employee may opt to accrue compensatory time off ("CTO") in lieu of cash payment for overtime worked if the employee's Department Head agrees prior to the overtime work being performed. CTO accrues at a rate of 1.5 hours for each hour of overtime actually worked. No more than two hundred forty (240) hours of compensatory time off may be accrued for non-safety employees. For safety employees, no more than four hundred eighty (480) hours of compensatory time off may be accrued.

Employees may use CTO only upon the approval of the Department Head or designee. Such approval shall not be unreasonably withheld. An employee's request to use accrued CTO will be granted provided that: (1) the Department can accommodate the use of CTO on the day requested without undue disruption; and (2) the employee submits the request to use CTO at least five (5) business days prior to the date of requested usage. If the employee does not provide at least five (5) business days notice or the department cannot accommodate the requested time off, the City will provide the employee with the opportunity to select another day for usage of the CTO.

The City reserves the right to cash out accumulated CTO at any time. During employment CTO is cashed out at the employee's current FLSA regular rate of pay. Employees separating from City service shall be compensated for all accrued, unused CTO hours at the higher of either: (1) the separating employee's current FLSA regular rate of pay; or (2) the average FLSA regular rate of pay for the prior three years.

38.7 Time Sheets

All employees are required to submit accurate and complete time sheets. Time sheets are due as directed by the City Manager or designee. Each employee shall certify their time sheet verifying the hours worked. It is the responsibility of the employee to make certain their time sheet has been filled out correctly before submitting. The employee's supervisor shall verify and approve each employee's accumulated hours of work prior to submitting to the payroll division for payment. Records of hours worked, vacation time, compensatory time, sick leave, and holiday accumulated and used, shall be kept by the payroll division.

39 Reports and Records

39.1 Objectives of Adequate Records and Reports Maintenance

All necessary forms, records, documents, rosters and operating procedures shall be maintained by the Human Resources Director for the following reasons:

1. So that all legal, regulatory, and procedural requirements as well as any provisions of these Rules, any City Ordinance, or policy related to personnel administration may be accomplished;
2. To provide a basis for the decision-making in personnel actions and operations; and
3. To provide a basis for reports on personnel activities.

39.2 Personnel Records

A personnel record shall be maintained for every employee and shall contain all information pertinent to their employment. An employee's personnel file may be examined only by the City Manager, the City Attorney, the employee's Department Head, the employee assigned to be responsible for personnel records and those authorized by the City Manager.

Employees have the right to examine any portion of their personnel file after submitting a written request. Employees also have the right to file a written exception to anything found in their personnel files. Employees who wish to review their personnel files should submit a written request to the Human Resources Department. In accordance with the provisions of this Personnel Rule and state law, all documents not part of the personnel file in the possession of the City about an employee may not be available to the employee for their review.

Unless otherwise required by law, the only information from the employee's personnel file which may be publicly released is: Employees' name; positions held including job descriptions; salary range and other general terms or limits of compensation; and dates pertaining to the employee's employment.

39.3 Medical Records

An employee's medical records shall be segregated and stored separately from the rest of the personnel file and maintained in confidentiality in accordance with applicable state and federal law. The City Manager, City Attorney and legal representatives, Human Resources Director and Department Head are authorized to access such medical information on a case-by-case basis only as authorized by state or federal law. All persons with such authorization shall maintain such information according to the same standards of privacy and protection from unauthorized access as is maintained by the Human Resources Director. Violations of this policy may result in discipline, up to and including dismissal from

employment. Nothing in this policy is intended to extend or expand the scope of employee privacy rights beyond the limits of existing law.

39.4 Recruitment Records

Records gathered during any recruitment process shall be filed and maintained in confidentiality. The City Manager, City Attorney and legal representatives, Human Resources Director, and Department Heads are authorized to access such records. All persons with such authorization shall maintain such information according to the same standards of privacy and protection from unauthorized access as is maintained by the Human Resources Director. Violations of this policy may result in disciplinary action, up to and including dismissal from employment. Nothing in this policy is intended to extend or expand the scope of employee or applicant privacy rights beyond the limits of existing law.

39.5 Payroll Records

The Finance Director shall maintain such records that are necessary for payroll and retirement system purposes. The Human Resources Director, City Manager, or persons authorized by the City Manager, may inspect such records from time to time in fulfilling their duties including, but not limited to, the purpose of administering these rules.

39.6 Change of Status Report

Every appointment, transfer, promotion, demotion, change of salary rate, resignation, suspension, and any other temporary or permanent change in status of employment shall be reported to the Human Resources Director and the date thereof and a record of same shall be kept by the Human Resources Department in the affected employee's personnel file.

39.7 Change of Employee Status or Information

It is the responsibility of each employee to notify the Human Resources Director, within five (5) business days of any change in the employee's withholding status, home address, telephone number, name or other such information (e.g. marriage, divorce, change in number of dependents, etc.) that might affect the City payroll records and/or other employee benefits such as health and dental insurance benefits.

39.8 Department Records

Each department may keep and maintain such working and supervisor records as may be deemed necessary for the purpose of carrying out the provisions of these rules and the functions of the department. The Department Head and supervisor shall make available to the Human Resources Director all department reports, records and documents dealing with personnel matters as are appropriate. Such department records are considered confidential records.

39.9 Destruction of Records

All records relating to personnel, including correspondence, applications, examination reports, and all other personnel records, may be destroyed pursuant to the laws of the State of California and the City's Retention Policy as it may be adopted and amended by the City Council.

