

CITY OF OXNARD

**CITY OF OXNARD
PERSONNEL RULES AND REGULATIONS**

EFFECTIVE January 13, 2020

CITY OF OXNARD

TO: City of Oxnard Employees

FROM: Steve Naveau, Director of Human Resources

SUBJECT: Implementation of the City of Oxnard Personnel Rules and Regulations

In accordance with the Meet and Confer process, the City and the following collective bargaining units met in good faith to discuss the implementation of the revised City of Oxnard Personnel Rules and Regulations:

- Service Employees International Union Local 721
- International Union of Operating Engineers Local No. 501
- Oxnard Mid Manager's Association
- Local 1684, International Association of Fire Firefighters
- Oxnard Peace Officers' Association
- Oxnard Safety Managers' Association (Fire Unit)
- Oxnard Safety Managers' Association (Police Unit)

Information, policies, and benefits described here in the City Personnel Rules and Regulations are necessarily subject to change, and as such future revisions that modify information or eliminate existing policies may occur.

Future revisions to the City of Oxnard Personnel Rules and Regulations will be contingent on the Meet and Confer process between the City and the recognized collective bargaining units. Approved policies will be posted on the CityNet.

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CHAPTER 1. GENERAL PROVISIONS

1.1 AUTHORITY FOR PERSONNEL RULES AND REGULATIONS

These Personnel Rules and Regulations (“Personnel Rules”) were established by the City Council pursuant to Chapter 3, Article I, Section 3-4; and Article II, Section 3-39, of the Oxnard Code of Ordinances.

1.2 COVERAGE

The Personnel Rules apply to all employees of the City of Oxnard. In addition, the provisions of Chapter 3 (Policy Against Harassment, Discrimination, and Retaliation) also apply to all elective officers and their duly appointed deputies; members of appointive boards, commissions and committees; persons engaged under contract; and volunteer personnel.

1.3 REVIEW AND AMENDMENT

The Personnel Rules will be reviewed at reasonable intervals to ensure compliance with state and federal employment laws. The City Manager may recommend amendments and revisions to the Personnel Rules for consideration by the City Council. Amendments will become effective upon approval by resolution of the City Council. Each employee will receive a copy and/or have access to an electronic copy of any substantive changes to the Personnel Rules within thirty (30) days of adoption.

1.4 NO CONTRACT CREATED

The purpose of the Personnel Rules is to familiarize employees with City policies, establish equitable and uniform personnel procedures, and ensure effective service to the public. The Personnel Rules do not constitute a contract with any union, employee organization, or employee. Nothing in the Personnel Rules shall be deemed an offer of employment or a promise of indefinite employment to any employee.

1.5 CONFLICTS WITH MEMORANDA OF UNDERSTANDING

In the event of a conflict between the Personnel Rules, Departmental policies, and any Memorandum of Understanding in effect, the Memorandum of Understanding shall prevail.

1.6 SEVERABILITY

The Personnel Rules are subject to all current and future applicable federal and state laws and regulations and the current provisions of the Oxnard City Code. If any part or provision of these Rules is in conflict or inconsistent with such applicable provisions of those federal, state, or City enactments, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of the Personnel Rules shall not be affected.

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1.7 VIOLATION

Violation of any provision of the Personnel Rules shall be grounds for rejection of applicants or discipline of employees including but not limited to suspension, demotion, or termination.

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CHAPTER 2. EQUAL EMPLOYMENT OPPORTUNITY

The City of Oxnard is committed to the equal application of rules and regulations in all employment practices including hiring, firing, promotion, compensation and other items, privileges, and conditions of employment. Procedures are established to further this policy.

2.1 PROCEDURES

2.1.1 SELECTION STANDARDS AND PROCEDURES

- 1) Experience in Equal Employment Opportunity Programs indicates that the selection process—whether consciously or unconsciously—is probably responsible for more discrimination than any other area of employment practices.
- 2) Federal law specifically prohibits the use of any examination tool which cannot be proven directly related to the major functions of the position.
- 3) The Human Resources Department, along with appointing departments, will carefully review and evaluate each step of the total selection process in order to be certain that job requirements, hiring standards, and methods of selection and placement do not discriminate but instead contribute toward the Fair Employment Practices of the City.

2.1.2 FAIR EMPLOYMENT PRACTICES

The City of Oxnard is an Equal Employment Opportunity employer. Persons in the employ of the City or those seeking employment shall be employed, promoted, demoted, or discharged without favor or discrimination because of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, military and veteran status, or any other basis protected by law.

Appointment to or removal from a position shall not be affected or influenced in any manner by any consideration of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, military and veteran status, or any other basis protected by law.

It is further provided that no question in any test, in any application form or by any examiner or appointing authority shall be so framed as to elicit information concerning an applicant's race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, military and veteran status, or any other basis protected by law.

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CHAPTER 3. POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION

The purpose of this policy is to establish a strong commitment to prohibit harassment, discrimination, or retaliation in employment and to ensure equal employment opportunities for individuals with qualifying disabilities; to define discrimination, harassment, retaliation, and reasonable accommodation; and to set forth a procedure for investigating and resolving complaints.

3.1 POLICY

The City affords 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.

The City prohibits retaliation against any employee for making a good-faith complaint of discrimination or harassment, for assisting another employee in doing so, or for participating in an investigation of a discrimination or harassment complaint.

3.2 DISCRIMINATION

The City prohibits and will not tolerate any discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, military and veteran status, or any other basis protected by law ("Protected Status").

Violations of this policy may result in disciplinary action up to and including termination of employment.

Discrimination means treating a person differently or subjecting a person to different treatment due to a person's actual or perceived Protected Status in a way that adversely affects the person's employment. Such treatment may include, but is not limited to: refusing to hire or employ a person; discharging a person from employment; refusing to select for or discharging a person from a training program leading to employment; or treating a person differently in compensation or with regard to other terms, conditions, or privileges of employment.

3.3 HARASSMENT

The City prohibits and will not tolerate any harassment on the basis of a protected status. This policy prohibits harassment against employees, applicants, unpaid interns, volunteers and independent contractors by other employees, officers, elected officials, volunteers, independent contractors, vendors, and anyone with whom the City engages in business. Violations of this policy may result in disciplinary action up to and including termination of employment.

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3.3.1 SEXUAL HARASSMENT

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other visual, verbal, or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. Examples include but are not limited to:

- Physical conduct including unwelcome touching, intentionally blocking normal movement, pinching, patting, or coerced sexual conduct;
- Verbal conduct including making derogatory comments, sexually explicit jokes, slurs, sexual innuendo and insults, or comments about an individual's body or dress;
- Visual conduct including leering or displaying sexually oriented posters, photography, cartoons, drawings, emails, or gestures;
- Offering employment benefits in exchange for sexual favors;
- Making or threatening reprisals after a negative response to sexual advances.

Sexually harassing conduct need not be motivated by sexual desire and may include nonsexual conduct motivated by the violator's hostility towards the victim's gender or towards the victim's nonconformity to gender stereotypes.

3.3.2 HARASSMENT BASED ON OTHER PROTECTED STATUS

In addition to sexual harassment, harassment on the basis of any other Protected Status is also prohibited. Such harassment includes physical, verbal, and visual conduct when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

3.4 RETALIATION

The City prohibits employees and City officials, officers, volunteers, and contractors from taking any Adverse Action (defined below) against an employee, officer, volunteer, contractor, or

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applicant because he or she engaged in good faith in a Protected Activity (defined below). Employees and officers in violation of this policy will be subject to discipline up to and including termination. Any elected official or contractor in violation of this policy will be subject to appropriate sanctions.

3.4.1 PROTECTED ACTIVITY

Protected activities include but are not limited to:

- Filing a complaint with a federal or state agency;
- Participating in an internal investigation;
- Participating in or cooperating with a federal or state enforcement agency that is conducting an investigation of the City regarding alleged unlawful activity;
- Testifying as a party or witness regarding alleged unlawful activity;
- Associating with another employee who is engaged in a Protected Activity;
- Making or filing a complaint regarding alleged unlawful activity.

3.5 ADVERSE ACTION

Adverse actions include but are not limited to:

- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of Protected Activity;
- Refusing to hire an individual because of Protected Activity
- Denying promotion to an individual because of Protected Activity; Taking any form of disciplinary action because of Protected Activity;
- Altering work schedules or work assignments because of Protected Activity;
- Condoning hostility and criticism of co-workers and third parties because of Protected Activity.

3.6 TRAINING

All employees will receive training regarding this policy within the first six (6) months of hire, and, on a recurring basis, no less than every two (2) years thereafter. Employees in a Supervisory position will receive training regarding this policy on a recurring basis, no less than every two (2) years following the initial post-employment training.

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3.7 RESPONSIBILITIES

3.7.1 MANAGERS AND SUPERVISORS RESPONSIBILITIES:

- Informing employees of this Policy; modeling appropriate behavior;
- Taking all steps necessary to prevent harassment, discrimination or retaliation in employment from occurring;
- Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints;
- Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language;
- Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals;
- Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations;
- Assisting, advising, or consulting with employees and the Director of Human Resources regarding this Policy;
- Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action, up to and including discharge;
- Implementing appropriate disciplinary and remedial actions;
- Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Human Resources Department or the department director; and
- Participating in periodic training and scheduling employees for training.

3.7.2 EMPLOYEE OR CONTRACTOR RESPONSIBILITIES:

Employees of the city, including vendors, customers, independent contractors, interns, and volunteers shall be subject to the following responsibilities:

- Treating all employees and contractors with respect and consideration; modeling appropriate behavior;
- Participating in periodic training;

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- Fully cooperating with investigations by responding fully and truthfully to all questions posed during the investigation;
- Maintaining the confidentiality of any investigation that the employer conducts by not disclosing the substance of any investigatory interview, except as directed by the department director or Director of Human Resources; and
- Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation in employment as defined in this Policy, to his or her immediate supervisor, department director, or Director of Human Resources.

3.8 REASONABLE ACCOMODATION POLICY

The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act.

3.8.1 QUALIFYING DISABILITY

A “disability” means a physical or mental disorder or condition that limits one or more major life activities, a record of having such a disorder or condition, or being regarded/perceived as having such a disorder or condition.

3.8.2 PROCEDURE FOR OBTAINING REASONABLE ACCOMMODATION

1) Request for Accommodation

An employee or applicant with a qualifying disability who needs reasonable accommodation in the application process or in order to perform essential job functions should make such a request to the Human Resources Department by submitting a *Voluntary Request for Reasonable Accommodation* Form available in the Human Resources Office. The Human Resources Representative, who receives the form or is made aware of the request, may require the employee or applicant to submit additional information in writing, including medical certification from a health care provider supporting the need for accommodation.

2) Interactive Process

Once it is determined that the employee or applicant has a qualifying disability, the City will hold a discussion with the employee or applicant to determine if and how a reasonable accommodation can be made. The purpose of this discussion is to timely communicate in good faith in order to understand restrictions or limitations on an employee’s ability to perform essential job functions, or an applicant’s ability to participate in the application process, and to fully consider all potential reasonable accommodations. The refusal or failure of an employee or applicant to participate or cooperate in this discussion may result in denial of accommodation. Any information relating to the employee’s or applicant’s request for

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accommodation shall be kept confidential to the extent required by law and shall be kept in a file separate from applicant and personnel files.

3) Fitness for Duty Examination

The Human Resources Director may require a fitness for duty examination to determine whether the employee can perform the essential functions of the job with or without accommodation, if the examination is job-related and consistent with business necessity. The Human Resources Director may require that a City-approved physician conduct the examination. The City will pay for fitness for duty examinations that it initiates.

4) Determination

The City will determine, within its sole discretion, whether reasonable accommodation(s) can be made and the type of accommodation(s) to provide. The City will not provide accommodation(s) that would pose an undue hardship upon the City's finances or operations, that would endanger the health or safety of the employee or others, or that would eliminate an essential job function. The City will inform the employee of its decision as to reasonable accommodation(s) in writing.

5) Appeal Process

Department staff decisions on reasonable accommodation may be appealed to the Human Resources Director. The appeal must be submitted in writing within thirty calendar days from the date of notification by the Department. The Human Resource Director shall review the matter and inform all the parties of his/her decision within thirty (30) calendar days from the date the appeal request is submitted, unless the requestor and the Human Resources Director agree to an extension of the time. The Department staff will provide all necessary information to facilitate this review.

3.9 COMPLAINT PROCEDURE

This procedure shall apply to all City employees. By law, employees filing discrimination, harassment, or retaliation complaints shall be free of any reprisal or harassment by any City employee.

1) Reporting a Complaint

If an employee believes he or she has been denied an equal employment opportunity or he or she believes they have been harassed, discriminated, or retaliated against, the employee should bring the matter to the attention of the employee's immediate supervisor or the Human Resources Director or his/her designee within five (5) working days of the incident.

If the employee is not satisfied with the results of the informal discussion with the supervisor, the employee may, within 15 days of the incident, file a formal written complaint. The employee must, to the best of his or her ability, provide a description

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of the action(s) that occurred giving names of individuals involved and dates. This description shall be delivered to the Human Resources Director or his/her designee.

2) Investigation

The City will investigate all potential violations of the policy against harassment, discrimination, and retaliation and the reasonable accommodation policy, whether alleged in a complaint or if the City's officers or supervisory employees become aware of such potential violations.

Upon awareness or notification of the complaint, the Human Resources Director or his/her designee will assign an investigator to gather facts and make factual findings concerning the allegations in the complaint. All City employees are required to cooperate with the investigator. The Human Resources Director may take interim action to maintain the integrity of the investigation, maintain normal business operations, and to protect the complainant or witnesses.

The investigator will review the complaint allegations. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. Upon completion of the investigation, the investigator will provide a written report to the Human Resources Director.

3) Remedial Action

The Human Resources Director will make a decision on any recommended actions and communicate the results of the investigation in writing to the complainant and the accused.

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3.10 ANTI-BULLYING POLICY

The City is committed to providing a safe work environment. In addition to prohibiting all forms of discrimination and harassment, the City also prohibits any form of “intimidation or bullying” in the workplace or elsewhere, such as at offsite events or work places.

3.10.1 POLICY COVERAGE

Every employee and other individuals, such as temporary workers, consultants, independent contractors and visitors, have the right to be treated with respect. Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal, or physical act, when the act physically harms the individual or damages his or her property; has the effect of interfering with an employee’s ability to work; is severe or pervasive; and creates an intimidating or threatening environment.

Bullying comes in many shapes and sizes and can take many forms including, but not limited to, excluding, tormenting, taunting, abusive comments, using threatening gestures, pushing, shoving, punching, or unwanted physical contact, or any use of violence; graffiti; name-calling, sarcasm, spreading rumors, teasing. Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chatroom misuse, mobile threats by text messaging or calls, or misuse of cameras and video equipment.

3.10.2 COMPLAINT PROCEDURE

The City will not tolerate bullying in any form. Any individual who believes that he or she is or has been subjected to any form of bullying should immediately report this to his or her supervisor, department head, or the Human Resources Department. In addition, any person who believes they have witnessed bullying and any person who has received a report of such conduct, whether the perpetrator is an employee or a non-employee, shall immediately report the conduct to their supervisor or other appropriate person in the chain of command.

Any employee who is reported to be a perpetrator will be provided due process before any disciplinary action is taken. Individuals who violate this bullying policy are subject to disciplinary action, up to and including termination.

3.10.3 POLICY AGAINST RETALIATION

No employee will be subjected to any form of retaliation for reporting an incident of bullying or participating in any investigation by the City or its representatives into allegations of bullying. Additionally, all employees have a duty to cooperate in connection with any investigation being conducted.

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CHAPTER 4. CLASSIFICATION

4.1 COMPETITIVE SERVICE

As set forth in Section 3-3 of the Oxnard City Code, available on the City of Oxnard website, the City has established a competitive service system in order to provide a uniform and equitable standard for classifications, titles, wages, appointments, promotions, disciplinary actions, and other matters relating to City employment. The provisions of the competitive service system apply to all positions except those listed under “Noncompetitive Service” below. Positions in the competitive service are hired on the basis of merit system principles and pursuant to the recruitment and selection procedures outlined in Chapter 4 of these Personnel Rules. Following the completion of the probationary period, employees in the competitive service accrue the right of appeal from certain disciplinary actions, including termination.

4.2 NONCOMPETITIVE SERVICE

Members of the noncompetitive service are at-will and may be discharged at any time without cause and without the right of appeal. Positions in the noncompetitive service include:

- All elective officers;
- All appointees to Boards, Commissions, and Committees;
- The City Manager, the Assistant City Manager, and the Deputy City Manager(s);
- The City Attorney, the Chief Assistant City Attorney, the Assistant City Attorney(s), and the Deputy City Attorney(s);
- All department heads;
- All extra help employees;
- All temporary employees as outlined in Chapter 7 of these Personnel rules;

4.3 CLASSIFICATION PLAN

The classification plan provides a complete inventory of all positions in the competitive service and describes each position in a class specification which includes job definition, typical tasks and responsibilities, and a statement of requirements as to training, experience, and other applicable qualifications. All positions in the same class are treated alike in such matters as selection, transfer, demotion, promotion, and pay.

4.4 USES OF THE CLASSIFICATION PLAN

The position classification plan shall be used as follows:

- 1) As a basis for salary determination. Position class specifications will be used to compare jobs within the City organization and those jobs outside of the City at other public agencies. It will allow basing of salary differentials on sound and recognizable differences in work, skills, and job responsibilities.

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- 2) As a source of extracting information to be used in preparing public announcements for position openings and in preparing examinations that will approximately measure the qualifications of applicants in terms of fulfilling the job requirements.
- 3) As an aid in planning improvement and defining more clearly the various levels of responsibility, lines of command, and steps of promotion.
- 4) As a means of identification in preparing payrolls and departmental budgets.
- 5) As a foundation for developing in-service training programs by department supervision, Human Resources Director, or the City Manager.

4.5 PREPARATION OF THE CLASSIFICATION PLAN

The Human Resources Director or his/her designee will prepare the position classification plan by employing the following principles:

- 1) The duties and responsibilities of each employee shall be ascertained using interviews, observation, and input from employees and supervisors as needed.
- 2) All positions that are substantially similar with respect to type of work, responsibility, and difficulty of work shall be grouped together into a class.
- 3) The Human Resources Director shall prepare written specifications for classification containing the class title, an illustrative listing of typical duties and responsibilities, and a statement of the minimum qualifications an applicant must possess to apply for the job.
- 4) Classification specifications are illustrative only and shall not limit or restrict in any way the authority of the City Manager and/or department heads to assign, direct, and control the work of employees.

The classification plan shall be effective only upon adoption by City Council resolution. A current list showing the classes of positions held by employees in the competitive service shall be maintained by and readily available from, the Human Resources Department.

4.6 MAINTENANCE AND REVISION OF THE CLASSIFICATION PLAN

The Human Resources Director or his/her designee is responsible for the maintenance of the classification plan, including conducting classification studies of proposed or presently authorized positions and updating existing class specifications.

The Human Resources Director or his/her designee shall consult with department heads or their designees and prepare revised class specifications, as needed, to accurately reflect the job duties and the minimum qualifications of each class. Any planned significant changes in organization and work methods or assignments that might affect the duties of employees should be reported to the Human Resources Director so that, if necessary, he/she can revise the class specification and consult with the appropriate bargaining unit regarding the impact of the changes prior to their implementation.

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Revised position classification specifications shall become effective when approved by the City Manager. Before presentation to the City Manager for consideration, the Human Resources Director shall review any recommended changes with the department supervisor and the affected employee.

4.7 NUMBER OF POSITIONS

The City Manager may from time to time revise the number of positions in each classification as necessary to perform the work of the classification, provided that the total expense to be incurred for such work shall be limited to the amount appropriated by the City Council for the classification.

4.8 CLASSIFICATION OF NEW POSITIONS

No vacant position shall be filled by a permanent or probationary appointment until such position has been classified under the classification plan. A new or additional position shall be allocated to an existing class whenever possible; otherwise the Human Resources Director shall recommend to the City Council the creation of a new class.

4.9 CREATION OF NEW CLASSIFICATIONS

The Human Resources Director with City Manager approval may, upon his/her initiative or at the request of a department head, submit a recommended new classification to the City Council for consideration. A request for a new classification shall include a class title and salary range. The new classification shall become established upon approval by the City Council.

4.10 RECLASSIFICATION

Reclassification is the reassignment of a position from one class to a different class in accordance with a re-evaluation of the minimum qualifications, duties, and responsibilities of the position. Generally, implementation of a reclassification may occur at budget and mid-year terms.

4.10.1 RECLASSIFICATION PROCESS

The Human Resources Director may, upon his/her initiative or at the request of a department head, conduct a study to determine if a position is properly classified (a "Classification Study"). A Classification Study may include investigation of pertinent departmental records and consultation with employees and the department head regarding the duties, functions, and responsibilities of a position. If the Human Resources Director determines that a reclassification is appropriate, he/she will submit the recommended reclassification to the City Council for consideration. Reclassifications shall become effective upon approval by the City Council.

4.10.2 CHANGE TO A HIGHER LEVEL CLASSIFICATION

When a position is reclassified from a lower level class to a higher level class, the employee occupying that position shall be reclassified without competitive examination provided that he/she meets the minimum qualifications of the higher level class, has performed the duties of the new class for twelve (12) months, and has not received an unsatisfactory evaluation during that period.

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If an employee is reclassified to a class having a higher salary range, the employee's salary shall either be adjusted to a the first step of the new salary range or to that step which would provide a salary increase of five (5) percent or the step closest to five (5) percent without going below five (5) percent of the base wage that was being earned prior to reclassification. If the range change is less than five (5) percent and if the employee is on the last step of the salary range prior to reclassification, the employee's salary shall be adjusted to the last step of the new salary range, even though such placement results in less than a five (5) percent increase.

The employee's anniversary date will not change as a result of a reclassification under this section.

4.10.3 CHANGE TO A LOWER LEVEL CLASSIFICATION

When a position is reclassified from a higher level class to a lower level class, the employee occupying that position may be transferred to a vacancy in the higher level class or reclassified to the lower level class.

If an employee is reclassified to a class having a lower salary range, the employee shall receive the step, if any, in the new range which is the same as the salary the employee was receiving prior to reclassification.

The employee's anniversary date will not change as a result of a reclassification under this section.

4.10.4 "Y" RATING

If an employee is reclassified to a class for which the last step of the salary range is lower than the employee's present salary, the Human Resources Director may approve "Y" rating to allow the employee to remain at his/her current rate of pay. When an employee is "Y" rated, the employee's salary is frozen as of the date of reclassification and may not be increased until the last step of the salary range for the new classification exceeds the employee's "Y"-rated salary. CalPERS may determine that the salary reported due to a Y-rating is not considered pensionable compensation. Employees should maintain the original resolution approving their salary prior to the Y-rating which may be required by CalPERS to establish their highest compensable years(s) of service.

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CHAPTER 5. RECRUITMENT AND SELECTION

5.1 METHOD OF FILLING VACANCIES

All vacancies in the competitive service shall be filled by re-employment, transfer, promotion, or from an appropriate employment list of eligible candidates certified by the Human Resources Director, if available. In the absence of eligible persons for appointment by the methods listed in the preceding sentence, the Human Resources Director shall obtain applications for the position and conduct appropriate examinations to establish a list of persons with eligible qualifications for appointment.

5.2 TYPES OF RECRUITMENT

Recruitment for position openings shall be promotional or open, competitive as determined by the Human Resources Director at his/her discretion.

5.2.1 PROMOTIONAL

Where practicable and consistent with the best interests of the City, vacancies will be filled by promotion from within the competitive service after a promotional test has been given and a promotional list established. A promotional recruitment is open only to persons who already hold a position in the competitive service. Only current regular employees who meet the minimum qualifications specified in the job announcement may apply for a promotional position opening.

5.2.2 OPEN, COMPETITIVE

If, in the opinion of the Human Resources Director, a vacancy should be filled by an open, competitive examination instead of a closed promotional examination, the Human Resources Director shall arrange for an open, competitive examination and for the preparation and certification of an eligible list. Open, competitive examinations are open to any applicant who meets the minimum qualifications stated in the job announcement.

5.3 JOB ANNOUNCEMENT

The Human Resources Director shall prepare a job announcement for all examinations for classes in the competitive service. The announcement shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; the minimum experience and education required; the date, time, place, and manner of making application; the closing date for receiving applications; and other pertinent information. Announcements shall be posted as the Human Resources Director deems advisable or such other locations as recognized employee organizations have requested, for positions which may be filled by other than reassignment of a permanent City employee.

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5.4 APPLICATIONS

5.4.1 FILING OF APPLICATIONS

Applications for a current examination process will be accepted during the time period established in the job announcement. Applications shall be made on forms provided by the Human Resources Department or through the on-line application system. Application forms shall require information covering position title, training, experience, references, and other pertinent information. All applications must be signed by the person applying. All applications must be submitted to the Human Resources Department on or before the final filing date specified in the job announcement.

5.4.2 REJECTION OF APPLICATIONS

The Human Resources Director shall reject any application that is not completed using the prescribed form, filed within the period specified in the job announcement, or fails to show that the applicant possesses the minimum qualifications required for the position. The Human Resources Director shall also reject any application that contains any false statement or omission of any material fact or if it is discovered that the applicant has practiced or attempted to practice any deception or fraud in the application. Defective applications may be returned to the applicant with notice to amend, and the applicant may amend and re-file the application, provided that the time limit for receiving applications has not expired.

5.5 EXAMINATIONS

5.5.1 EXAMINATION PROCESS

Examinations may consist of any method of evaluation to measure the capacities of the persons examined to execute the duties and responsibilities of the classification to which they seek to be appointed. The Human Resources Director and/or his/her designee shall be responsible for developing, administering, and scoring all examinations.

5.5.2 TYPES OF EXAMINATIONS

Examinations held to establish a list of eligible candidates for any classification shall consist of one or more parts, as determined and developed by the Human Resources Department. Examinations may be assembled, unassembled, written, oral, practical demonstration, or any combination thereof, or any form which will test fairly the qualifications of applicants, and shall consist of one or more of the following:

- 1) Special Subjects: This part shall constitute that portion of the test which deals with the duties of a position and must be designed to test the ability of an individual to perform said duties.
- 2) Educational: This part may consist of spelling, composition, civics, City information (any or all of these), as well as other subjects to test the basic training which would logically form the groundwork for performing the duties of the position and advancement in the service.

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- 3) Training and Experience: Training shall consist of a statement of schooling and studies. Experience shall consist of a statement of all past activities that would tend to fit candidates for the position they seek and may include a statement of the names of former employers, nature of work, and references.
- 4) Personal Interview: This part measures the applicant's knowledge, skills, and experience determined to be essential to the position, including interpersonal, leadership, problem solving, customer service, supervisory, presentation, and/or oral communication skills. The applicant may be questioned on the duties of the position, training and experience, nature of work performed, and other reasonable questions to determine the applicant's fitness for the position.
- 5) Written: This part measures the applicant's knowledge, skills, and abilities determined necessary to perform the essential functions of the job. The written examination may include any or a combination of types of questions, including true/false, multiple choice, matching, completion, and essay.
- 6) Performance: This part measures the level of abilities and/or manual skills of applicants to perform the essential functions of the job.
- 7) Physical: This part measures the applicant's physical agility, stamina, and physical fitness to perform essential functions of the job. Physical agility examinations are required only for appropriate positions. Where required, such examinations will be designated "qualifying only" and graded as pass/fail.
- 8) Other: Other possible tests include presentations, typing tests, work samples, background investigations, or any combination of these or other tests as described above.

5.5.3 COMPOSITION OF ORAL BOARDS

Oral boards should be composed of experienced individuals competent to judge the qualifications of the applicants being considered. All City oral examining boards will receive an orientation by the Human Resources Department, which will inform the board of its responsibility to assure fair treatment and opportunity to all persons and to adhere to the principles of equal employment opportunity. Each interviewer shall independently rate the applicants. Names of persons serving on the oral board shall not be given out in advance of the oral interview.

5.5.4 SCORING OF EXAMINATIONS

Some examinations may be designated "qualifying only" and will be graded as pass/fail. For all other examinations, applicants shall be required to attain a minimum grade or standing unless provided otherwise in the job announcement. In all tests, the minimum grade or standing for which eligibility may be earned shall be based upon all factors in the test, including educational requirements, experience, and other qualifying elements, as shown in the application of the candidate or other verified information. Failure in one part of the test may be grounds for declaring such applicants as failing in the entire test or as disqualified for subsequent parts of a test. When the selection process is composed of more than one independent examination, the relative weight of each examination shall be assigned by the Human Resources Director and stated in the job

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announcement.

5.5.5 NOTICE OF EXAMINATION RESULTS

Each applicant taking an examination shall be given written notice of pass or fail. Any applicant shall have the right to review his/her own results within ten (10) business days after the results are mailed. Such inspection shall be made in the presence of the Human Resources Director or his/her designee. Any error called to the attention of the Human Resources Director, either before or after posting the employment list resulting from the examination, shall be corrected. Correction shall not, however, invalidate certification or appointments previously made.

5.6 EMPLOYMENT LISTS

5.6.1 ESTABLISHMENT OF LISTS

As soon as possible after the completion of an examination, the Human Resources Director shall prepare and keep available an employment list consisting of the names of persons successfully passing the test. Candidates will be placed on the list in rank order based on their testing scores.

Employment lists may be one of the following types:

- 1) Eligible list – A list of persons who have been recruited on an open-competitive basis and have qualified for a class in the competitive service.
- 2) Promotional list – A list of current employees who have taken a promotional examination and have qualified for a class in the competitive service.
- 3) Reemployment list – A list of employees laid off from the competitive service who are entitled to reemployment in vacancies in the class from which they were laid off.
- 4) Reinstatement list – A list of former employees who resigned from the competitive service in good standing and who are currently eligible for reinstatement in accordance with Chapter 8.8.
- 5) Transfer list – A list of employees desiring to transfer from one position to another position in the same classification in another City department. The employee must be in good standing and will remain on the list for no more than six (6) months.

Employment lists shall become effective upon certification by the Human Resources Director or his/her designee.

5.6.2 DURATION OF LISTS

Eligible and promotional lists shall remain in effect six (6) months. Eligible lists may be extended by the Human Resources Director for additional periods of six (6) months, but in no event shall the lists remain in effect for more than eighteen (18) months. If, at any time after an eligible list

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has been used and the remaining names have been passed over previously for valid reasons by the appointing authority, or if there are fewer than three names on the eligible list, the Human Resources Director may cancel the entire list and order another examination when an eligible list is requested.

5.6.3 REMOVAL OF NAMES FROM EMPLOYMENT LISTS

The name of any person appearing on an eligible or promotional list shall be removed by the Human Resources Director if the person requests in writing that his/her name be removed, if the person fails to respond to a notice of certification mailed to his/her last known address, or if the person has been certified for appointment three times and has not been appointed. The names of persons on promotional employment lists who resign from City employment shall automatically be dropped from such lists.

5.6.4 ELIMINATION OF POSITIONS

After elimination of a position by a reclassification, the employee affected may have his/her name placed on an eligible list for a period of one year. If an entire classification is eliminated, the affected employee's name will not be placed on an eligible list.

5.7 APPOINTMENT

5.7.1 REGULAR APPOINTMENT

Whenever a vacancy in the competitive service is to be filled, the department head shall notify the Human Resources Director. The Human Resources Director shall certify by the rule of three. This shall be three names plus the number of vacancies without breaking scoring rank.

The Department Head shall interview those candidates that they believe are most qualified. The department head shall designate his/her candidate selection to the Human Resources Director for approval by the City Manager.

The City Manager shall make all final appointments. The Human Resources Director shall be responsible for notifying the person appointed. Notification may be made by the department head concerned, if coordinated with the Human Resources Department. The Human Resources Department will prepare the tentative job offer pending the candidate passing an appropriate background check. Human Resources will prepare the final offer letter with the agreed upon start date.

5.7.2 TEMPORARY APPOINTMENT

In the absence of appropriate eligible lists, a temporary appointment of a person meeting the minimum training and experience qualifications for the position, whether an acting or an interim position, may be made by the City Manager. Temporary appointments cannot exceed 960 hours per fiscal year pursuant to Government Code Section 20480.

Departments are to submit a request for acting/interim assignments to Human Resources prior to the employee being assigned the additional duties. In making the determination whether to grant the request, Human Resources will perform the following analysis:

- The acting/interim assignment must be to a higher level classification

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- The assignment must be to a vacant position in the department
- No employees will be placed into an acting/interim assignment without meeting the minimum qualifications of the classification that they are being assigned to work
- More than 50% of the employee's time must be spent performing the duties of the higher class.

The provisions in the various MOU's regarding the number of hours which are required to be worked prior to receiving increased pay will begin once the assignment has been approved by Human Resources and the duties of the classification have been assigned to the employee.

5.7.3 EMERGENCY APPOINTMENT

To meet the immediate requirements of an emergency condition, such as an extraordinary fire, the City Manager may employ such persons as may be needed for the duration of the emergency without regard to the appointment procedures set forth in this section. Such appointments shall be reported to the Human Resources Director as soon as possible.

5.7.4 LIMITED TERM APPOINTMENT

Limited term appointments may be made to budgeted allocations that are defined as Limited Term with a start and end date. Employees who are appointed to a limited term position maintain all of the same benefits of those who are in permanent allocations however they have an expected date when their position will be eliminated.

5.7.5 EXTRA HELP APPOINTMENT

Extra help appointments are at-will appointments limited to 960 hours per fiscal year. These positions do not have any benefits outside of those that are statutorily required under California State Law and are unrepresented.

5.8 MEDICAL EXAMINATIONS

If a classification has been determined to require medical screening, the City will require a medical examination following the job offer but prior to appointment. The examination will be conducted by a City-designated physician at the City's expense. If a medical examination is required, the job offer will be conditioned on a determination that the applicant is medically fit to perform the essential functions of the job with or without reasonable accommodation.

5.9 PROBATIONARY PERIOD

Appointment to a full-time or part-time position on initial employment or promotion shall be subject to successful completion of the probationary period designated for the class.

5.9.1 OBJECTIVES OF PROBATIONARY PERIOD

The probationary period shall be used to observe and evaluate the employee's work, to secure the most effective adjustment of a new employee to his/her position, and to eliminate any probationary employee whose performance does not meet the required standards of work.

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5.9.2 LENGTH OF PROBATIONARY PERIOD

All original and promotional appointments to permanent positions shall be subject to a probationary period of twelve (12) months. The Human Resources Director may, on the written recommendation of a department head, extend the probationary period for an additional six (6) months for a maximum period of eighteen (18) months. Firefighter and police officer classification series shall be exempt from this section and will refer to Departmental policies.

When a promotional appointment results from the reclassification of an existing position, these requirements may be waived at the discretion of the Human Resources Director. The need for probation or an evaluation period following transfer, reinstatement, or demotion shall be at the discretion of the department head with the approval of the Human Resources Director.

Employees who are appointed into an interim classification and subsequently promote to the position, shall have their time in the interim assignment credited toward their probationary period. Employees will have their merit date based on the effective date they were placed into the interim assignment. In no event shall a newly promoted employee receive an additional increase during the initial 12 months of appointment.

Any leave of absence exceeding five (5) working days shall extend the probationary period equal to the corresponding amount of leave.

5.9.3 COMPLETION OF PROBATIONARY PERIOD

At least twenty (20) days prior to the end of the probationary period, the department head shall submit to the Human Resources Director a performance evaluation indicating whether the service of the probationary employee has been sufficiently satisfactory to justify a regular appointment. A rating of Standard or above shall indicate that the employee has satisfactorily passed probation. A rating of Unsatisfactory shall indicate that the employee has failed probation and the employment will be terminated on or before the expiration of the probationary period. The rating must reflect an evaluation of the full probationary period.

If circumstances arise which cause an interruption of the probationary period to the extent that the employee's performance is rated Below Standard, the department head, after conferring with the employee, may request the Human Resources Director to extend the probationary period for a specified period.

In the circumstances where an employee did not receive written notification of pass or fail on or before the last day of his/her full probationary period, the employee will be deemed to have successfully passed, and will be appointed to the regular position.

5.9.4 REJECTION DURING PROBATIONARY PERIOD

During the probationary period, employees are employed on an at-will basis and may be rejected from employment at any time by the Human Resources Director without cause and without the right of appeal. Notification of rejection in writing shall be served on the probationer and a copy filed with the Human Resources Director. The rejection notice may be a memo and/or the Personnel Action form stating that the employee is being terminated for not successfully completing the probationary period.

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An employee rejected during the probationary period following a promotional appointment shall be reinstated to the classification from which he/she was promoted if a vacancy exists in such classification. No employee who is promoted shall be rejected from probation without cause. Cause includes the inability of the employee to perform the duties of the new position.

5.9.5 TRAINEE APPOINTMENTS

Trainee appointments are considered transitional assignment positions. As considered appropriate by the City Manager, a position vacancy for which a trainee classification has been established may be filled by a trainee on a limited term appointment to meet the minimum qualifications of the classification for a period not to exceed eighteen (18) months.

A trainee who is subsequently transitioned to a regular position shall be required to serve the probationary period of the regular position after such appointment, and shall be afforded all rights and privileges of a regular employee.

5.9.6 LENGTH OF TRAINING

The length of the training program shall be one year. Trainees who are appointed at the “A” step of a Trainee class shall be granted a 5% salary increase after 6 months of successful training. No other salary increases shall be granted until the trainee is transitioned into permanent employment. At the end of one year, trainees successfully completing the training period will be promoted to the “A” step of the entry level position and will serve the applicable probationary period. If it is determined by the department head that additional training time is required to assess the abilities of the trainee, the training program may be extended up to a maximum of six (6) additional months.

5.9.7 EVALUATIONS AND PROBATIONARY PERIOD

Trainees shall be given evaluations of their work performance every three (3) months. If at any time during the training period, a trainee is not performing at an acceptable level, the trainee’s supervisor shall inform the trainee of this fact and shall identify specific areas for improvement. If, after a reasonable period of time, improvement is not forthcoming, the trainee may be terminated from the program in accordance with Chapter 5.9.4. Firefighter and police officer classification series and Police Safety classifications shall be exempt from this section and will refer to Departmental policies.

5.9.8 COMPENSATION AND BENEFITS

Trainees shall be compensated in accordance with the City’s Classification and Salary Schedule and shall be afforded all rights and privileges provided to probationary miscellaneous City employees.

5.9.9 SELECTION

Selection of trainees for the program will be based on the following:

- 1) Test Results (written, oral, practical, etc.)
- 2) Departmental Interviews

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3) Education, Training, and Experience

5.9.10 ELIGIBLE LISTS

Eligible lists shall be established in accordance with Chapter 5.6.

5.9.11 TRANSFERS

Trainees in one classification may apply for transfer to trainee positions in another classification but, if appointed, must serve the one-year training period in the new appointment.

5.10 JOB SHADOWING

Job shadowing allows for the smooth transition of job knowledge from an incumbent who is exiting the organization to the newly hired or promoted replacement candidate.

A department may hire a replacement candidate, subject to the City Manager's approval, to job shadow an incumbent who has submitted their resignation. For the City Manager to consider this request the following must apply:

- 1) The City has received and accepted a notice of resignation or retirement from the incumbent employee.
- 2) The incumbent employee shall sign an affidavit acknowledging that they are resigning from their position and that they are surrendering their property rights to their position effective with the hire of the employee who is their intended replacement. The signing of this affidavit shall be voluntary. Once the new employee has been hired, the departing employee will not be able to rescind this decision.
- 3) The Department has funds in their "as needed labor" fund to cover the salary and benefits of the new employee.
- 4) This temporary appointment may only last for a maximum of two pay periods.

5.10.1 PROCEDURES

- 1) Department Heads must submit a memo explaining the need for job shadowing and identifying the specific fund that the new employee will be paid from.
- 2) The notice of resignation and the affidavit will also be attached to the memo.
- 3) The request will be reviewed by Human Resources who will make a recommendation to the City Manager to either deny or approve the request.

5.10.2 PROBATIONARY PERIOD

Employees who are hired under this policy will begin their probationary period upon their date of hire and will enjoy all of the benefits provided under the MOU or compensation resolution to which their classification is assigned.

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5.10.3 REHIRE OF RETIREES IN SWORN POSITIONS

For sworn positions, PEPRA allows for the immediate re-hire of sworn retirees when those skills and abilities are needed by the Department. As such, the Police Chief and/ or Fire Chief may rehire a retiree to provide for the transition of duties as described above.

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CHAPTER 6. NEW EMPLOYEE REQUIREMENTS

6.1 NEW EMPLOYEE ORIENTATION

New employees shall report to the Human Resources Department at 9:00 a.m. on the first day of work, unless the Human Resources Director or his/her designee has arranged otherwise.

The Human Resources Director or his/her designee shall be responsible for providing an orientation to acquaint new employees with information regarding salaries, benefits, and basic City-wide policies and to enroll the employee in payroll and benefits systems as applicable.

6.2 LOYALTY OATH

All officers and employees of the City are required by State law to take the an oath of allegiance as set forth in Section 3 of Article XX (20) of the California Constitution before entering into their duties.

6.3 RIGHT TO WORK

Federal regulations require that all applicants who are hired must complete and sign Federal Form I-9, Employment Eligibility Verification Form, and present documents of identity and eligibility to work in the United States.

6.4 FINGERPRINTS AND PHOTOGRAPHS

Any person being considered for or employed in the City Service may be fingerprinted and a fingerprint record check made of each person. The findings shall be reported to the Human Resources Director in the manner prescribed by law. Employees may be photographed for identification purposes.

6.5 EMPLOYEE IDENTIFICATION CARDS

Employee identification cards will be issued at the discretion of the employee's department head. Non-uniformed field employees having regular public contact shall wear their employee identification cards in plain sight. All other employees may carry the cards in a wallet or purse but shall honor a resident request for identification in any job-related context.

The City employee identification card shall be used for job-related purposes only. It is the property of the City and shall be surrendered upon termination of employment.

The employee identification card shall contain the employee's name, job title and photograph, the signature of the employee's department head, the date of issuance, and the City logo.

6.5.1 NEW EMPLOYEES

Upon receipt of a completed employee identification card request form, the Human Resources Department shall prepare and issue the card.

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6.5.2 CHANGES TO CARD

If a new employee identification card is required because of a change of name, job title, department head, etc., a new employee identification card request form shall be completed and forwarded to the Human Resources Department. The Human Resources Department shall schedule a photo appointment for the employee at which time the old identification card shall be turned in.

6.5.3 LOST, STOLEN OR DAMAGED CARDS

In the event that an employee's identification card is lost, stolen or damaged, the employee shall notify his/her supervisor. The supervisor shall notify the Human Resources Department that a replacement card is required by completing and forwarding an employee identification card request form. The employee will be required to pay a \$5.00 fee to the City Treasurer's Office prior to the issuance of a replacement card.

6.5.4 EMPLOYEES LEAVING SERVICE

Upon retirement, resignation, or termination, employees shall surrender his/her identification card to his/her immediate supervisor and/or the Human Resources Department on the last day of employment with the City.

6.6 ANNIVERSARY DATE

The first day an employee reports to work is his/her anniversary date. The anniversary date is used to compute various conditions and benefits described in these Personnel Rules.

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CHAPTER 7. EMPLOYMENT STATUS

7.1 REGULAR EMPLOYMENT

7.1.1 FULL-TIME EMPLOYEES

Full-time employees are employees who are regularly scheduled to work forty (40) hours per workweek. Regular full-time employees are eligible for all benefits currently authorized by the City Council.

7.1.2 PRO-RATA EMPLOYEES

Pro-Rata employees are employees who will work in allocated positions less than forty (40) hours, but no fewer than twenty (20) hours per work week. Pro-Rata employees accrue vacation leave, sick leave, other leaves, and holiday credits on a pro-rated basis based on their assigned workweek.

7.2 EXTRA HELP EMPLOYMENT

Extra help employees are those whose assignments are of limited duration and who work fewer than twenty (20) hours per work week. Extra help employees are “at-will” and are not provided any benefits other than those required by state or federal law.

7.3 EXEMPT AND NONEXEMPT EMPLOYMENT STATUS

7.3.1 EXEMPT EMPLOYEES

Exempt employees are those employees, including executive, professional, and administrative employees, who are excluded from the overtime provisions of federal and state law and are not entitled to overtime pay.

7.3.2 NONEXEMPT EMPLOYEES

Nonexempt employees are those employees who are covered by the overtime provisions of federal and state law and entitled to overtime pay.

7.4 AT-WILL EMPLOYMENT

Unless otherwise provided for in the classified plan or by Memorandum of Understanding or written contract adopted or otherwise approved by the City Council, all terms of employment with the City are “at-will.” This means that an employee can be terminated with or without cause, and with or without notice, at any time, at the option of either the City or the employee, except as otherwise provided by law.

7.5 FLEXIBLE STAFFING

7.5.1 POLICY

Position classification series which are to be flexibly staffed shall be so designated in the annual Position Control Resolution adopted by the City Council. A permanent City employee in a

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position classification series designated as “flexible staffing” may be eligible for advancement to the journey level after completing a prescribed period of time at the entry level and demonstrating sufficient knowledge and ability to perform work responsibilities at the journey level. Part-time employees will be required to complete the equivalent number of hours required for full-time employment before becoming eligible for advancement.

It shall be the responsibility of the department to identify, through the budget process, when a position in a classification series which is normally flex-staffed is to remain at the entry level. This provision provides discretion to departments in cases where the work being performed or the need of the department does not require the expertise of a journey level employee. In such cases, the employee shall be advised in writing at the time of employment that the position being filled will not be advanced beyond the entry level.

7.5.2 PROCEDURE

- 1) Employees in a classification series identified as Flexible staff shall be eligible for advancement to the journey level when the following conditions have been met:
 - a) The employee has completed the prescribed time in the entry level position. This information will be verified by the Human Resources Department.
 - b) The department head certifies that the employee has obtained and demonstrated the ability to perform the more complex assignments normally associated with journey level work. If an employee has not demonstrated this ability to the satisfaction of the department head, the employee will not be advanced to the journey level position. In such cases, the employee’s immediate supervisor shall meet with the employee to identify specific areas of work responsibilities which require improvement in order for the employee to be advanced to the journey level. A formal performance evaluation shall be submitted to the Human Resources Department.

It is the obligation of the department head to recommend advancement only for those employees who are satisfactorily performing at the journey level. Advancement is not automatic and should not be considered routine just because an employee has completed the prescribed time at the entry level.

- 2) Normal City appointment procedures shall be followed to make a “flexible staffing” appointment. The Human Resources Department shall advise the operating department at least thirty days before an employee is eligible for advancement under the flex-staffing concept. Departments shall submit a Personnel Action Form for each affected employee and attach a memorandum with appropriate rationale for the recommendation to advance the employee to the journey level position. The memorandum shall include information such as past work history, current work performance, work assignments, adherence to City policies and procedures and any other pertinent information. A memorandum which only indicates that an employee has completed the prescribed time at the entry level and is therefore being recommended for advancement will not be acceptable.

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- 3) Advancement under the “flexible staffing” concept shall be considered a promotion and employees so advanced shall be granted a minimum of a five percent salary increase or be moved to the bottom of the new salary range, whichever is greater.

7.6 USE OF TEMPORARY EMPLOYEES

7.6.1 DEFINITIONS OF TEMPORARY APPOINTMENTS

For the purpose of this policy statement, the following types of appointments are defined as temporary:

7.6.1.1 Appointments to Vacant Permanent Positions

Temporary appointments to vacant authorized positions shall be limited to either 960 hours in a fiscal year. The appointment shall end when an eligibility list is established by the Human Resources Department and a permanent employee is hired.

7.6.1.2 Appointments to Filled Authorized Positions

Temporary appointments to permanently-filled, authorized positions may be approved when the incumbent employee is on authorized leave (e.g., injury leave, vacation leave, sick leave, etc.), subject to budget limitations. Generally, temporary appointments will not be approved for less than one day.

7.6.1.3 Seasonal Appointments

Temporary appointments may be made on a recurring basis for seasonal programs (e.g., Summer Recreation Programs and Summer Youth Employment).

7.6.1.4 Year-Round Appointments

Temporary appointments may be made to fill temporary positions authorized in the budget (e.g., Student Trainee, Interns, Recreation Leaders, Library Pages, etc.).

7.6.1.5 New Assignments or Unforeseen Fluctuations

Temporary appointments may be authorized to complete a responsibility or project not previously identified or to accommodate unforeseen fluctuations in workload which necessitate the use of additional limited term staff.

7.6.1.6 Emergency Appointments

Temporary appointments may be authorized to meet the immediate requirements of an emergency condition such as extraordinary fire, flood or earthquake, which threatens public life or property. Such appointments will be limited to five days.

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7.6.2 PROCEDURES

7.6.2.1 Approval of Request

When a department head determines that the use of a temporary employee is essential to the operation of the department, a memo requesting to fill a vacant position with a temporary employee will be completed and forwarded to the City Manager for approval. The request will specifically identify the following:

- 1) An explanation of the need for the temporary appointment, (e.g., vacant position, employee on extended absence, etc.);
- 2) The responsibilities of the temporary employee and the job duties to be accomplished;
- 3) The temporary employee's immediate supervisor and the work site location;
- 4) The funding source from which the temporary employee's salary will be paid and confirmation that the temporary employee's salary can be paid through the department's budget;
- 5) The specific number of work hours for the particular project and the temporary employee;
- 6) The first and last dates of employment for the temporary employee; and
- 7) The total cost estimate for the temporary appointment.

7.6.2.2 Certification and Selection

- 1) The Human Resources Department shall be responsible for coordinating the certification and selection of temporary employees with the appointing department. Except for emergency appointments, all temporary appointments must be filled by candidates who meet the minimum requirements of the position as determined by the Human Resources Department. Appointing departments shall not contact potential candidates before meeting with a representative of the Human Resources Department.
- 2) To the greatest extent possible, temporary Student Trainee appointments will be made from eligible candidates.
- 3) After the appointing department has made a selection from a list of eligible temporary candidates, an appointment form must be completed and approved by the City Manager before the employee can be hired.

7.6.2.3 Extension of Temporary Appointments

Temporary appointments shall be limited to the specific dates/hours approved by the City Manager and shall not be extended without his/her written approval.

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7.6.3 COMPENSATION

The Human Resources Department and the appointing department will screen all applicants for temporary positions to determine the appropriate level of compensation. It is anticipated that the majority of appointments made will be at the beginning step of the salary range for the position however appointments may be made further within the range based on the knowledge, skills, and abilities of the candidate and the ability of the department's budget to sustain the higher level of compensation. Approval must be given by Human Resources, Finance, and City Manager's Office to appoint above step three of the salary range.

Compensation for Temporary appointments including "Out-of-Class" and Interim assignments will occur fourteen (14) days after the start of the approved assignment and in conjunction with the start of the pay period.

7.6.4 EXEMPTIONS

The City Manager may exempt a temporary appointment from the provisions of this policy at any time should the City Manager determine that such exemption is warranted by extraordinary circumstances or operating requirements.

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CHAPTER 8. CHANGES IN EMPLOYMENT STATUS

8.1 TRANSFER

Upon approval by the Human Resources Director, an employee may transfer or be transferred from one position in a class to a vacant position in the same class or comparable classes with the same maximum pay. An employee may not be transferred to a position for which he/she does not meet the minimum qualifications. Transfers shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the Personnel Rules.

Transfers may be made under the following conditions:

- 1) In the event that one department is deemed to be over-staffed and another department is in need of employees of the same classification, a transfer may be affected.
- 2) When a classified employee takes an examination for a position of a higher classification and has been selected from the eligible list as a successful candidate for such higher classification, a transfer can be affected from the old position to the new. Such transfer will not affect the employee's earned privileges in regard to the employee's tenure of service.
- 3) Transfer may be effected in special cases where it is apparent that the qualifications of one employee makes him/her better suited for another position of the same general classification level and such transfer is agreeable with the responsible department head.

Upon transfer, employees will retain any earned benefits or seniority within the class.

8.2 PROMOTION

Insofar as practicable and consistent with the best interests of the City, vacancies will be filled by promotion from within the competitive service after a promotional test has been given and a promotional list established as described in Chapter 5.6. Only current regular employees who meet the minimum qualifications specified in the job announcement may apply for a promotional position opening. The beginning base wage for promotions shall be the next highest step on the applicable step range or, shall place the employee at the bottom of the range of the position into which the employee is promoted, or the next higher step allowing the employee a five (5) percent increase in pay.

8.3 DEMOTION

Upon written recommendation of the department head, the Human Resources Director may demote an employee where an employee requests it, where an employee's ability to perform the required duties falls below standard, or for disciplinary purposes. No employee shall be demoted to a class for which the employee does not possess the minimum qualifications. Notice of the demotion shall be given to the employee at least ten (10) business days prior to the effective date of demotion. The salary will be set at the same level as the employee was receiving prior to demotion provided the salary does not exceed the range of the new position. If there is a salary step, the employee will be placed into the step closest to their previous salary without going over the salary of the position they are vacating. Any employee who has been demoted shall be entitled to receive a written

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statement of the reasons for the action. Disciplinary demotion actions shall be taken in accordance with Chapter 12.

In the event that an employee is demoted as a result of staffing reductions within the higher classification, the demoted employee will not lose competitive service eligibility to return to the original position if and when the department resumes its original staffing capacity, consistent with Chapter 8.9.6.1.

If they so desire, affected employees may meet with the Human Resources Director before the demotion is approved.

8.4 SUSPENSION

A department head, in consultation with the Human Resources Director, may suspend an employee from a position at any time for cause. Suspension without pay shall not exceed thirty (30) working days. Exempt employees shall be suspended without pay in increments of no less than one (1) regular workweek, except for safety or security violations. An employee may be placed on administrative suspension with pay pending resolution of an investigation that may result in discipline. During suspension, employees shall not be entitled to use accrued vacation, sickleave, or other leave. Disciplinary suspension actions shall be taken in accordance with Chapter 12. Report of any suspension should be made to the Human Resources Director immediately.

8.5 DISCHARGE

With the approval of the City Manager and Human Resources Director, a department head may discharge an employee at any time; however, if the probationary period has been completed and the employee is a permanent employee in the competitive service, the discharge must be for cause. Disciplinary discharge action of permanent employees in the competitive service shall be taken in accordance with Chapter 12. At-will employees may be discharged at any time and for any reason, with or without just cause.

8.6 RESIGNATION

Employees may resign at any time by submitting written notice to the department head at least two (2) weeks in advance of the effective date of resignation, unless the City and the employee mutually agree to a shorter notice period. Failure of the employee to give the required notice shall be entered on the service record of the employee and may be cause for denying future employment by the City.

Upon resignation, the employee shall forfeit all seniority and employment privileges allowed by the Personnel Rules. Any person resigning can be re-employed only after following the reinstatement procedures in Chapter 8.8 or by complying with the recruitment process.

8.7 JOB ABANDONMENT

An employee who is absent for more than three (3) consecutive work days without reporting the absence to his/her supervisor, or who fails to return from a leave of absence upon expiration of the leave, shall be considered to have voluntarily terminated his/her employment with the City.

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8.8 REINSTATEMENT

An employee who has resigned from City service in good standing may apply for reinstatement within one (1) year of his/her resignation to the position he/she left, if vacant, by means of a written request. If the City Manager approves reinstatement, the applicant may be reemployed in the same job classification as occupied upon resignation at the same or in a lower salary range as paid at the time of resignation. Such employee will have no other rights, privileges, or benefits accrued by him/her in his/her previous employment. This section will not apply to reinstatement after military service.

This provision shall not apply to Unrepresented Executive Employees or any other employee who is employed on an “at-will” basis.

8.9 LAYOFF

8.9.1 DEFINITION

Layoff is defined as the separation of employees from the active work force due to lack of work or funds, organizational or duty changes, or the elimination of positions by the City Council. The Human Resources Director shall designate the number and positions for layoff as approved by the City Council.

8.9.2 ORDER OF LAYOFFS

In the event of the need for layoffs, employees will be laid off in the following order:

- 1) Temporary
- 2) Probationary, part-time
- 3) Regular, part-time
- 4) Probationary, full-time
- 5) Regular, full-time

Layoff shall be based on seniority in class, which shall be defined as the employee’s total continuous time of regular and probationary employment in the class in which employed. Total continuous time shall include military leave in accordance with State law. In the event two (2) employees have identical seniority, the employee who had the highest ranking on the employment list for the position currently held shall have precedence. In the absence of an employment list, the layoff will be determined by the employee with the least favorable performance evaluation. No probationary or regular employee shall be laid off while any temporary employee occupies a position in the same class. The Human Resources Department shall provide seniority lists to employee representatives before layoff notices are prepared.

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8.9.3 NOTICE TO EMPLOYEES

Employees shall receive written notice (to be hand-delivered by the department management whenever possible) of layoff a minimum of thirty (30) calendar days prior to the date of expected layoff. Similar notice shall be provided to any affected recognized employee organizations representing the affected classes. With such notice, the employee shall be informed of the procedure to be followed and the rights to which he/she is entitled.

8.9.4 DISPLACEMENT

A full-time regular or probationary employee who is laid off from his/her classification shall be entitled to displace another employee with less seniority in an equal or lower paying classification within the representation unit for which he/she meets the minimum qualifications and in which he/she has held prior regular status. To successfully displace another employee, an employee must be fully qualified, trained, and capable of performing all work in the new classification. Regular part-time employees may not displace regular full-time employees. When minimum qualifications have increased, the Human Resources Director may temporarily waive the increased requirements if (i) previous successful performance in the applicable classification is documented and (ii) the employee meets the increased requirements within a reasonable time following appointment to the new class.

The seniority in the new class of a laid off employee who has successfully displaced another employee shall be based on total actual time in service in the class. Employees identified for layoff who have displacement rights to equal or lower paying classifications must declare their intention to exercise these rights at least twenty (20) calendar days prior to the effective date of the layoff, otherwise displacement rights will automatically terminate. Employees in classifications of another bargaining unit may not be displaced. Employees laid off as a result of another employee's exercise of displacement rights shall not be entitled to an additional thirty (30) calendar day notice of layoff; the minimum notice to such employees shall be fourteen (14) calendar days.

An employee who is displaced to another classification shall be assigned to a pay step in the current range of the new classification that represents the least loss in base pay. An employee displaced to a position in the same classification shall retain the same base pay.

8.9.5 BENEFITS FOLLOWING LAYOFF

In the event of layoff, a full-time regular or probationary employee may participate in COBRA. Agreement by the employee to pay premiums must be in writing and by a method agreeable to the Chief Financial Officer. Other benefits such as workers' compensation and unemployment insurance shall cease on the last day of payroll. Leave accruals will cease on the last day of payroll. For retirement eligibility information, employees should contact CalPERS.

Payment for unused vacation and/or leave time shall be made in a lump sum upon layoff, in accordance with relevant MOU or State Law.

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8.9.6 REEMPLOYMENT

8.9.6.1 Reinstatement Lists

An employee who is demoted as a result of a reduction in force shall have his/her name placed on a classification reinstatement list, in the order of the City Length of Service. Vacant positions within a classification shall be first offered to demoted employees on this reinstatement list and next to employees who have separated from City service in good standing consistent with Chapter 8.3.

An employee's name shall remain on the reinstatement list for a period of two (2) years from the date of demotion.

This provision shall not apply to Unrepresented Executive Employees or any other employee who is employed on an "at-will" basis.

8.9.6.2 Reemployment Lists

An employee who has been laid off shall have his/her name placed on a reemployment list for classifications in which the employee previously held and for classifications at the same or lower salary range for which the employee qualifies in the order of the City Length of Service. Vacant positions in such classifications will be offered to employees on the reemployment list after employees on the reinstatement list have been reinstated, and prior to an open or promotional recruitment to fill vacant positions in that classification.

An employee's name shall remain on the reemployment list for a period of two (2) years from the date of layoff.

This provision shall not apply to Unrepresented Executive Employees or any other employee who is employed on an "at-will" basis.

8.9.6.3 Notice of Reemployment

The City shall send notice of reemployment by certified mail to the last address of record, but has no responsibility to attempt to trace an employee if such notice is not delivered by the Post Office. It is the responsibility of the employee who has been laid off to keep the City informed of his/her current address and telephone number. Employees have nine (9) working days from the mailing date in which to notify the Human Resources Director of the employee's intention to return to a position offered. If at the end of nine (9) working days from the date of mailing, no response has been received from the laid off employee, the employee forfeits any rights to that position and the City shall fill positions in the following order:

- 1) The laid off employee next in line for recall, if available for work, until the reemployment list is exhausted, and then;
- 2) By the normal recruiting process.

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If an employee on layoff refuses an offer of reemployment, the employee shall forfeit the right to remain on the reemployment list.

In order to expedite the reemployment process, the City may notify more than one employee simultaneously, indicating the order of priority to each person.

The right to reemployment is contingent upon the ability of the employee to meet the physical and other requirements of the position to which the employee is being recalled.

8.9.6.4 Probation

A probationary period of the length usually required for that class shall be required for an employee reemployed in a classification not previously occupied. All provisions for probationary employees shall apply except in the case of rejection of reemployment the employee's name would remain on the reemployment lists for other classes.

8.9.6.5 Anniversary Date

Layoff time which exceeds thirty (30) calendar days shall cause the anniversary date of the employee to be adjusted commensurate with the length of absence from paid status.

8.9.6.6 Restoration of Benefits

Upon reemployment following a layoff due to a reduction in force, an individual will have the following benefits restored: seniority at time of layoff for purposes of determining step increases, annual leave accrual, and future layoff priority.

8.9.6.7 Salary upon Reemployment

Base wages paid to an employee who is reemployed in the same classification he/she held at time of layoff shall be the base wages then in effect for the salary range and step the employee held at the time of layoff. If the employee chooses to be reemployed in a classification that has a salary range lower than the classification from which he/she was laid off, then the base wages shall be those at the step in the lower salary range that is closest to his/her base wages immediately prior to layoff.

8.9.7 EXCEPTION

The Human Resources Director may approve deviations from seniority in layoffs, or demotion in lieu of layoff, in those cases where, because of the specifics or unusual demands of a given position, the application of seniority alone would result in the assignment and retention of employees without special skills and/or training to maintain a satisfactory level of performance within a reasonable training time.

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CHAPTER 9. WORK HOURS AND COMPENSATION

9.1 CORE BUSINESS HOURS

Employees who work in departments with 24-hour operations are excluded from this section.

All employees are expected to be on-site during core business hours, 9:00 a.m. to 5:00 p.m., regardless of their status as exempt or non-exempt employees. With prior Department Head approval and consistent with the needs of the Department, flexibility in start and end times may be allowed as long as the work schedule includes core business hours, and for fulltime employees is 40 hours per week.

City office hours are 8:00 a.m. to 6:00 p.m., Monday through Thursday, and 8:00 a.m. to 5:00 p.m., Fridays, with City offices being closed on alternating Fridays.

Core business hours will vary in 24-hour operations and other specific City operations that require different core business hours for service delivery purposes. Any variances in core business hours shall be approved in advance by the City Manager or a department head if authorized by the City Manager.

9.2 DEFINITION OF WORKWEEK

The workweek for employees in a full-time position is forty (40) hours.

9.3 WORK SCHEDULES

The City may establish and modify work schedules for all employees based on operational necessity to provide services to the public. The City's current work schedules include, but not limited to:

- 1) Nine-Eighty (9/80) Schedule: 8 shifts of 9 hours and 1 shift of 8 hours, for a total of 80 hours over the two-week pay period.
- 2) Four-Ten (4/10) Schedule: 4 shifts of 10 hours, for a total of 40 hours per week and 80 hours over the two-week pay period.
- 3) Three-Twelve (3/12) Schedule: 3 shifts of 12 hours with an extra 8 hour shift every other week, for a total of 80 hours over the two-week pay period.
- 4) Flex Schedule: Dependent on operational needs and prior approval of the Department Head, employees may be approved to work a flexible schedule.

Non-Exempt employees: When an employee is assigned to a flexible schedule the Department Head or Manager will discuss and schedule the employee's work hours at a minimum of one pay period in advance of the employee working the schedule. All permanent changes in work schedules shall be documented in writing. The schedule will be drafted to provide forty (40) hours worked within the work week. Employees on this

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type of schedule may be required to work weekend, nights, and extended hours.

Exempt employees: A flex schedule is not intended to be an hour- for- hour trade of time for exempt employees, but rather is intended to provide some flexibility in instances where management employees have worked an extraordinary amount of hours within a pay period. Such flexing of the schedule will occur within the same pay period or the pay period after the one in which the additional hours were worked. The additional hours worked should be reflected on the time sheet so that at a minimum, the time sheet accurately depicts a minimum of forty (40) hours worked for each of two (2) payroll periods that includes the current and subsequent pay periods.

9.4 PUNCTUALITY AND ATTENDANCE

Employees must be in attendance at their work locations during the hours assigned by the City Manager. Any unauthorized absence may be cause for disciplinary action, up to and including termination. Employees are responsible for the management and appropriate use of their leave balances.

Except in extraordinary circumstances, an employee who is unable to report for work at the beginning of his/her established workday or shift must notify his/her immediate supervisor or his/her designee with as much notice as possible before commencement of the shift.

9.5 TIMESHEETS

Employees are required to record all hours worked and leave taken on City provided timesheets. This provision applies to both exempt and non-exempt employees. Employees shall be required to sign their timesheets, and timesheets of employees who report to them, under penalty of perjury and may be subject to discipline in the event that they sign an inaccurate timesheet.

9.6 RECORDING OF TIME BY EXEMPT EMPLOYEES

Exempt employees are required to record all hours worked and leave taken on City provided timesheets. Consistent with the principles of public accountability, exempt employees who do not work during established core business hours must utilize accrued paid leave time for such shortfall in hours unless approved for flex time in advance by his/her Department Head. For example, if an exempt employee begins work at 10 a.m., he/she is required to use two (2) hours of accrued paid leave time unless prior approval has been received to flex their time consistent with the flex time policy.

9.7 BREAKS

9.7.1 MEAL PERIOD

Employees who work over five (5) hours in a day are provided with an unpaid meal period of at least thirty (30) minutes after every five (5) hours worked.

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9.7.2 REST PERIOD

Employees are provided with a fifteen (15) minute paid rest break for every four (4) hours worked. Rest periods should be taken midway through their shift and may not be combined.

9.7.3 LACTATION ACCOMMODATION

Employees who wish to express breast milk at work are entitled to a reasonable amount of break time to do so. If possible, such break time will run concurrently with the employee's paid rest period. Unless it runs concurrently with an employee's paid rest period, break time to express milk is unpaid. The City will provide all employees desiring to express breast milk at work with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area. An employee may use her normal work area if it allows the employee to express milk in private.

9.8 PAY PERIODS

There are twenty-six (26) pay periods per calendar year, with each pay period covering fourteen (14) consecutive calendar days.

9.9 PAYDAY

The payroll checks for each pay period shall be issued to authorized representatives of City departments not later than 11:00 a.m. on the Friday following the end of each bi-weekly pay period. In cases where the Friday pay day would fall on a holiday, payroll checks shall be issued before the end of the prior workday.

9.10 SALARY PLAN

9.10.1 PREPARATION OF PLAN

The Human Resources Director shall prepare a pay plan for each class of executive position and standard position in the City Service showing the minimum and maximum rates of pay. In arriving at such salary ranges, consideration shall be given to, among other things, prevailing rates of pay for comparable work in comparable jurisdictions, current costs of living, suggestions of department heads, and the City's financial condition and policies.

9.10.2 SALARY SCHEDULES

A salary plan in which each executive and standard classified position is assigned a salary schedule number with a concomitant salary range shall be prepared annually.

Each "T" schedule and "M" schedule classification shall be assigned a minimum and a maximum salary level without designated intermediate levels or steps.

All other positions shall be assigned a minimum and a maximum salary level with a series of intermediate levels.

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9.10.3 SALARY UPON EMPLOYMENT

When an appointment is made to a budgeted position, the starting pay will normally be the minimum rate set forth in the applicable salary range and advancement to rates greater than the minimum rate shall be within the limits of the salary range for the applicable classification.

In exceptional cases after reasonable effort has been made to obtain employees for a particular class at the minimum rate, employment of individuals who possess special qualifications higher than the minimum qualifications prescribed for the particular class may be authorized at a higher rate than the minimum upon recommendation from the department head with the approval of the City Manager. In no event shall an individual's salary rate exceed the maximum limit of the salary range for the applicable classification.

9.10.4 WAGES FOR TEMPORARY AND PART-TIME EMPLOYEES

Temporary and part-time employees shall be paid on an hourly basis for hours actually worked, subject to the overtime provisions of the Fair Labor Standards Act, which, if applicable, provides for overtime compensation for hours worked in excess forty (40) per workweek.

Unrepresented temporary and/or part-time employees who are employed in classifications that are represented shall be paid on the same salary scale as listed for the represented employee in the same class. Any such employee in a class having a monthly salary rate shall be paid an hourly rate that is converted from the monthly salary for that class.

9.10.5 WAGES FOR EXEMPT EMPLOYEES

Employees in classes that have been deemed "exempt" shall not be entitled to payment or compensatory time off for overtime as provided for in the rules and regulations of the Fair Labor Standards Act. Exempt employees are still subject to the requirements related to recording of time worked and time spent on paid leave set forth in Chapter 9.6.

In accordance with the rules and regulations of the Fair Labor Standards Act, the base salary of exempt employees shall not be reduced due to variations in the quality or quantity of the work performed. Any reduction in wages that are a result of discipline will comply with the Fair Labor Standards Act.

9.10.6 WAGE COMPUTATION IN CASE OF ABSENCE WITHOUT PAY

When an authorized leave of absence without pay has been taken, the wage will be computed on the basis of the actual number of hours worked times the hourly rate. The hourly rate shall be determined by using the annual salary amount for each salary range and step divided by the total annual hour's requirement of 2,080 hours.

9.11 MERIT INCREASE

Eligible full-time employees who are initially appointed to "Step 1" of the salary range in effect for the applicable class will be granted a merit increase to the next higher step in the pay range

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after completing six (6) months (1040 hours) of actual service and receiving a satisfactory performance evaluation.

Employees who are at “Step 2 ” of the salary range or higher shall receive a merit increase to the next higher step after completing each twelve (12) months of full time service which is equivalent to 2,080 hours, and receiving a satisfactory performance evaluation, until the top step of the pay range is reached.

Regular part-time employees are entitled to merit increases after completing at least twelve (12) months of full time service (2080 hours) in each step of the range and receiving a satisfactory performance evaluation.

An employee shall not receive a merit increase beyond the maximum step established for the job classification.

Merit increases shall be effective on an employee’s anniversary date (six (6) months after initial appointment to the classification at Step 1 and every twelve (12) months after that), regardless of the date of the performance evaluation.

In the event that an employee receives an unsatisfactory performance evaluation, any applicable merit step increase shall be withheld. The employee shall be counseled and reevaluated every thirty (30) calendar days of actual service until a satisfactory evaluation is achieved. Once the employee receives a satisfactory evaluation, the date of that evaluation shall become the employee’s new evaluation date, and a merit increase, if applicable, shall be granted as of the new evaluation date. An employee who does not achieve a satisfactory evaluation within a reasonable period shall be subject to disciplinary proceedings up to and including termination.

9.12 OVERTIME

9.12.1 ELIGIBILITY

Employees who are not designated as “exempt” for purposes of the Fair Labor Standards Act shall be eligible to receive overtime payment if an employee is required by his/her supervisor to work in excess of forty (40) hours in a single workweek. Exempt employees are not eligible for overtime pay.

9.12.2 OVERTIME PAY

Overtime compensation shall be paid at one-and-one half (1 ½) times the employee’s regular rate of pay, which includes base wages, longevity pay, confidential pay and educational incentive pay, as applicable.

9.12.3 COMPENSATORY TIME OFF

Employees who are not designated as “exempt” for purposes of the Fair Labor Standards Act may elect to receive compensatory time off in lieu of payment for overtime worked. Such employees shall accrue compensatory time off at the rate of one-and-one half (1 ½) hours for each overtime hour worked, up to a maximum accumulation of eighty (80) hours. Employees must request

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compensatory time off in lieu of overtime pay at the time the overtime is worked. Any compensatory time off accruals in excess of eighty (80) hours will be cashed out automatically during the month of July.

9.12.4 AUTHORIZATION OF OVERTIME

An employee is not allowed to work overtime unless his/her supervisor has pre-authorized the work. A supervisor may authorize or require overtime at his/her discretion. Overtime may be authorized for situations such as:

- 1) Operating emergencies;
- 2) Handling peak workloads or incomplete work when it is not possible or practical to employ additional personnel;
- 3) Attending meetings connected to City business outside of regular work hours;
- 4) Meeting temporary conditions when the City is unable to secure qualified personnel to fill positions authorized by the City Council and filled by the City Manager;
- 5) Other occasions as deemed necessary in the judgment of the responsible Supervisor.

Working overtime without prior authorization is grounds for discipline up to and including termination.

9.13 BILINGUAL PAY

To establish guidelines and procedures for implementing the bilingual pay provisions of the Personnel Rules and Regulations and memoranda of understanding.

9.13.1 CRITERIA

The following criteria shall be used in evaluating a bilingual pay request:

- The employee's assigned position must involve regular and frequent use of bilingual skills in oral communication. Regular and frequent means using the skill on the average of at least once per workday. An employee who has bilingual skills is not automatically entitled to bilingual pay. The department director shall designate the skill as essential to the department's operations.
- The employee must be fluent in English and Spanish.
- The total number of positions for which bilingual pay will be approved shall generally be limited to two positions per division.
- An exception may be considered for divisions where bilingual services must be provided beyond the customary eight-hour workday or five-day workweek.

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9.13.2 PROCEDURES

- 1) The employee's supervisor shall complete a bilingual pay form if the employee is eligible to receive bilingual pay.
- 2) The Human Resources Department shall conduct a bilingual skills examination to determine that the employee is fluent in English and Spanish.
- 3) Where several employees are equally eligible, the department director may rotate the bilingual pay benefit on a semiannual basis.

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CHAPTER 10. RETIREMENT BENEFITS

10.1 RETIREMENT DEFINITION

For purposes of participating in City of Oxnard Benefit programs, a “retired City employee” is defined as one eligible to receive an annuity from the Public Employees’ Retirement System (PERS) at the time of termination from active service with the City. The retirement annuity may be for either service or disability.

10.2 PARS CONTRIBUTION

City shall provide to all eligible miscellaneous employees Public Agency Retirement System (PARS) supplemental retirement benefits to include the three percent (3%) at age sixty (60) supplemental retirement formula and the highest consecutive twelve-month period retirement formula.

Employees hired on or after January 1, 2013, who are “new members” as defined in PEPR, including “classic” employees coming from another CalPERS jurisdiction, shall not be eligible to receive any PARS benefit.

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CHAPTER 11. PERFORMANCE EVALUATIONS, PERSONNEL FILES

11.1 PERFORMANCE EVALUATIONS

11.1.1. RATING PERIOD

Employees shall be evaluated at completion of probationary period and annually thereafter.

11.1.2 EVALUATION PROCEDURE

The Human Resources Department will notify Supervisors when an employee performance evaluation is due and will follow-up to ensure that the evaluation is completed as required.

All performance evaluations shall be completed and forwarded to the Human Resources Director as soon as practicable following the employee's evaluation date. Evaluations shall be on forms and in the manner prescribed by the Human Resources Director.

Upon completion of the performance evaluation, eligible employees who receive satisfactory evaluations shall receive a merit increase to the next higher step in the applicable pay range, until the highest step is reached as set forth in Chapter 9.10. Eligible employees who receive unsatisfactory evaluations shall be subject to continuing evaluations and possible discipline as set forth in Chapter [9.11].

11.1.3 PERFORMANCE IMPROVEMENT PLANS

At any time when performance problems exist, employees may be placed on Performance Improvement Plan. If, the employee has not attained satisfactory performance at the end of the plan then the plan may be extended for another period of time. Performance improvements plans are intended to document the areas of performance which are unsatisfactory and to provide clear direction and training so that the employee may bring their performance to a satisfactory level. Should an employee fail to show improvement he/she may be subject to disciplinary action up to and including termination for violation of Chapter 12 "Discipline" of these policies.

All supervisors shall inform the Human Resources Director in writing of all cases in which an employee is placed on a Performance Improvement Plan.

11.2 PERSONNEL FILES

11.2.1 PERSONNEL FILES

The Human Resources Department shall maintain a personnel file for each employee. Personnel files shall contain information regarding class title, salary, changes in employment status, disciplinary actions, and other pertinent employment information. Personnel files are the property of the City. They will be maintained in a secure place and monitored by the Human Resources Director or his/her designee, who will determine access to the files. An employee, or the employee's representative with written consent of the employee, is entitled to review his/her personnel file with adequate advance notice to the Human Resources Director or his/her designee.

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11.2.2 MEDICAL INFORMATION

All medical information about an employee or applicant shall be kept in a separate file from the personnel file and treated as confidential, in accordance with applicable state and federal law. Access to employee or applicant medical information shall be granted only where permitted or required by law, subpoena, or court order. In the case of an employee with a disability, managers and supervisors may be informed only of necessary restrictions on the work or duties of the employee and necessary accommodations.

11.2.3 RECORDS RETENTION

Records of employees may be destroyed after six (6) years from the date of the employee's separation from City service. Records relating to persons who were never in the employ of the City, including correspondence, applications, examinations and reports, may be destroyed after three (3) years.

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CHAPTER 12. DISCIPLINE

12.1 GROUNDS FOR DISCIPLINE

Employees may be disciplined for reasons which include, but are not limited to, the following:

- 1) Excessive absenteeism, tardiness, or absence without authorized leave;
- 2) Incompetence, inefficiency, or neglect of duty;
- 3) Being under the influence of alcohol, drugs, or other intoxicants while on duty;
- 4) Dishonesty;
- 5) Falsification of time sheets or any official City records;
- 6) Fraud in securing employment or making a false statement on an application for employment;
- 7) Disclosure of confidential information to an unauthorized source;
- 8) Negligent damage to or waste of public property, equipment or supplies; or unauthorized use of public property, supplies or equipment for personal or private purposes;
- 9) Insubordination, which shall mean refusal or failure to follow a direct lawful order which the employee is capable of following;
- 10) Discourteous or disrespectful treatment of the public, other employees, or City officials; including purposefully spreading erroneous or untruthful information about another employee;
- 11) Improper political activity;
- 12) Improper acceptance of an individual gift, reward, or other form of remuneration from a private source for the performance of official duties;
- 13) Conviction of any felony or misdemeanor in accordance with Council policy. A plea or verdict of guilty, or a plea of nolo contendere, is deemed to be a conviction within the meaning of this section;
- 14) Conduct either during or outside of duty hours, to the extent authorized by law, which damages the City or its reputation; and
- 15) Violation of these Personnel Rules or any other rule, regulation, resolution, ordinance, or policy.

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12.2 LEVELS OF DISCIPLINE

The following types of disciplinary actions are available to the Human Resources Director to address performance and misconduct issues. The Human Resources Director will attempt to match the disciplinary action to the severity of the employee misconduct; however, the Human Resources Director reserves the right to impose any disciplinary action, up to and including termination of employment, at any time.

12.2.1 ORAL COUNSELING

Oral counseling is an oral discussion between an employee and his/her supervisor where the supervisor communicates his/her concerns regarding the employee's performance or misconduct. Oral counseling may involve warning the employee of consequences for not addressing the supervisor's concerns.

12.2.2 WRITTEN REPRIMAND

Written Reprimand is a letter communicating a supervisor's concerns regarding the employee's performance or misconduct. A Written Reprimand may include a warning of consequences for not addressing the supervisor's concerns.

12.2.3 SUSPENSION

Suspension is the temporary separation from City Service without pay for disciplinary purposes. Suspension of non-FLSA-exempt employees may be in any increment in the discretion of the Human Resources Director. Suspension of FLSA-exempt employees shall comply with State and Federal Law.

12.2.4 DEMOTION

Demotion is the movement of an employee from one position to another that has a lower maximum rate of pay. The Human Resources Director may demote an employee whose performance of his/her required duties is below standard or for other disciplinary purposes. Non-disciplinary demotion may also be made to a vacant position in lieu of layoff. No employee will be demoted to a position for which he/she does not possess the minimum qualifications.

12.2.5 TERMINATION

The Human Resources Director may discharge an employee when his/her performance of required duties is below standard or for other disciplinary reasons. Employees who are employed on at "at-will" basis may be terminated at any time for any reason.

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12.3 PROCEDURES FOR TAKING DISCIPLINARY ACTION

When required, the City will abide by the following disciplinary procedures:

12.3.1 NOTICE OF INTENT TO DISCIPLINE

Notices of intent to discharge, demote, or suspend for three (3) days or more shall be served in person or by certified mail on the employee and the employee's Union, if applicable. The notice shall include:

- 1) A statement of the nature of the disciplinary action;
- 2) The effective date of the action;
- 3) A statement of the cause thereof;
- 4) A statement of the act or omissions upon which the causes are based;
- 5) A statement of the employee's right to respond to the charges, either orally or in writing, prior to the action becoming effective; and
- 6) A statement advising the employee of the right to Union representation, when applicable.

The Notice shall be accompanied by all documentation upon which the City relied in determining the need for disciplinary action.

12.3.2 EMPLOYEE RESPONSE/SKELLY MEETING

The employee may respond to the Notice of Intent to Discipline either in person or in writing. If the employee elects to respond in writing, the employee or his/her representative must file the response within ten (10) business days after service of the Notice of Intent to Discipline. If the employee elects to respond in person, the employee or his/her representative must request a meeting with the department head within ten (10) business days after service of the Notice of Intent to Discipline. The department head shall hold a meeting with the employee within twenty (20) business days of the employee's request.

12.3.3 NOTICE OF DISCIPLINE

If, after the employee's written response or Skelly Meeting, the department head determines that discipline is warranted, the department head shall issue a written Notice of Disciplinary Action within ten (10) business days after either the filing of a written response or the date of the Skelly Meeting. If the employee did not file a written response or request a Skelly Meeting, the department head shall issue a Notice of Disciplinary Action within twenty (20) business days after the service of the Notice of Intent to Discipline.

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The notice shall:

- 1) Be delivered in person or by certified mail.
- 2) State the action to be taken and the date of implementation.
- 3) State the specific grounds and particular facts upon which the action is taken.
- 4) State that the employee's response has been received and duly considered, or state that the employee did not reply if such is the case.
- 5) Advise the employee of his/her appeal rights provided by the Personnel Rules or the applicable Memorandum of Understanding.

The department head shall furnish a copy of the Notice of Disciplinary Action to the Union and appropriate representative if applicable.

12.4 APPEALS PROCESS

In the event an employee feels that the discharge, demotion, or suspension for three (3) days or more is unjust, the employee or his/her representative may appeal the action to the Human Resources Director. An appeal of the Notice of Disciplinary Action must be in writing and must be filed with the Human Resources Director within ten (10) business days of the date of service of the Notice of Disciplinary Action. The Human Resources Director or his/her designee shall hold an appeal meeting within twenty (20) business days of service of the appeal. The Human Resources Director shall issue his/her decision within ten (10) business days after the appeal meeting. The Human Resources Director's decision shall be final and binding.

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CHAPTER 13. GRIEVANCE PROCESS

13.1 SCOPE

In the absence of an applicable Memorandum of Understanding that includes a grievance procedure, the procedure set forth below shall apply. In addition, employer/employee relation matters for which a specific method of review is provided by law or by these Personnel Rules are not within the scope of this policy.

13.2 DEFINITIONS

- 1) “Day” means business day.
- 2) “Department” means the Human Resources Department
- 3) “Grievance,” for the purposes of this section, means an allegation by an employee that he/she has been adversely affected by an alleged violation of a current Memorandum of Understanding or of these Personnel Rules.
- 4) “Immediate Supervisor” means the individual who has been designated by the department head as the person responsible for first step grievances.

13.3 PRESENTATION OF GRIEVANCES

An employee may initiate a grievance with or without an employee organization representative. The Department shall notify an employee if it is known that there is any limitation on the Department’s ability to handle or process a grievance. The Department has a responsibility to provide an employee with all necessary information regarding how to process a grievance.

Employees are assured freedom from reprisal for using this grievance procedure. An employee who has initiated a grievance, or assisted another employee to initiate and/or process a grievance, shall not in any way be coerced, intimidated, or discriminated against.

An employee and/or the employee’s representative may use a reasonable amount of work time in presenting a grievance. However, no employee shall be absent from the assigned workplace without first being excused by his supervisor.

13.4 TIME LIMITS

Grievances must be presented within ten (10) days from the date on which the employee knew or should have known of the event giving rise to the grievance.

If any employee fails to take any action discussed in this procedure, including submission of the initial grievance or appeal from one step to the next step, within the time limitation established in the grievance procedure, the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subjected to further appeal or reconsideration.

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If the grievant does not receive a response within the prescribed time limits, the grievance automatically goes on to the next step.

Any level of review or any time limits may be waived or extended by mutual written agreement of the parties concerned.

13.5 PROCEDURE

13.5.1 STEP ONE: INFORMAL CONFERENCE

The employee shall first discuss the matter in an informal conference with the employee's immediate supervisor within ten (10) days of the occurrence of the event giving rise to the grievance.

13.5.2 STEP TWO: WRITTEN GRIEVANCE

If the matter is not resolved at the informal conference, the employee may, within ten (10) days after the informal conference, present the grievance in writing to the employee's immediate supervisor. The immediate supervisor, upon conferral with the department head, will answer the employee's grievance in writing within ten (10) days after receipt of the grievance.

13.5.3 STEP THREE: APPEAL TO DEPARTMENT HEAD

If the matter is not resolved in Step 2, the employee may, within ten (10) days after the immediate supervisor's written answer, appeal the grievance to the department head. The department head will answer the grievance in writing within ten (10) days after receipt of the grievance.

13.5.4 STEP FOUR: APPEAL TO HUMAN RESOURCES DIRECTOR

If the employee does not accept the decision at Step 3, the employee may, within ten (10) days of the department head's written answer, present the grievance in writing to the Human Resources Director or his/her designee.

The Human Resources Director or his/her designee may discuss the grievance with the employee, the employee's representative, and other appropriate persons as necessary. The Human Resources Director or his/her designee shall render a decision in writing to the employee within ten (10) working days after receiving the grievance.

13.5.5 STEP FIVE: APPEAL TO ARBITRATOR

If the grievance is not resolved at Step 4, the employee may within ten (10) days after receipt of the Human Resources Director's written answer, deliver to the City Manager a written request for advisory arbitration.

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13.5.5.1 Selection of Arbitrator

The parties, or their designated representatives, shall agree on an arbitrator, and if they are unable to agree on an arbitrator within a reasonable time, either party may request the State Mediation and Conciliation Service to submit to them a list of seven (7) arbitrators who have had experience in the municipal sector. The parties shall select the arbitrator by alternately striking names from a list until one name remains. Such person shall then become the arbitrator

13.5.5.2 Arbitrator Findings and Recommendations

The arbitrator shall hold a hearing as expeditiously as possible. The arbitrator shall limit his/her findings and recommendations to the precise issues submitted to him or her and shall have no authority to consider any other issues not appropriately submitted to him/her. The arbitrator shall be bound to the interpretation or application of existing written rules and regulations governing personnel practices or working conditions. The recommendations of the arbitrator and his/her findings shall be advisory only and final authority to dispose of the grievance is vested in the City Manager. The arbitrator shall make no recommendations that are contrary to the interpretation or application of existing rules, regulations, policies and procedures governing personnel practices or working conditions. The decision of the arbitrator shall not add to, subtract from, or otherwise modify the terms of this policy; or

- 1) Be in any way contrary to, inconsistent with, vary from or modify the provisions of the Employer-Employee Relations Procedure or other provisions of the Oxnard City Code.
- 2) Be inconsistent with the City's duties, responsibilities, or obligations as provided by law.
- 3) Recommend any wage or benefit increase or decrease.
- 4) Recommend the payment of back wages for more than ten (10) working days prior to the date the aggrieved employee knew, or by reasonable diligence could have known, of the occurrence of the act or omission on which the grievance is based.
- 5) Reverse, over-rule, or otherwise modify any City decision, act, or omission; except after finding:
 - a) That the City violated some express provision of any document bearing upon working conditions (the Employer-Employee Relations Procedures of the Oxnard City Code or the Personnel Rules); or
 - b) That a City decision, act, or omission was arbitrary, capricious, discriminatory or otherwise unreasonable.

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- 6) Relate to a problem for which another method of review is provided by law, City Ordinance, or other provisions of the Personnel Rules.

The written findings and recommendations of the arbitrator shall be executed within ten (10) days after the hearing, shall be made public, and shall be certified to the City Manager. The cost of the arbitrator and other mutually incurred costs shall be borne equally by the parties.

13.5.6 REVIEW BY CITY MANAGER

The arbitrator's recommendations shall be subject to review by the City Manager in his/her sole discretion. The decision of the City Manager to approve or reject the arbitrator's recommendations shall be final.

13.6 RIGHTS OF REPRESENTATION

A grievant may be accompanied by a representative at any step of the grievance procedure.

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CHAPTER 14. LEAVES OF ABSENCE

14.1 HOLIDAYS

14.1.1 ELIGIBILITY

Employees shall be entitled to holiday pay if an observed holiday falls on an employee's regularly scheduled workday and if the employee is in paid status on the day before or the day after an observed holiday.

14.1.2.1 REPRESENTED EMPLOYEES

Represented employees shall refer to his or her established Memorandum of Understanding for additional or modified holidays with pay.

14.1.2 HOLIDAYS ON WEEKENDS

Holidays falling on a Saturday will be observed the preceding scheduled work day. Holidays falling on a Sunday will be observed the following scheduled work day.

14.1.3 HOLIDAYS ON LEAVE

When holidays to which an employee is entitled falls within a period during which an employee is on authorized paid leave (vacation, annual, sick) , such employee shall receive straight-time pay but not additional pay on an official holiday and such time shall be recorded as paid holiday for payroll purposes. Employees on approved leave of absence without pay shall not receive compensation for official holidays

14.1.4 HOLIDAYS ON EMPLOYEE'S DAY OFF

When a holiday falls on an employee's day off, other than Sunday or Saturday, the last preceding work day for said employee shall be a holiday. The City Manager may, however, require the employee to work on that day. If an employee is so required to work, he/she shall be given equivalent compensatory time off or shall be paid overtime premium pay.

14.1.5 WORK ON HOLIDAYS

Nonexempt employees required to work on a City-observed holiday will be compensated at one-and-one-half (1 ½) times the employee's regular rate of pay for the hours actually worked, or receive compensatory time off, subject to the accrual cap set forth in Chapter 9.12.2 at the rate of one-and-one-half (1 ½) times hours actually worked on the holiday, in addition to receiving straight time pay for said holiday. In order for such an employee to qualify for overtime pay under this section, such employee's regularly scheduled workday must fall on the day before and/or the day after such holiday.

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14.2 VACATION LEAVE

14.2.1 INTENT

The purpose of annual vacation leave is to allow each eligible employee a period of relaxation to enable him/her to return to his/her work mentally and physically refreshed.

14.2.2 ELIGIBILITY

Permanent full-time and part-time employees are entitled to paid vacation for each year of active service. Vacation time begins to accrue upon employment. Employees do not accrue vacation time during while on an unpaid leave of absence or on a statutorily protected leave. Temporary employees and on-call employees do not accrue paid vacation.

14.2.3 ACCRUAL

Employees shall accrue annual leave as designated by his or her respective Memorandum of Understanding.

14.2.4 USAGE

Accrued vacation leave may be taken at one day at a time, or it may be taken several days at a time. The vacation leave is to be scheduled between the employee and his/her supervisor in such a manner that such employee's absence will not impair division operations.

14.2.4.1 USE OF VACATION LEAVE PRIOR TO SEPERATION

Accrued vacation leave may be taken prior to separation on the condition that the employee must be scheduled to work at least 80 hours in the payroll period immediately prior to and/or including the last day of service. No more than the applicable cap of vacation accrual may be taken.

14.2.5 MAXIMUM VACATION LEAVE ACCRUAL

Once an employee reaches his/her maximum annual leave accrual, he/she will not be permitted to accrue any additional vacation leave until he/she uses sufficient annual leave so as to bring his/her annual leave balance below the applicable cap. Accrual will recommence in the following pay period. Accrual caps will be enforced on a pay period by pay period basis.

14.2.6 PAYMENT UPON SEPARATION

Any employee who leaves the service of the City shall be paid for accrued vacation leave to which such employee is otherwise entitled at his/her then current base wages plus longevity pay, educational incentive pay, confidential pay, and bilingual pay, as applicable, as of the effective date of separation from City service.

14.3 SICK LEAVE

Employees shall be eligible for sick leave as specified by the employee's Memorandum of Understanding.

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14.3.1 EXTRA HELP EMPLOYEES

Extra help employees will accrue sick leave at the a rate of .0461 hours per hour worked with a maximum of twenty-four (24) hours of sick leave per fiscal year pursuant to State law.

14.3.2 USE OF SICK LEAVE

Sick leave may be used for the following purposes:

- 1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee;
- 2) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee's family member;
- 3) For an employee who is a victim of domestic violence, sexual assault, or stalking, any of the following purposes related to the domestic violence, sexual assault, or stalking:
 - a) To obtain or attempt to obtain a temporary restraining order, restraining order, or other injunctive relief;
 - b) To seek medical attention for injuries;
 - c) To obtain services from a shelter, program, or crisis center;
 - d) To obtain psychological counseling;
 - e) To participate in safety planning and take other actions to increase safety, including temporary or permanent relocation.

For purposes of this section, "employee's family member" shall be defined to include:

- 1) A child, including a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis, regardless of age or dependency status;
- 2) A parent, including a biological, adoptive, or foster parent, stepparent, or legal guardian of the 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;
- 3) A spouse;
- 4) A registered domestic partner;
- 5) A grandparent;
- 6) A grandchild;
- 7) A sibling.

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Sick leave may be requested orally or in writing. If the need for sick leave is foreseeable, employees must give reasonable advance notice of the need to use sick leave. If the need for sick leave is not foreseeable, employees must provide notice as soon as practicable. Employees will not be required to search for or find a replacement worker as a condition of taking sick leave.

14.3.3 CERTIFICATION OF CAUSE

An employee who is absent on sick leave three (3) or more consecutive working days may be required to submit to the Human Resources Director, through department management, a physician's certificate or personal affidavit explaining the cause of such absence.

When an employee's period of absence exceeds two (2) calendar weeks, the City Manager may require submittal of periodic reports from the attending physician concerning the employee's condition and ability to return to and continue work and may require the employee to submit to an examination by City designated physician.

Nothing herein shall prohibit the department head or Human Resources Director from requiring a physician's certificate for each absence, regardless of duration.

14.3.4 DURATION OF SICK LEAVE

Employees are required to take paid sick leave in increments of at least two (2) hours. Employees shall be charged for sick leave used to the nearest half hour commensurate with hours of absence.

14.3.5 ABUSE OF SICK LEAVE

Frequent use of sick leave, if not corrected after counseling, may be considered abuse of sick leave. Abuse of sick leave shall be just cause for disciplinary action. If it is substantiated that an eligible employee has received paid sick leave in violation of the provisions of this Rule, the City Manager shall require restitution and shall revoke any further paid sick leave during the same period of absence.

14.3.6 MEDICAL AND DENTAL APPOINTMENTS

Employees shall schedule medical and dental appointments during non-working hours whenever possible. In the event scheduling during working hours is unavoidable, advance approval of the department head or his/her designee is required, except in cases of accident or acute illness.

14.3.7 SICK LEAVE DURING VACATION AND ON OFFICIAL HOLIDAYS

If an eligible employee becomes ill or injured while on authorized vacation leave, the City Manager may approve charging the period of incapacity to sick leave upon written request and presentation of a doctor's certificate stating the extent, and dates of the illness or injury. Sick leave shall not be approved for official holidays.

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14.3.8 SICK LEAVE UPON SEPERATION FROM CITY EMPLOYMENT

Upon termination, resignation, retirement, or other separation from employment, employees will not be compensated for accrued, unused paid sick leave.

14.4 FAMILY MEDICAL LEAVE AND PREGNANCY DISABILITY LEAVE

The City will provide Family Medical Leave and Pregnancy Disability Leave for eligible employees as required by State and Federal law. The following provisions set forth certain of the rights and obligations with respect to such leaves. All leaves will run concurrently as permitted by the applicable laws, unless otherwise noted. "Leave" under this policy shall mean leave taken pursuant to the Family Medical Leave Act ("FMLA"), California Family Rights Act ("CFRA") and/or Pregnancy Disability Leave Law ("PDL").

14.4.1 DEFINITIONS

For purposes of the City's Family Medical Leave and Pregnancy Disability Leave policy, the following definitions will apply:

- 1) "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- 2) "Child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, step-child, legal ward or child for whom the employee stands "in loco parentis".
 - a) A child is "incapable of self-care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living—such as, grooming and hygiene, bathing, dressing eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, and using a telephone.
- 3) "Next of Kin", for purposes of Military Caregiver Leave, means the nearest blood relative of an injured service member, other than the service member's spouse, parent, or child in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, siblings, grandparents, aunts and uncles, and first cousins, unless the service member has specifically designated in writing another blood relative as his/her nearest relative.
- 4) "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- 5) "Qualifying Exigency" includes:

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- a) Short-notice deployment: Leave may be taken to address issues arising from an impending call or order to active duty 7 days or less before the date of deployment.
 - b) Military events and related activities: Leave may be taken to attend an official military sponsored ceremony, program or event relating to a service member's active duty or call to active duty.
 - c) Childcare and school activities: Leave may be taken to provide or arrange for childcare when a service member's active duty or call to active duty requires a change in existing childcare arrangements.
 - d) Financial and legal arrangements: Leave may be taken to make or update financial or legal arrangements to address a service member's absence while on active duty.
 - e) Family counseling: Leave may be taken to attend counseling where the employee, the service member, or the service member's child needs counseling because of the active duty or call to active duty.
 - f) Rest and recuperation: Up to 5 days' leave may be taken to spend time with a service member who is on short-term leave from active duty for rest and recuperation.
 - g) Post-deployment activities: Leave may be taken to attend arrival ceremonies, reintegration briefings and events, and any other official military sponsored ceremony or program for a period of 90 days after the termination of the service member's active duty status, and to address issues that arise from death while on active duty, such as meeting and recovering the body and making funeral arrangements.
- 6) "Registered Domestic Partner" is defined by California Family Code sections 297 and 299.2.
- 7) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
- a) Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom).
 - b) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - c) A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to a serious health condition of more than 3 consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

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- d) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider, where two of the physician's visits occur within 30 days beginning from the initial date of incapacity and the first physician visit occurs within the first 7 days of incapacity; or
 - e) Treatment by a health care provider on at least one occasion, the first of which must occur within 7 days of incapacity, which results in a regimen of continuing treatment under the supervision of the health care provider.
 - f) Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to Pregnancy Disability Leave).
 - g) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i) Requires the employee to make at least two visits per year to a health care provider, or a nurse or physician's assistant under direct supervision of a health care provider, for treatment;
 - ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy).
 - h) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, or terminal stages of a disease). The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
 - i) Any period of absence to receiving multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for (1) restorative surgery after an accident or other injury, or (2) for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- 8) "Serious injury or illness", as applicable to Military Caregiver Leave, means an injury or illness incurred in the line of duty while the individual is on active duty in the Armed Forces, that renders the individual unfit to perform the duties of his/her office, grade, rank, or rating.
- 9) "Spouse" means a husband or wife as defined or recognized under State or Federal law for purposes of marriage.

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14.4.2 ELIGIBILITY

An employee is eligible for Family Medical Leave if the employee:

- 1) Has been employed by the City for at least 12 months; and
- 2) Has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

Female employees who are disabled due to pregnancy, childbirth or related medical conditions may take Pregnancy Disability Leave regardless of length of service or hours worked.

14.4.3 REASONS FOR LEAVE

Family Medical Leave is permitted for the following reasons:

- 1) The birth of a child or to care for a newborn of an employee.
- 2) The placement of a child with an employee in connection with the adoption or foster care of a child.
- 3) Leave to care for a child, parent, spouse, or registered domestic partner who has a serious health condition. (Registered domestic partners are only entitled to CFRA leave, not FMLA leave).
- 4) Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.
- 5) Leave to care for an employee's child, parent, spouse, or "next of kin" who is a member of the Armed Forces (including a member of the National Guard or Reserves) or a veteran of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, is in outpatient status through the Armed Forces, or is otherwise on the temporary disability retired list, for a serious injury or illness, referred to in this policy as "Military Caregiver Leave." (Registered domestic partners are not entitled to Military Caregiver Leave).
- 6) Leave for a "qualifying exigency" arising out of the fact that an employee's child, parent or spouse is on active duty in the Armed Forces or has been called to active duty, referred to in this policy as "Qualifying Exigency Leave". (Registered domestic partners are not entitled to Qualifying Exigency Leave).

Pregnancy Disability Leave may be taken by a female employee disabled due to pregnancy, childbirth, or a related medical condition (including but not limited to doctor-ordered bed rest, severe morning sickness, prenatal or postnatal care, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, lactation-related medical conditions, or recovery from loss or end of pregnancy) to the extent that the employee's health care provider certifies leave to be medically necessary.

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14.4.4 DURATION OF LEAVE

For all types of Family Medical Leave, other than Military Caregiver Leave and Pregnancy Disability Leave, eligible employees are entitled to up to 12 workweeks of Family Medical Leave to the extent provided, and consistent with the terms and conditions imposed by law, during any 12-month period.

For Military Caregiver Leave, an eligible employee may take up to 26 workweeks of leave during a single 12-month period. Leave to care for a seriously injured or ill military service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period.

An employee who is disabled due to pregnancy, childbirth or related medical condition is entitled to up to 4 months (or 17 1/3 weeks) of Pregnancy Disability Leave. Pregnancy Disability Leave runs concurrent with FMLA leave, but does not run concurrent with CFRA leave. This means that an employee may be entitled to up to 12 weeks of CFRA leave (e.g., for “baby bonding”) following Pregnancy Disability Leave if the employee is eligible for CFRA leave and has not previously exhausted CFRA leave.

Military Caregiver Leave and Qualifying Exigency Leave are only covered by FMLA, therefore, CFRA leave does not run concurrent with these types of leave.

14.4.4.1 Minimum Duration of Leave

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within 1 year of the birth or placement of the child. In addition, the minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration, on any two occasions. If Family Medical Leave is taken for any other qualifying reason, there is no minimum amount of leave that must be taken.

14.4.4.2 Spouses Both Employed by the City

The aggregate number of workweeks of leave to which spouses employed by the City will be entitled will be limited to 12 workweeks during a 12-month period when leave is taken for the birth or adoption or foster care placement of the employees’ child. Additionally, with respect to Military Caregiver Leave, the aggregate number of workweeks of leave to which both spouses may be entitled is limited to 26 workweeks in a single 12-month period. This limitation does not apply to any other type of leave under this policy.

14.4.5 INTERMITTENT LEAVE

Family Medical Leave and Pregnancy Disability Leave may be taken intermittently or on a reduced leave schedule. An employee who takes leave intermittently or on a reduced leave schedule must make a reasonable effort to schedule the leave so as not to unduly disrupt the City’s operations.

If an employee requests leave intermittently or on a reduced leave schedule for the employee’s own serious health condition or disability, or for the serious health condition or serious

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illness/injury of a covered family member of a service member, the employee must provide certification that such leave is medically necessary.

An employee requesting intermittent or reduced schedule leave for Pregnancy Disability Leave or for planned medical treatment that is foreseeable relating to the employee's own serious health condition or the serious health condition of a family member may be required to transfer temporarily to an available, alternative position when (1) the alternative position better accommodates recurring periods of leave, (2) the employee is qualified for the alternative position, and (3) the alternative position has equivalent pay and benefits (equivalent duties are not required.)

14.4.6 NOTICE OF NEED FOR LEAVE

Although the City recognizes that emergencies arise that may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the City determines that an employee's notice is inadequate or the employee knew about the need for leave in advance of the request, the City may delay the granting of the leave.

14.4.7 SUBSTITUTION OF PAID ACCRUED LEAVES

Employees on FMLA/CFRA leave are required to use vacation leave, administrative leave, annual leave, and reserve leave time during otherwise unpaid FMLA/CFRA leave.

Employees on FMLA/CFRA leave are required to use accrued sick leave if the employee is taking leave for his/her own serious health condition.

Employees on Pregnancy Disability Leave are required to use accrued sick leave but are not required to utilize any other paid leaves unless the employee elects to do so.

California's Paid Family Leave Law provides for payments from the State Disability Insurance Fund to cover part of the wage loss suffered by employees who take leave to care for a seriously ill spouse, registered domestic partner, child, grandchild, parent, grandparent, sibling or parent-in-law, or to bond with a new child of the employee or the employee's spouse or registered domestic partner. Employees should contact the State Employment Development Department for more information. (http://www.edd.ca.gov/Disability/More_PFL_information.htm)

An employee on Pregnancy Disability Leave may be entitled to State Disability Insurance ("SDI") benefits during the period of disability. Employees should contact the State Employment Development Department for more information.

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14.4.8 MEDICAL CERTIFICATION

Employees who request leave under this policy must provide written certification supporting the need for leave. The appropriate certification form will be provided to the employee at the time leave is requested.

14.4.8.1 Time to Provide Certification

When an employee's leave is foreseeable and at least 30 days' notice has been provided, the employee must provide certification before the leave begins. When this is not possible, the employee must provide the certification within the time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

14.4.8.2 Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete certification, the employee will be given 7 calendar days to cure any such deficiency. However, if an employee fails to provide certification within the time frame established by this policy, the City may delay the taking of leave until the required certification is provided. If no certification is provided, the leave may be denied.

14.4.8.3 Second or Third Opinion

When Family Medical leave is taken for an employee's own serious health condition, and the City has reason to doubt the validity of the certification provided, the City may seek a second opinion by a health care provider chosen and paid for by the City. If the second opinion differs from the certification provided by the employee, the City may request the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when a second or third opinion is sought.

Second or third opinions may not be sought for Pregnancy Disability Leave.

14.4.8.4 Recertification

The City has the right to request an employee who is taking FMLA/CFRA leave for the employee's own serious health condition or due to the serious health condition of a family member to provide recertification of the need for leave under the following circumstances:

Every 30 days unless the initial certification indicates that the minimum duration of leave is more than 30 days.

If a longer period is provided, recertification cannot occur before the time period expires, unless circumstances change (e.g., change in the duration of the leave or frequency of intermittent absences, a change in the nature or severity of the condition, or complications), or the City has reason to doubt the validity of the initial certification (e.g., suspicious absence pattern).

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In all circumstances, the City may request recertification every 6 months, even where the initial certification provided for a longer leave period (e.g., for a “lifetime” condition).

For Pregnancy Disability Leave, if additional time is requested, the City may require the employee to obtain recertification upon expiration of the time period that the health care provider originally estimated the employee would need leave. The City may also require the employee to obtain recertification if the City has reason to question the appropriateness of the leave or duration.

14.4.8.5 Confidentiality

Any medical information provided by the employee in support of a request for leave under this policy shall be maintained in confidence to the extent required by law.

14.4.9 BENEFITS DURING LEAVE

While on Family Medical Leave and Pregnancy Disability Leave, an employee will continue to be covered by the City’s group health insurance policy to the same extent that coverage is provided while the employee is on the job, which includes payroll deductions. However, if an Employee fails to return from Family Medical Leave the City may, to the extent permitted by law, recover the premiums paid.

14.4.10 REINSTATEMENT

14.4.10.1 Right to Reinstatement

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the period of leave.

14.4.10.2 Employee’s Obligation to Periodically Report on His/her Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

14.4.10.3 Fitness for Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee’s own serious health condition, the employee will be required to present a certification from a health care provider declaring that the employee is able to resume work. Failure to provide such certification may result in delay or denial of reinstatement.

14.4.11 INTERACTION BETWEEN PDL AND CFRA BABY BONDING LEAVE

Pregnancy disability leave does not run concurrently with CFRA leave taken for the purpose of bonding with a newborn, newly adopted, or newly placed child (“baby bonding leave”). As a result, an eligible pregnant employee who qualifies for CFRA leave is entitled to take up to four

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(4) months of pregnancy disability leave followed by up to twelve (12) weeks of CFRA baby bonding leave.

14.4.12 PREGNANCY DISABILITY ACCOMMODATION

The City will provide reasonable accommodation, including temporary transfer to an alternate position, to employees with a pregnancy-related disability if the employee requests an accommodation upon the advice of her attending physician. If possible, an employee must provide at least thirty (30) days' notice of the need for accommodation. If such notice is not feasible, notice shall be given as soon as possible. An employee will be required to submit a medical certification from her attending physician to support any request for accommodation.

14.5 WORKERS' COMPENSATION LEAVE AND BENEFITS

Employees who are injured or become ill in the course of employment shall be paid in accordance with the applicable workers' compensation laws of the State of California.

14.5.1 WORKERS' COMPENSATION DISABILITY LEAVE

In the event that any regular employee is absent from work as a result of any injury or illness which has been declared to be compensable under the State of California Workers' Compensation Law, the absence shall be considered Workers' Compensation Leave.

14.5.2 FORMS AND PROCEDURES

Any employee who sustains a work-related injury or illness shall immediately inform his/her supervisor no matter how minor an on-the-job injury may appear. If an employee who sustains a work-related injury or illness is required to seek medical care, he/she must do so at facilities designated by the City unless – prior to sustaining the work-related injury or illness – he/she filed a pre-designation of personal physician.

Employees returning from Workers' Compensation Leave are required to provide the City with a Fitness for Duty Certification as explained in Chapter 15.4.

14.5.3 WORKERS' COMPENSATION BENEFITS

The purpose of Workers' Compensation is to provide benefits and assistance to all workers who are either injured or develop a job-related illness as a result of their employment. Benefits may include medical costs, temporary disability benefits, permanent disability benefits, and death benefits.

Employees on Workers' Compensation Leave may use accrued sick leave time to supplement any monetary difference between their normal rate of pay and workers' compensation disability benefits. Upon exhaustion of accrued sick leave time, employees may elect to supplement with accrued vacation leave. However, such supplementation will not entitle employees to continue employment if otherwise qualified for separation from City service due to disability retirement or inability to reasonably accommodate.

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14.5.4 DESIGNATED FACILITIES FOR WORK-RELATED INJURIES OR ILLNESSES

The Human Resources Director shall maintain a periodically updated list of medical facilities designated to provide medical treatment for the first thirty days after the occurrence of a work-related injury or illness. All treatment during the first thirty days after the injury or illness must be provided by one of the designated medical facilities unless an employee has notified the Human Resources Director, in writing, prior to the date of injury or illness, that he/she has a personal physician and desires to be treated by that personal physician. To be authorized to provide medical treatment, the employee's personal physician will sign a pre-designation form indicating that he/she is willing to comply with the regulations set forth in Labor Code section 4600.

Limited exceptions to the designated medical facility may be made for emergency treatment or if an employee is injured or becomes ill while working outside of the City limits. When this occurs, the employee or representative must notify the Workers' Compensation Manager as soon as possible after the treatment. Subsequent treatment following the emergency or return to the City should be provided by one of the designated medical facilities or from a predesignated personal physician.

14.5.4.1 Procedures – Designated Facilities

- 1) Designated facilities shall satisfy the following criteria:
 - a) Be located within 25 miles of the Oxnard Civic Center.
 - b) Have extended hours beyond the customary 9:00 a.m. to 5:00 p.m. workday or Monday through Friday workweek.
 - c) Have the capability to accept employees with and without appointments.
 - d) Be able to respond to most medical emergencies, to provide ongoing treatment for routine medical problems, and make immediate referrals when required.
 - e) Be willing to use City release to return to work forms, to contact the City's designated workers' compensation claims administrator in advance for authorization of follow-up tests and treatment, and to provide written medical reports to the City's designated worker's compensation claims administrator within five days of treatment for the initial visit and for each follow-up visit when there is a change to the employee's status.
 - f) Agree to charge no more than the amounts on the fee schedule provided by State law for medical treatment of work-related injuries and illnesses.
 - g) Have established standards for referral and a list of physicians usually used for referral.

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- 2) Representatives of designated medical facilities shall sign a letter of understanding and compliance with the above criteria at the time of designation and on an annual basis thereafter.
- 3) The list of designated medical facilities will be indicated on posters provided by the City's designated workers' compensation claim administrator for posting in City facilities and in workers' compensation injury report kits given to employees for reporting industrial injuries or illnesses.
- 4) The Human Resources Director may add additional medical facilities to the list from time to time.

14.5.4.2 Procedure – Employee Pre-Designation Form to Use Personal Physician

- 1) An employee may use his/her personal physician for a work-related injury or illness if the employee has notified the Workers' Compensation Manager or his/her designee in writing of this election prior to the injury or illness.
- 2) Employee pre-designation shall be on forms provided by the Workers' Compensation Manager. A notification of the employee's right to elect use of a personal physician will be given to new employees at the time of orientation. An employee will be able to make or change his/her election at any time.
- 3) Upon receipt of an election to use a personal physician, the workers' compensation claims administrator will send to the selected personal physician information about the City's workers' compensation program and its reporting requirements.

14.6 BEREAVEMENT LEAVE

Department heads or their designees may grant up to three (3) days leave of absence with pay to any eligible employee on the death of any member of the employee's immediate family.

Immediate family shall include the following individuals related to the employee, the employee's spouse, or registered domestic partner, by reason of blood line, marriage, adoption or foster care: parents, grandparents, uncle, aunt, spouse, spouse's parents, brother(s), sister(s), child(ren), son(s)-in-law, daughter(s)-in-law, grandchild(ren), great grandchild(ren), registered domestic partner, and any blood relative(s) living in the immediate household.

Immediately upon return from bereavement leave, the employee shall furnish to the department heads or their designees some evidence of the death, e.g., a newspaper clipping, obituary notice, funeral card, or other record of death. If such evidence is not provided, the bereavement leave may be converted to leave without pay.

14.7 CATASTROPHIC LEAVE BENEFIT

A City employee or their immediate family member may experience an unforeseen catastrophic illness or injury, which is so debilitating that the employee must take an extended absence from the work

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place. A City-Wide Sick Leave Bank shall be established to reserve sick leave hours donated by City employees to be used by employees approved to receive sick leave time from said Bank.

14.7.1 DEFINITION

A catastrophic event is defined when an unforeseen event occurs which impacts the health of an employee or an eligible family member that is serious, debilitating and will cause severe financial hardship because all of the employee's accrued leave has been exhausted.

14.7.2 ELIGIBILITY

14.7.2.1 Donors

All full-time and permanent part-time employees who have successfully completed one year of service with the City may donate time to the general Sick Leave Bank or to an individual employee when a donation drive is held. An employee may donate time from his or her sick leave, vacation, compensatory time off or personal annual leave. Donors must maintain a balance of accumulated annual sick leave of at least 80 hours.

14.7.2.2 Payroll Classification of Donated Time

Donated time will be considered "surrendered leave" and not "wages," and as such an employee who donates will not receive or incur any tax liability or benefit. Donations to the City-Wide Sick Leave Bank and to individual employees are irrevocable and will not be returned to the donor employee(s). Hours donated to an individual employee that are not exhausted prior to the recipient employee returning to work will be transferred to the City-Wide Sick Leave Bank for use by other employees.

14.7.2.3 Recipients

All eligible City employees who are victims of catastrophic illness or injury may apply to receive time from the City-Wide Sick Leave Bank. To be eligible, all of the employee's accrued leave balances must be exhausted. The anticipated duration of the catastrophic leave must be no less than one calendar week. Employees may receive short-term disability insurance (SDI) benefits, if applicable, concurrent with use of the City-Wide Sick Leave Bank, in which case the sick leave shall supplement the SDI benefit to earn up to their regular scheduled hours of pay for each payroll period.

14.7.2.4 Eligibility for Care of Dependents

All eligible employees who are required to care for an immediate family member with a catastrophic illness or injury may apply to utilize the City-Wide Sick Leave Bank. "Immediate family" is defined to include mother, father, spouse, registered domestic partner, son or daughter, step- child, or as specified in the sick leave section of the employee's Memorandum of Understanding. To be eligible, all of the employee's sick leave must be exhausted and the anticipated duration of the catastrophic leave must be no less than one calendar week.

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14.7.3 APPROVAL

Benefit eligibility will be evaluated and granted on a case-by-case basis by the Director of Human Resources. Leave will be granted for a maximum of 240 hours, based on a physician's certification. After the first 240 hours, an employee may request an extension of the benefit. In no case shall the total leave exceed 480 hours per incident.

An employee who has suffered from an industrial injury and is receiving Workers Compensation benefits shall NOT be eligible to use the City-Wide Sick Leave Bank.

14.7.4 USE OF SICK LEAVE BANK TIME

An employee receiving City-Wide Sick Leave benefits will be considered to be on a donated Leave of Absence, as he/she will be utilizing leave benefits, which have been donated and not earned. However, the employee continues to accrue benefits (i.e. vacation, sick leave), during this donated Leave of Absence. The City will continue to pay the employee's group health and dental benefits at the same level the employee was receiving prior to going on the donated Leave of Absence.

14.7.4.1 Use of Sick Leave Bank Time After Return-To-Work

Employees, who have used the City-Wide Sick Leave Bank and have subsequently been returned to temporary modified duty by their doctor, may continue to use the donated hours and their own leave banks to supplement their hours worked to earn up to their regular scheduled hours of pay for each payroll period.

14.7.5 PROCEDURE

- Requests for use of donated sick leave hours for his or her own serious health condition or for a qualified family member must be made by sending a memo to the Director of Human Resources explaining the employee's situation.
- A written certification, from a health care provider, of the long-term nature of the injury or illness, must be submitted with all requests for use of donated sick leave hours.
- The certification must state that the employee's or eligible family member's condition encompasses a serious health condition, the date on which the serious health condition commenced, and the probable duration of the condition.

14.7.6 RECESSION EVALUATION AND REVIEW

In the event the program is discontinued, any balance remaining in the bank will continue to be granted as sick leave to eligible employees under the provisions outlined herein until the balance is exhausted.

14.8 MILITARY LEAVE

Employees are entitled to take time off to serve in the uniformed services on a voluntary or involuntary basis, including absences to attend a fitness examination. "Uniformed services" refers

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to the U.S. Armed Services, including the Coast Guard; the Army National Guard and Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; and the commissioned corps of the Public Health Service.

In order to be eligible for reemployment, employees must:

- 1) Give advance notice (written or oral) of his or her military service, unless such notice is impossible or unreasonable under the circumstances;
- 2) Be absent for five (5) years or less, not including inactive duty training or involuntary recall to or retention on active duty;
- 3) Have separated from military service under honorable conditions; and
- 4) Report for reemployment within the following time periods:
 - a) Employees performing military service for fewer than 31 days must report for reemployment no later than the first regularly scheduled workday that occurs after a reasonable time for the employee to return to his or her residence, plus 8 hours
 - b) Employees serving more than 30 but less than 181 days must submit an application for reemployment within 14 days after the completion of military duty.
 - c) Employees serving more than 180 days must submit an application for reemployment within 90 days after the completion of military duty.
 - d) Military leave can be extended for an additional two years or longer if the employee is hospitalized or recovering from an illness or injury incurred or aggravated during military service or if reporting or reapplying to work is unreasonable or impossible.

The City is not be required to reemploy individuals under the following circumstances: (1) where the City's circumstances have changed so that reemployment of the person would be impossible or unreasonable, such as when there has been a reduction-in-force that would have included the person on leave; (2) where efforts to qualify returning service members or accommodate individuals with service-connected disabilities would be of such difficulty or expense as to cause undue hardship; or (3) where the pre-service position was for a brief or non-recurrent period and there was no reasonable expectation that employment would continue indefinitely or for a significant period.

Reemployed service members are entitled to the seniority and all rights and benefits based on seniority that they would have attained with reasonable certainty had they remained continuously employed.

If an employee's health plan coverage would terminate because of an absence due to military service, the employee may elect to continue the health plan coverage for up to twenty-four (24)

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months after the absence begins or for the period of service (plus the time allowed to apply for reemployment), whichever period is shorter. Employees will be required to pay the employee portion, if any, of any funded benefit to the extent that other employees on leave of absence are so required.

Leave under this section is unpaid unless the employee uses vacation or other accrued time off.

14.9 LEAVE FOR MILITARY SPOUSES/DOMESTIC PARTNER

An eligible employee who is the spouse or registered domestic partner of a member of the Armed Forces, National Guard, or Reserves who has been deployed during a period of military conflict is entitled to take up to ten (10) days of unpaid leave while the service member is on leave from deployment. In order to be eligible for leave under this section, an employee must: work for the City for an average of 20 or more hours per week; notify his/her supervisor of the employee's intention to take the leave within two (2) days of receiving notice of the service member's leave from deployment; and submit written documentation to Human Resources certifying that the service member will be on leave from deployment during the employee's requested leave.

14.10 SCHOOL-RELATED LEAVE

14.10.1 DISCIPLINE CONFERENCES

An employee who is the parent or guardian of a child who has been suspended from school may take time off from work to appear at a school discipline conference in response to a request by the school administrator, if the employee provides his/her supervisor reasonable advance notice of the school's request. Leave under this section is unpaid unless the employee uses vacation or other accrued time off.

14.10.2 SCHOOL ACTIVITIES

An employee who is a parent, guardian, or grandparent with custody of a child in kindergarten through twelfth grade, or in a licensed child day care facility, may take up to forty (40) unpaid hours off per year, but no more than eight (8) hours per calendar month, to participate in activities of the child's school, if the employee provides his/her supervisor reasonable advance notice. The City may request documentation that the parent participated in the school event. If both parents work for the City and request leave for the same event, the City may grant leave to the parent who requested the leave first or may approve leave for both parents. Leave under this section is unpaid unless the employee uses vacation or other accrued time off.

14.11 VOTING

If an employee does not have sufficient time outside of working hours to vote in a statewide or local election, the employee may take up to two (2) hours off without loss of pay at the beginning or end of the employee's regular working shift in order to vote. An employee must provide his/her supervisor with at least two working days' notice of the need for time off to vote.

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14.12 JURY DUTY AND COURT APPEARANCES

To establish procedures for employees required to serve as a juror or for processing subpoenas served on City employees and for granting time off for jury duty or as witnesses. In addition, every employee, including but not limited to an employee who is a victim of a crime, is entitled to take time off to comply with a subpoena or other court order to appear as a witness in any judicial proceeding. The City will not discharge, threaten with discharge, demote, suspend, or in any other manner discriminate or retaliate against an employee for taking time off to serve as a juror or appear in court.

14.12.1 JURY DUTY

Every employee who is called or required to serve as a juror is entitled to be absent during the period of jury service.

If an employee is called for jury duty, he/she shall be granted a leave of absence with pay provided that:

- 1) The employee's supervisor has been notified by the employee of the jury duty summons.
- 2) The employee refunds to City fees received for jury duty or witness service except travel and actual expense reimbursement as follows:
 - a) An employee summoned for and assigned jury duty for five (5) days or less may retain the jury service fee paid for jury service.
 - b) An employee summoned for and assigned jury duty for five days or less may decline payment of the jury service fee.
 - c) An employee summoned for and assigned jury duty for six (6) or more days is required to accept the payment for jury service and to refund to the City Treasurer all fees for jury service except travel reimbursement.
- 3) Part time employees receive payment only for the time they would have been scheduled to work.

14.12.2 EMPLOYEES SUBPOENAED TO SERVE AS WITNESSES

If an employee, other than a police officer, is subpoenaed as a witness in litigation as a result of the employee's official duties with the City, he/she shall be granted a leave of absence with pay provided the following:

- 1) All papers charging a City employee with civil liability as an agent or employee of the City are personally hand carried to the City Attorney as soon as possible after receipt and in no event later than the next regular workday following receipt.
- 2) Subpoenas or subpoenas duces tecum for criminal trials shall be obeyed and be brought to the attention of the City Attorney.

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- 3) Subpoenas or subpoenas duces tecum for civil trials shall be obeyed and the City Attorney shall be informed by phone if the matter at trial involves City business or the employee's function as a City employee.
- 4) The employee's supervisor has been notified by the employee of the subpoena to appear as witness.
- 5) The employee shall refund to the City all fees received for the appearance, including travel fees unless a personal vehicle was used.
- 6) In all civil cases the employee, other than a police officer, shall demand from the person seeking the appearance that witness fees and mileage be paid in advance in accordance with Government Code Section 68097.
- 7) When a shift employee must appear as a witness on a regularly scheduled day off, the employee shall be given credit for overtime.
- 8) The leave of absence with pay for witness duty is limited to twenty-four (24) hours in any calendar year.
- 9) Employees shall cooperate with investigators who represent the City's insurance carrier. Clearance to speak to an investigator should be obtained from the City Attorney in advance. Copies of statements signed should be forwarded to the City Attorney by confidential mail.

14.12.3 EMPLOYEES REQUESTED TO APPEAR FOR A PERSONAL MATTER

When an employee is requested to appear because of a personal matter that time will be allowed as leave without pay or paid leave as is otherwise authorized in the Personnel Rules and Regulations or applicable Memorandums of Understanding.

14.13 LEAVE FOR CRIME VICTIMS

An employee who has been a victim of a violent or serious felony, or a felony involving theft or embezzlement, or an employee whose spouse, registered domestic partner, child or step-child, sibling or step-sibling, or parent or step-parent has been a victim of such a crime, may take time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding related to that crime.

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

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14.14 LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING

An employee who has been a victim of domestic violence, sexual assault, or stalking may take time off to engage in the following activities related to the domestic violence, sexual assault, or stalking:

- 1) Appear in court proceedings;
- 2) Seek medical attention for or recover from injuries caused by domestic violence, sexual assault or stalking;
- 3) Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault or stalking;
- 4) Obtain psychological counseling related to an experience of domestic violence, sexual assault or stalking;
- 5) Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault or stalking, including temporary or permanent relocation.

An affected employee must give the City reasonable notice that s/he is required to be absent for a purpose stated above. The affected employee must provide, within a reasonable time of the employee's absence, written documentation that the absence was required for any of the above reasons. Leave under this section is unpaid unless the employee uses vacation or other accrued time off.

14.15 LEAVE TO DONATE AN ORGAN OR BONE MARROW

An employee who is an organ donor is entitled to a leave of absence with pay for up to thirty (30) business days in any one-year period for the purpose of donating his or her organ to another person. In addition, an employee who is a bone marrow donor is entitled to a leave of absence with pay of up to five (5) business days in any one-year period for the purpose of donating his or her bone marrow to another person. For the purposes of this section, a one-year period is defined as twelve (12) consecutive months measured from the date the employee's leave begins. Leave under this section need not be taken consecutively but shall not exceed the amount of leave prescribed above. Bone marrow and organ donation leave shall not be taken concurrently with any leave taken pursuant the federal Family and Medical Leave Act or the California Family Rights Act.

In order to receive a leave of absence under this section, the employee must provide written verification that he or she is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

Employees requesting leave under this section will be required to take up to five (5) days of earned but unused sick leave, vacation, or paid time off for bone marrow donation and up to two (2) weeks of earned but unused sick leave, vacation, or paid time off for organ donation.

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The City shall maintain and pay for coverage under a group health plan for the full duration of the leave in the same manner the coverage would have been maintained if the employee had been actively at work during the leave period.

14.16 LEAVE TO PERFORM EMERGENCY DUTY AS A VOLUNTEER FIREFIGHTER, RESERVE PEACE OFFICER, OR EMERGENCY RESCUE PERSONNEL

The City shall not discharge or in any manner discriminate against an employee for taking time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. For the purposes of this section, "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, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, or of a sheriff's department, police department, or a private fire department, or of a disaster medical response entity sponsored or requested by this state, whether that person is a volunteer or partly paid or fully paid, while he or she is actually engaged in providing emergency services.

In addition, an employee who performs duty as a volunteer firefighter, a reserve peace officer, or as emergency rescue personnel shall be permitted to take temporary leaves of absence, not to exceed an aggregate of 14 days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training. Leave under this section is unpaid unless the employee uses vacation or other accrued time off.

14.17 SPECIAL LEAVE CONSIDERATION

Special leave with pay may be granted by the City Manager for employees to attend professional conferences and meetings, to visit other cities in the interest of the City, or for other justifiable reasons approved by the department head, not to exceed five (5) days. Request for approval of such leave is made by completing the Travel Authorization Request Form.

14.18 LEAVE WITHOUT PAY

A leave of absence without pay may be granted by the City Manager or designee if such leave is requested by the employee and approved by the department head. A leave of absence without pay may be justified in cases of extended illness where accumulated sick leave, vacation leave, and compensatory time off have been used, or as an extension of vacation leave if, in the opinion of the department head, additional time can be allowed without detriment to the service. An employee must request such leave in writing, stating the reason and requested dates for leave.

Leaves of absence without pay should not exceed thirty-one (31) days, except when the absence warrants special consideration.

Leaves of absence without pay are recorded in the personnel records, and deductions from pay for the number of working days on leave must be made from the employee's compensation. Leave of absence without pay is not considered a break in service or employment, and rights accrued at the time the leave is granted are retained by the employee. However, paid leaves, holidays, fringe benefits, and other similar benefits do not accrue during the period of unpaid absence, except as provided otherwise by law or this policy. Nor is the City required to maintain contributions toward

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group insurance or retirement coverage, except as provided otherwise by law or the Personnel Rules.

An employee returning from leave without pay will be reinstated to the same classification and rate in which he/she was employed at the time of the leave. During the period of leave without pay, all service and leave credits are retained at the levels existing as of the effective date of the leave. However, except for employees on military leave, employees on a leave of absence for more than thirty-one (31) consecutive days during the twelve (12) month period preceding their anniversary date shall not be entitled to any salary increases within their range until they have worked the number of days equivalent to the excess period of absence. The date when an employee has completed this additional period of work shall thereafter become the employee's anniversary date.

An employee on leave shall confirm in advance of the leave expiration date his/her intention to return. An employee who fails to report promptly at the expiration of his/her leave without sufficient cause shall be subject to disciplinary action up to and including termination.

14.19 UNAUTHORIZED LEAVE

Any leave of absence which is found to be unwarranted or regarded as detrimental to the municipal service, taken upon the initiative of any employee without prior authorization as provided in Chapter 14.18, shall be a basis of immediate dismissal.

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CHAPTER 15. HEALTH AND SAFETY

15.1 HEALTH AND WELFARE BENEFITS

The City provides a variety of benefits to regular full-time employees, and some benefits to regular part-time employees on a pro-rata basis. Employees are provided with specific information regarding benefits available to them when provided with an offer of employment. For more information regarding benefits, contact Human Resources.

15.2 EMPLOYEE WELLNESS PROGRAM

15.2.1 ELIGIBILITY

Except as provided otherwise herein, top-management, mid-management are eligible to participate in the Wellness Program in the amount determined by their resolution or MOU. Expenses to be reimbursed are defined below.

15.2.2 PROCEDURES

1) Medical Examination

To receive reimbursement for a medical examination, an eligible employee must submit a reimbursement form to the Human Resources Director. An employee must deduct any amount paid by a private insurance plan from the amount of the reimbursement request. Reimbursement forms are available in the Human Resources Department.

2) Health Club Membership

To receive reimbursement for a health club membership, an eligible employee must submit a reimbursement form to the Human Resources Director. To qualify for reimbursement, an employee must join a licensed health facility.

An employee enrolled in a health club, which charges a monthly fee instead of an annual fee, may request reimbursement on a quarterly basis. Reimbursement forms are available in the Human Resources Department.

3) Other Reimbursements

An eligible employee may also receive reimbursement for wellness activities including, but not limited to, weight loss licensed facility memberships, physical therapy sessions, and smoking cessation programs. An eligible employee is encouraged to contact the Human Resources Director before any enrollment in such activities to ensure inclusion in the Wellness Program.

Employees may not receive reimbursement for exercise equipment, including but not limited to gym clothes, sneakers, treadmills, stationary bicycles or free weights, pursuant to this subsection.

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15.3 INJURY AND ILLNESS PREVENTION

15.3.1 RESPONSIBILITY

The Assistant City Manager (Program Administrator) shall be responsible for implementing and administering the IIPP with the assistance of the Human Resources Director. Department heads or appropriately designated subordinates shall be responsible for implementation of many aspects of this policy.

15.3.2 COMPLIANCE

All permanent and intermittent workers, including managers and supervisors, are responsible for complying with safe and healthful work practices. The City's system of ensuring that all workers comply with these practices includes the following practices:

- 1) Informing workers of the provisions of the IIPP.
- 2) Evaluating the safety performance of all workers.
- 3) Recognizing workers who perform safe and healthful work practices.
- 4) Providing training to workers whose safety performance is deficient.
- 5) Disciplining workers for failure to comply with safe and healthful work practices.

15.3.3 COMMUNICATION

Department heads shall be responsible for having in their department files a completed safety orientation checklist for each department employee. The "New Employee Safety Training Record" shall be signed by each employee and maintained in the department/division's files. All items on the checklist may not be applicable to all departments and may be noted as such. Department heads may add other items to the checklist as appropriate.

Department heads will periodically provide information to their employees on occupational safety and health issues. This information may be contained in posted notices, memorandums, policy statements, or employee newsletters.

15.3.4 TRAINING

At time of appointment, the Human Resources Department shall ensure that each new employee receives safety orientation regarding general safe and healthful work practices. Follow-up on specific safety practices is the responsibility of each department head. Department heads, or their designees, shall implement training and instruction programs for department employees. Such training and instruction shall be provided within the first week of employment as follows:

- 1) As part of the orientation provided to new department employees, the employee's immediate supervisor shall:
 - a) Explain the City's sincere interest in accident prevention.

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- b) Discuss the IIPP as outlined in this policy and explain new employee involvement.
 - c) Discuss the fact that accidents are preventable.
 - d) Encourage employee suggestions for improving safe practices of mechanical safeguards on equipment.
 - e) Explain the employee's responsibility to report to his/her immediate supervisor any unsafe conditions and acts as observed.
 - f) State that no employee should be expected to undertake a job until he/she has learned how to do it safely and is so authorized by his/her supervisor.
 - g) Discuss the procedure to be followed for reporting a personal injury.
 - h) Promote the securing and wearing of personal protective equipment, such as safety glasses and earplugs.
- 2) In addition to the orientation, the employee's immediate supervisor shall provide employee safety training under the following conditions:
- a) When an employee is given a new job assignment for which training has not previously been received;
 - b) When new substances, processes, procedures, or equipment are introduced into the workplace and represent a new hazard, such as new pesticides;
 - c) Whenever staff becomes aware of a new or previously unrecognized hazard in the workplace, such as a recently damaged piece of equipment; and
 - d) When supervisors need to be familiarized with the safety and health hazards to which employees under their immediate direct and control may be exposed.
- 3) The Human Resources Department shall assist in the coordination of citywide employee training in safety procedures, when appropriate. The Human Resources Department shall assist in the formation of department safety committees. Each major City department is required to establish a safety committee and at minimum have monthly meetings with employees. Smaller departments may combine their efforts to have one safety committee.

15.3.5 SAFETY PRACTICES AND EMPLOYEE PERFORMANCE EVALUATIONS

- 1) All employees shall comply with the City's safety policies and practices. In evaluating an employee, the department head shall consider the employee's compliance with the City's safety standards. An employee's adherence to the City's safety standards shall be viewed as a positive element of the performance evaluation.

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- 2) If an employee fails to comply with the provisions of the IIPP, the employee's immediate supervisor shall indicate such noncompliance in the employee's evaluation. A department head shall institute appropriate disciplinary action against an employee who violates the safety standards of the City or engages in conduct which is either negligent or reckless.

15.3.6 HAZARD ASSESSMENT

- 1) Department heads shall adopt inspection procedures designed to assist in the identification and evaluation of workplace hazards, including unsafe conditions and work practices. Department heads may add appropriate items to the inspection sheets. At a minimum, these inspections shall occur on a quarterly basis or whenever:
 - a) New or different substances, processes, procedures, or equipment, which represent new occupational safety and health hazards, are introduced into the workplace; or
 - b) Department personnel are aware of a new or previously unrecognized hazard in the workplace.

15.3.7 HAZARDOUS CONDITION REPORTING PROCEDURES

Employees shall inform their supervisor immediately of any hazard or unsafe condition in the workplace. Employees shall be able to inform their supervisor of the hazard or unsafe condition without fear of reprisal.

- 1) If an employee believes that the immediate supervisor or department head has not solved the hazard or unsafe condition within a reasonable time period, the employee may request to meet with the Human Resources Safety Specialist or the Human Resources Director. The employee may anonymously notify the Human Resources Safety Specialist or the Human Resources Director of any such hazard or unsafe condition. An employee wishing to remain anonymous may contact the Program Administrator and indicate that the employee does not wish to identify him or herself or may write to the Program Administrator without signing the communication.

15.3.8 ACCIDENT/EXPOSURE INVESTIGATIONS

Department heads, or their appointed designees, shall investigate occupational injuries and illnesses within 24 hours of being notified of the injury or illness. The investigation shall include an examination of the location where an injury or illness occurred and the circumstances which led to the injury or illness and an analysis of whether specific procedures, practices, or preventative measures could have helped to reduce or eliminate the danger or prevent the injury or illness.

Each department head shall on a quarterly basis review the types of injuries and illnesses reported in his/her department and make recommendations to the Program Administrator on injury and illness prevention procedures.

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15.3.9 HAZARD CORRECTION

If a department head determines that an unsafe or unhealthy condition, work practice or work procedure exists, the department head shall take the necessary steps to correct the condition, practice or procedure in a reasonable and timely manner. Each department head shall consider the severity of the condition, practice or procedure along with the other relevant factors when evaluating the most appropriate method for correcting the unsafe situation and the time frame within which to make the correction.

- 1) If an imminent hazard exists that cannot be abated immediately without endangering one or more employees or City property, the department head shall remove all exposed employees from the area in which the hazard exists, unless they are necessary to correct the existing condition. If employees are required to correct the hazardous condition, they shall be provided with the proper safeguards.

15.3.10 RECORDKEEPING

Department heads shall retain records of the inspections, investigations, training, instruction, safety communications, unsafe or hazardous conditions, safety practices and correction procedures relating to the IIPP.

15.4 FITNESS FOR DUTY

The Human Resources Director may require a fitness for duty examination in any of the following situations:

- 1) To determine whether the Employee can perform the essential functions of the job with or without accommodation, if the examination is job-related and consistent with business necessity;
- 2) To examine an applicant who has received an offer of employment, if that offer is conditioned only on the successful completion of the examination; and
- 3) For other reasons that the City deems to be job-related and consistent with business necessity.

The Human Resources Director may require that a City-approved physician conduct the examination. The City will pay for fitness for duty examinations that it initiates.

15.5 WORKPLACE VIOLENCE POLICY

15.5.1 PROHIBITED BEHAVIOR

Employees are prohibited from engaging in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of City employment. The City has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

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Employees engaged in City business are prohibited from carrying or using weapons, unless authorized by the City Manager.

Examples of prohibited behavior include, but are not limited to, the following:

- 1) Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property;
- 2) The destruction or threat of destruction of City property or another employee's property;
- 3) Harassing or threatening phone calls;
- 4) Surveillance;
- 5) Stalking, including cyber stalking; or
- 6) Possession of offensive or defensive weapons unless specifically required or authorized and approved by the City Manager. Weapons include, but are not limited to, chemical sprays, mace, pepper spray, tear gas, clubs, batons, knives, firearms and any other device, tool, chemical agent, or instrument that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

15.5.2 MANAGEMENT RESPONSIBILITY

Each manager and supervisor has authority to enforce this policy by:

- 1) Assuring that reports of Workplace Violence are documented accurately and timely;
- 2) Notifying the Human Resources Director and/or law enforcement authorities of any incidents;
- 3) Making all reasonable efforts to maintain a safe and secure workplace; and
- 4) Maintaining records with follow up actions as to Workplace Violence reports.

15.5.3 REPORTING PROCEDURES

Employees must immediately report Workplace Violence to their supervisor. Supervisors must immediately report the matter to the Human Resources Director or his/her designee.

The Human Resources Director or his/her designee will document the incident, including the employee name(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and any other relevant information regarding the incident.

In addition, the Human Resources Director will take appropriate steps to provide security, which may include placing employees on administrative leave pending investigation, asking any threatening or potentially violent person to leave the site, and/or contacting an appropriate law enforcement agency.

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15.5.4 INVESTIGATION

The Human Resources Director will ensure that reported violations of this policy are investigated as necessary.

15.5.5 DISCIPLINARY ACTION

An employee found in violation of this policy will be subject to disciplinary action, up to and including termination of employment. In addition, employees found in violation of this policy may be subject to criminal prosecution.

15.6 DRUG AND ALCOHOL POLICY

15.6.1 DEFINITIONS

The following definitions shall apply in the interpretation of this Drug and Alcohol Testing Policy:

Alcohol – The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols.

Alcohol Concentration – The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Commercial Drivers' License (CDL) – Class A or Class B licenses, entitling the holder to operate commercial class vehicles.

Commercial Motor Vehicle (CMV) – Vehicle with a gross vehicles weight of at least 26,001 pounds; a vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating (GVWR) of more than 10,000 pounds; DOT placarded vehicles under hazardous material regulations; or vehicles designed to transport 16 or more passengers, including drivers.

Drugs – Controlled substances defined as amphetamines, cocaine, marijuana, opiates and phencyclidine (PCP).

Employee – An individual who is employed by the City.

Medical Review Officer (MRO) – A licensed physician certified to review and interpret all drug or alcohol concentration tests before they are reported to the City.

Premises – Buildings, property, work areas, vehicles, parking lots and any place the employee happens to be during the course and scope of City employment during regular working hours or pay status.

Prescription Drugs – Any drug or medication (for a medical condition) prescribed by a licensed physician.

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Program Administrator – City Manager or designee responsible for answering employee questions regarding this policy.

Reasonable Suspicion means that the supervisor/City official believes that the actions, appearance, speech, body odors, or conduct of an on-duty employee are indicative of the use of drugs or alcohol.

Safety-Sensitive Function – Driving a CMV on a full-time, part-time or intermittent basis.

Substance Abuse Professional (SAP) – A licensed physician, licensed or certified psychologist, social worker or employee assistance professional, a state-licensed or certified marriage and family therapist, or an alcohol and drug abuse counselor certified by the National Association of Alcoholism and Drug Abuse Counselors (NAADAC) Certification Commission and possessing specific knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

15.6.2 APPLICABILITY

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

All job announcements or other promotional material for covered positions shall specify that drug/alcohol screening shall be part of the physical examination.

15.6.3 NOTICE AND EFFECTIVE DATE

All covered employees shall be given a copy of this policy at the time they commence employment with the City. All covered employees currently employed by the City at the time this policy is adopted shall be given a copy thereof within ten days of its adoption. All covered employees will also be asked to sign a form indicating receipt of a copy of this policy.

15.6.4 COMPLIANCE WITH POLICY

A covered employee must be in compliance with this policy from the time the employee begins to work or is required to be ready to work until the time he/she is relieved from work and all responsibility for performing work, including but not limited to the following instance including all time:

- 1) At a City facility or on any public property waiting to be dispatched, unless the employee has been relieved of duty;
- 2) During meals and rest periods
- 3) Inspecting, servicing, or conditioning any CMV at any time;
- 4) While driving a CMV;
- 5) While as a passenger in any vehicle;

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- 6) Loading or unloading a vehicle, supervising, or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining ready to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- 7) Repairing, attaining assistance, or remaining with a disabled vehicle.

15.6.5 SUBSTANCE ABUSE PROFESSIONAL SERVICES

The City observes the DOT and the Federal Highway Administration (FHWA) drug and alcohol testing rules published in the Federal Register on February 15, 1994.

The City provides an opportunity for treatment to covered employees. The City will advise a covered employee who engages in conduct prohibited under this policy of the available resources for evaluation and treatment of drug/alcohol problems, including the names, addresses and the telephone numbers of SAPs, counseling, treatment programs or other available services. The City will provide for a SAP evaluation to assess employees with drug and/or alcohol problems.

Each covered employee who violates this policy must be evaluated to determine whether the employee needs assistance resolving problems associated with drugs and/or alcohol, and if necessary, a referral for further treatment.

Before returning to duty, each employee identified as needing assistance must: (a) be evaluated again by a SAP to determine whether the employee has successfully complied with the treatment program prescribed following the initial evaluation; (b) undergo a drug and/or alcohol concentration test to satisfy established acceptable results for return to duty; and (c) be subject to a minimum of six unannounced, follow-up drug and/or alcohol concentration tests over the following twelve months.

The City will only provide for an assessment by a SAP. The City has no obligation to provide or pay for further treatment. The cost of additional treatment is the responsibility of the employee.

The City offers a confidential Employee Assistance Plan (EAP). This service is provided free to employees. Please contact the Human Resources Department for current provider information. The City offers health insurance for its employees. Enrolled employees may be eligible for drug and alcohol treatment through their insurance program.

15.6.6 CLASSES OF TESTING

15.6.6.1 Alcohol Testing

The City shall use breath testing using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA) for testing for alcohol use. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a “negative” test.

If the alcohol concentration is 0.02 or greater, a second or confirmation test is conducted. The employee and the individual conducting the breath test, a breath alcohol technician (BAT), complete the alcohol testing form to ensure that the results are properly recorded. The confirmation

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test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test result determines any actions taken.

15.6.6.2 Drug Testing

The testing for use of drugs is a two-stage process. First, a screening test on the employee's urine is performed. If the screening test is positive for one or more drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

All urine specimens are analyzed for the following drugs utilizing a 5-panel drug test:

- 1) Marijuana (THC Metabolite)
- 2) Cocaine
- 3) Amphetamines
- 4) Opiates (including heroin)
- 5) Phencyclidine (PCP)

15.6.7 REFUSAL TO SUBMIT TO TESTING

A job applicant who refuses to submit to a drug/alcohol test will be disqualified from further consideration for employment with the City.

An employee's refusal to submit to drug or alcohol testing required by the City for any reason will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol concentration test or tested positively on a drug test. This may result in disciplinary action, up to and including discharge.

Any supervisor or manager encountering an employee who refuses an order to submit to a drug and/or alcohol concentration test shall remind the employee of the requirements and disciplinary consequences of such refusal.

Where there is a reasonable suspicion that the employee is then under the influence of drugs or alcohol, the manager or supervisor shall arrange for the employee to be safely transported home. The employee shall not be permitted to transport him/herself.

A refusal to submit to a drug or alcohol test required by this policy includes, but is not limited to:

- 1) A refusal to provide a urine sample for a drug test;
- 2) A refusal to cooperate with any part of the drug testing process;

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- 3) A refusal to take an additional drug test as directed by a manager/supervisor or the collector;
- 4) An inability to provide a urine sample without a valid medical explanation;
- 5) Not permitting the observation or monitoring of the provision of a urine sample in the case of a directly observed or monitored collection;
- 6) Tampering with or attempting to adulterate the urine specimen or collection procedures;
- 7) A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test;
- 8) An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;
- 9) Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
- 10) Not remaining at the testing site until the test process is complete;
- 11) Leaving the scene of an accident without a valid reason or authorization from a supervisor or manager; or
- 12) Consuming alcohol during the eight hours immediately following an accident, unless the employee has been informed that his/her actions have been discounted as a contributing factor, or if the employee has been tested.

In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Act of 1988. All employees covered by this policy have previously been provided with a copy of the City's Drug Free Workplace Statement, and have signed an acknowledgement that they have read the Statement and agreed to comply with it.

15.6.8 PROHIBITED ACTS

The following acts are prohibited and may result in discipline, up to and including discharge:

15.6.8.1 Alcohol Use

- 1) Reporting for duty or remaining on duty requiring the performance of any function while having an alcohol concentration level of 0.04 or greater.
- 2) Performing a safety-sensitive function or driving a motor vehicle within four hours of consuming alcohol.
- 3) Consuming alcohol during working hours
- 4) Using alcohol within eight hours after an accident or until tested.

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15.6.8.2 Drug Use

- 1) Reporting for duty or remaining on duty requiring the performance of a safety-sensitive function when using any drugs, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a CMV.
- 2) Reporting for duty, remaining on duty, performing a safety-sensitive function if the employee tests positive for drug use or has tampered with a drug test.
- 3) Use of prescribed drugs is not in direct violation of the City's policy; however inappropriate use or prescribed use that may cause significant impairment, thus creating a safety hazard on the job, is in direct violation of this policy.

15.6.9 TYPES OF TESTING

15.6.9.1 Pre-employment Testing

- 1) Applicants who have been given an offer of employment conditioned upon passing a physical examination shall be given a drug screening test.
- 2) Testing is also required when an employee transfers to a position performing a safety-sensitive function.
- 3) All applicants for a covered position shall be given a copy of this policy at the time of their conditional offer of employment. Applicants who refuse to submit to drug testing will not be considered for employment in the covered position.
- 4) All pre-employment physical examinations for a covered position will include a urine drug screen test. All such examinations will include a 5-panel drug test for marijuana, cocaine, phencyclidine, opioids and amphetamines.
- 5) Results of any laboratory test will be sent to the Human Resources Director (Director).
- 6) The Director will inform an individual of his/her test results if the individual requests such results within 60 days of being hired or rejected for a position.
- 7) No prospective employee may begin work if the drug test is not a verified negative during the employment health screening process.
- 8) Any applicant disqualified for employment pursuant to this policy may reapply after one year from the date of disqualification.

15.6.9.2 Random Selection and Testing

All employees holding Commercial Drivers Licenses are subject to random selection for the purpose of drug and alcohol testing. The following are guidelines for the random selection and drug/alcohol testing procedure:

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- 1) The number of drug tests conducted annually shall equal or exceed 50% of the average number of employees for which testing is required.
- 2) The minimum annual percentage rate for random alcohol concentration tests shall equal or exceed 10% of employees of the average number of employees for whom testing is required.
- 3) Some employees may be tested more than once in a year, while others are not tested at all, depending on the random selection.
- 4) An employee shall submit to drug or alcohol testing when selected by a random selection process used by the City.
- 5) To ensure that the process is in fact random, all covered employees, whether or not they have been chosen for testing in the past, will remain in the pool of employees for each subsequent period. This procedure assures that the probability of any individual being selected each period is always the same, whether or not the individual was selected in a previous period.
- 6) When an employee is selected for random drug testing, his/her supervisor will ensure his/her duties are performed. The employee will receive a written notice indicating the time he/she is to report to the laboratory for testing.
- 7) A random alcohol concentration test will be administered while the employee is performing safety-sensitive functions, just prior to the employee performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function.

15.6.9.3 Selecting Employees for Random Testing

Covered employees shall be assigned numbers. Under a computerized system, a random number generating program shall be loaded into a computer along with the names or identification numbers for the covered employees. This list of names will be checked regularly by a third party who is not a City employee for additions or deletions. The computer then generates a list of employees to be tested during the current testing period.

The selection process is repeated until the required number of employees is selected. Once the list of test subjects is generated, employees will not be informed that they have been selected until they must report for testing. The City shall not provide advanced notice of testing to employees. As in all types of tests, accurate records of the details of testing shall be kept and confidentiality maintained at all times.

15.6.9.4 Reasonable Suspicion Testing

The City requires that an employee be tested, upon reasonable suspicion, for the use of drugs and/or alcohol when requested by a supervisor.

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The conduct creating the reasonable suspicion must be witnessed by a supervisor or City official. The witness must have received at least one hour of training on alcohol misuse, and one hour of training on controlled substances use. The training shall include the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

The documentation of the employee's conduct shall be prepared and signed by the witness, utilizing the Observed Behavior – Reasonable Suspicion Record Form, within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.

The witness must directly observe the behavior. Hearsay or secondhand information is not sufficient cause to require an employee to submit to a drug and/or alcohol test. The determination that a reasonable suspicion exists to require an employee to undergo a drug and/or alcohol concentration test must be based on short-term, specific, objective, contemporaneous, articulable facts. The supervisor/City official may not rely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test. The supervisor/City official witnessing the impairment must document the specific observations upon which the reasonable suspicion is based.

Alcohol concentration testing may be performed only if the observations upon which reasonable suspicion are based are made during, just preceding or just after the period of the workday that the employee is required to be in compliance. An employee may be directed to undergo a reasonable suspicion alcohol concentration test just before, during or just after performing a safety-sensitive function.

If an alcohol concentration test is not administered within two hours following a reasonable suspicion determination, the supervisor shall document the reasons for the delay. If an alcohol concentration test is not administered within eight hours, the test shall not be administered, and the supervisor shall document the reasons.

If an alcohol concentration test indicates an alcohol concentration of 0.02 or greater, the employee must not be permitted to perform any safety-sensitive function until an alcohol test is given and the employee's alcohol concentration is less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion.

Once a reasonable suspicion determination is made, the supervisor shall assure that the employee under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine/breath sample.

A driver tested for reasonable suspicion must be denied CMV driving privileges until the test results are received from the MRO. In addition, the employee will not be allowed to operate City equipment, and could be placed on leave with pay at the supervisor's discretion.

15.6.9.5 Post-Accident Testing

For purposes of this policy, an "accident" is defined as an incident involving a CMV or motor vehicle operating on public property.

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As soon as practicable after an accident, a drug test shall be administered to every surviving employee.

The following criteria will be applied in conducting a drug/alcohol test due to an accident:

- 1) The post-accident alcohol concentration test should be administered as soon as possible. If the test is not conducted within two hours, the supervisor must prepare and maintain records stating reasons for the delay. If eight hours have passed, the attempt to conduct the test should be discontinued. Again, the supervisor must record why the test was not administered.
- 2) A post-accident drug test must be administered within 32 hours following the accident. If the test may not be administered, the supervisor must record why the test was not administered.
- 3) Following an accident, the employee shall remain available for drug/alcohol testing, or may be deemed to have refused to submit to testing. This rule does not require the delay of necessary medical attention for injured people following an accident, nor prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.
- 4) An employee subject to post-accident testing may not use alcohol within eight hours following the accident or before an alcohol concentration test, whichever occurs first.
- 5) Post-accident information, procedures and instruction shall be provided to every employee prior to operating a City owned vehicle for the first time, and posted in every City owned vehicle.

15.6.9.6 Return-To-Duty Testing

Employees who violate this drug/alcohol policy and are accepted into return-to-duty and follow-up status will comply with the following guidelines:

- 1) Be referred to the SAP for further assessment.
- 2) Successfully comply with the SAP's prescribed education and/or treatment plan.
- 3) After the SAP has determined successful compliance with the prescribed education and/or treatment plan, submit to a return-to-duty test that requires the employee to test negative for drugs or indicates an alcohol concentration of less than 0.02.

15.6.9.7 Follow-Up Testing

- 1) Any employee who violates this drug/alcohol policy and who seeks to resume the performance of safety-sensitive functions will be subject to follow-up testing upon successfully complying with the SAP's recommendation for education and/or treatment and returning to duty.
- 2) The employee will be subject to a minimum of six unannounced tests over the following

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twelve months. The SAP can direct additional testing during this period or for an additional period up to a maximum of sixty months from the date the employee returns to duty.

- 3) The SAP can terminate the requirement for follow-up testing in excess of the minimum at any time, if the SAP determines that testing is no longer necessary.
- 4) Follow-up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drug use when the SAP's evaluation or the treatment program professionals determine that the employee had a problem with other substances.

15.6.10 CONSEQUENCES OF FAILING A DRUG AND/OR ALCOHOL TEST

Employees, who take a post-accident, random, or follow-up alcohol test and have an alcohol concentration of 0.02 or greater but less than 0.04 in their breath, when tested just before, during or just after performing a safety-sensitive function, shall be removed from performing such duties for 24 hours.

Employees who take a reasonable suspicion alcohol test and have an alcohol concentration of 0.02 or greater when tested just before, during, or just after performing a safety-sensitive function, shall be removed from performing such duties until an alcohol test is given and the employee's alcohol concentration is less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion.

Employees who have an alcohol concentration of 0.04 or higher shall be referred to a SAP and must successfully comply with the SAP's recommendations for education and/or treatment before performing safety-sensitive functions.

A positive result from a drug or alcohol concentration test may result in disciplinary action, up to and including discharge.

15.6.10.1 Random or Reasonable Suspicion Testing

.02 - .039 Alcohol Concentration

24 hours following determination of 0.02-0.039 alcohol concentration level for employees who take a post-accident, random or follow-up test; until the employee's alcohol concentration is less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion for employees who take a reasonable suspicion test.

No required follow-up testing.

No referral to SAP.

Supervisor shall discuss EAP with employee.

.04 or greater Alcohol or Positive Drug Test

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1st offense Discharge

15.6.11 DISCIPLINE FOR WORK-RELATED PROBLEMS

The City may, in its sole discretion, impose administrative/disciplinary measures, up to and including discharge, upon employees for rule violations and work-related problems, separate and apart from violations of this drug/alcohol policy and even if such rule violations or work-related problems result from drug/alcohol abuse.

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15.6.12 CONFIDENTIALITY

- 1) The results of any testing pursuant to this policy are confidential. The results of any testing shall be used for employment purposes only and shall not be released for use in the criminal justice system.
- 2) All records pertaining to drug and alcohol testing of an employee shall be contained in a separate confidential medical file that will be securely kept under the control of the Program Administrator; separate from the employee's other personnel records.
- 3) Absent the employee's consent, test results may be disclosed only to City management and only on a strictly need-to-know basis, and to the employee upon request.
- 4) The City may disclose test results without the employee's consent only when:
 - a) The information is compelled by law or by judicial or administrative process;
 - b) The information has been placed at issue by the employee in a formal dispute between the employee and the City; or
 - c) The information is requested by the DOT agency representatives.
- 5) Confidentiality is an essential element of this policy. Any employee violating this confidentiality shall be subject to discipline and may also be civilly or criminally liable.

15.6.13 RECORDKEEPING

The City will keep the following records for the periods specified. These records will be under the control of the Program Administrator or designee.

- 1) Results of an employee's alcohol concentration test that indicates an alcohol concentration level of .02 or higher; results of an employee's drug test that is positive; documentation of any employee who refused to submit to a required alcohol/drug test; calibration documentation; employee assessments and referrals by a SAP; records related to the administration of the alcohol/drug testing programs. Retention period: Five years.
- 2) Records documenting the collection process for an alcohol and drug test. Retention period: Two years.
- 3) Results of any alcohol test that is less than .02; documentation of any negative or canceled drug test. Retention period: One year.
- 4) Records related to the education/training of breath alcohol technicians, screening test technicians, supervisors, and drivers. Retention period: While the employee performs the functions which require the training and for two years after the employee stops performing those functions.

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15.7 NO SMOKING POLICY

Smoking is prohibited in all City-owned or leased facilities and vehicles. Smoking is also prohibited in any outdoor area within 20 feet of a main exit, entrance, or operable window of a City-owned or leased building. Failure to comply with this policy may subject an employee to disciplinary action.

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CHAPTER 16. LABOR RELATIONS

16.1 THE MEET AND CONFER OBLIGATION

Employees and recognized employee organizations shall be advised of and have an opportunity to meet regarding such proposed administrative memoranda or rules and regulations which are within the scope of representation as defined by the Meyer-Milias Brown Act, Government Code Sec. 3500, et seq., within a reasonable time prior to the proposed effective date, unless an emergency or urgency situation requires enactment without prior notice. In that event, organizations still shall be advised and may meet within a reasonable time thereafter.

16.2 MANAGEMENT RIGHTS

The City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its municipal services and workforce performing those services in all respects. The exclusive rights of City shall include, but not be limited to, the right to:

- 1) Determine the mission of the City's constituent departments, commissions and boards;
- 2) Set standards of service;
- 3) Determine the procedures and standards of selection for employment and promotion;
- 4) Direct employees;
- 5) Take disciplinary action;
- 6) Relieve employees from duty because of lack of work or for other legitimate reasons;
- 7) Maintain the efficiency of governmental operations;
- 8) Determine the methods, means, and personnel by which government operations are to be conducted;
- 9) Determine the content of job classifications;
- 10) Take all necessary actions to carry out the City's mission in emergencies;
- 11) Exercise complete control and discretion over the City's organization and the technology of performing its work;
- 12) Establish and implement administrative regulations and employment rules and regulations consistent with law;
- 13) Classify and reclassify positions;
- 14) Determine whether goods or services shall be made, purchased or contracted for; and

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15) Otherwise act in the interest of efficient service to the community.

16.3 CONFLICTS BETWEEN PERSONNEL POLICIES AND MEMORANDA OF UNDERSTANDING

In the event of a conflict between these Personnel Rules and any Memorandum of Understanding in effect, the Memorandum of Understanding shall prevail.

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CHAPTER 17. CONFLICTS OF INTEREST

17.1 RESPONSIBILITIES OF CITY OFFICE

The policy of the City is that City officials and employees shall observe the highest standards of ethics and discharge faithfully the duties of their offices regardless of personal considerations, recognizing that the public interest must be their primary concern. City officials and employees shall conduct themselves so as not to give a reasonable basis for the impression that any such official or employee can be improperly influenced in the performance of his/her City duties. City officials or employees shall not grant to any member of the public any consideration, treatment or advantage that is not available to any other member of the public.

City officials or employees shall conduct themselves so as to maintain public confidence in their performance and public trust in the government they represent. They shall avoid even the appearance of conflict between their City duties and their personal interests.

City officials and employees shall not exceed their authority or breach law or ask others to do so, and shall work in full cooperation with other City officials and employees unless prohibited from doing so by law.

17.2 CONFLICTS OF INTEREST

Conflicts of interest arise when there is an opportunity for personal gain apart from the normal rewards of employment. City officials and employees should avoid transactions or services involving their City duties that place personal interests in opposition to the City's interests or result in personal financial gain.

In addition, depending on the employee's level of decision-making authority, certain employees may be required to file a statement of economic interests. Employees should contact the Human Resources Department for a list of those employees who are required to file these statements and instructions on how to do so.

Specific conflicts of interest are enumerated below for the guidance of employees and City officials. This list is merely illustrative and not exclusive.

- 1) Employees may not use or attempt to use their official position to influence a governmental decision that could affect their financial interests – including the interest of their employer, the employer of their spouse or domestic partner, businesses in which the employee or the employee's spouse/domestic partner have invested, or property the employee or the employee's spouse/partner own or rent.
- 2) Employees may not use their City title or designation in any communication for any private gain or advantage or in a manner that would lead the recipient to believe that the employee is speaking in an official capacity when he/she is not.
- 3) Employees may not make, participate in, or attempt to influence a governmental decision affecting a person or entity with whom he/she is discussing or negotiating an agreement concerning future employment.

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- 4) Employees may not accept any compensation, reward, or gift from any source except the City for any service, advice, assistance, or other matter related to the employee's City job.
- 5) Employees may not solicit or accept anything of value in exchange for hiring, promoting, or attempting to influence the hire or promotion of any City employee or applicant.
- 6) Employees may not make, participate in making, or seek to influence any employment decision involving a person with whom they have a familial or romantic relationship.
- 7) An employee must notify a supervisor if he/she is or becomes related to or romantically involved with another employee over whom the employee has the authority to impose or recommend an employment action.
- 8) Supervisors and managers should avoid any appearance of favoritism or nepotism in the workplace.
- 9) Employees may not willfully or knowingly disclose the City's confidential or privileged information unless they are required to do so by law. Employees may not use confidential or privileged information obtained by virtue of their office or employment for non-business purposes, and employees may not use that information to advance the financial or other private interest of themselves or others.
- 10) For a period of one (1) year after employees leave City employment, employees may not contact their former department on behalf of any person for the purpose of influencing a governmental decision. Employees may not work for or receive compensation from any party to a City contract if, within the previous twelve (12) months, that employee was personally and substantially involved in the City's award of that contract.

17.3 EMPLOYEE POLITICAL ACTIVITIES

The political activities of City employees shall be in compliance with State and Federal law. It is unlawful for City employees to use public resources or personnel to engage in political activity relating to elective offices and ballot measures. City employees may not engage in political activities while on duty or in the workplace. Political activities include circulating petitions, addressing campaign mailers, or engaging in any other political activities that use City resources or divert employees from their assigned duties. Employees may not use City resources, such as photocopiers or fax machines, telephones, postage, or email, for political activities. Employees are also prohibited from using their official positions to influence elections, and from using City funds or resources for political or election activities. Further, City employees may not participate in political activities of any kind while in uniform (i.e., part or all of a uniform they are required or authorized to wear when engaged in official duties).

Violation of these rules may result in considerable civil and criminal penalties, as well as discipline up to and including dismissal.

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17.4 OUTSIDE EMPLOYMENT/ACTIVITIES

A City official or employee shall not engage in or accept other employment or render services to other interests when such employment or service is incompatible with the proper discharge of his/her official duties. Examples of incompatibility include but are not limited to:

- 1) Actual conflict in hours of employment;
- 2) Being tired or unfit for duty because of outside employment;
- 3) Requesting shift or hour trades from the City or co-workers for the purpose of performing outside employment; or
- 4) Where the secondary employment creates an actual or apparent conflict of interest in regard to City employment.

Upon the written request of an employee, the department head may, with the approval of the Human Resources Director, permit outside employment if it is not in conflict with the employee's obligation to the City. Requests for outside employment must include, if possible, the name, address, and type of work of the proposed employer; the period of time and hours of work of the requested employment; the type and duties that are to be performed; and the reason for wanting to accept the extra employment. The department head shall forward the request along with the department head's written recommendation to the Human Resources Director for review and final decision.

In no such case will an employee be permitted to engage in outside work in excess of twenty (20) hours of any one week. City employees working on part-time outside City employment who have a record of excessive sick leave absences may have their outside work privilege rescinded at the discretion of the department head and with the approval of the Human Resources Director.

Any injury resulting from part-time employment shall not be chargeable to the City.

17.5 GIFTS

City employees shall not solicit nor accept any gift to the employee or other employees, whether in the form of money, thing, favor, loan, or promise that would not be offered or given if the employee were not in the employ of the City.

17.6 NEPOTISM

No person shall be employed in any position in which the employee will directly supervise, or in which the employees will be directly supervised by, the employee's spouse, domestic partner, parent, stepparent, brother, sister, child, stepchild, grandchild, step-grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, aunt, uncle, nephew, niece, or any person with whom the employee has a relationship in loco parentis. Employees are obligated to disclose any such relationship to their Department Head or Human Resources Director.

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The City retains the right to refuse to hire or place relatives in the same department, division, or facility if the City, in its sole discretion, determines that either:

- 1) The hiring or placement would have an adverse impact on supervision, safety, security, or morale or would involve potential conflicts of interest; or
- 2) The hiring or placement would result in a supervisory relationship between relatives. For the purpose of this section, a supervisory relationship is one in which one person has temporary or ongoing direct authority over the actions, decisions, evaluation and/or performance, reward or discipline of another person by virtue of the duties and responsibilities assigned to his/her position.

If an employee marries or files a Declaration of Domestic Partnership with another employee, both employees will be allowed to retain their respective positions provided that a supervisory relationship does not exist at the time of the marriage/domestic partnership. When spouses or domestic partners are in a prohibited supervisory relationship, an attempt will be made to transfer one spouse/domestic partner to a similar classified position in another department based on the positive operation and efficiency of the City. If continuing employment of spouses or domestic partners cannot be accommodated consistent with the City's interest in promoting safety, security, morale and efficiency, then the City retains sole discretion to terminate the employment of one spouse/domestic partner. Such termination will not be considered disciplinary in nature and will not be subject to any administrative appeal.

17.6.1 TEMPORARY WORK ASSIGNMENTS

If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.

When personnel and circumstances permit, the City will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The City, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.

17.7 REPORTING A CONFLICT OF INTEREST

Employees who believe they may have a conflict of interest should immediately advise their supervisor, the Human Resources Director or the City Attorney. City officials who believe they may have a conflict of interest should immediately announce the possible conflict in the official records of the City.

Supervisors upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Department Head of such or actual or potential violations through the chain of command.

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17.8 REPORTING UNETHICAL OR ILLEGAL CONDUCT

City officials and employees have a duty to prevent and report possibly unethical or illegal action. City officials and employees who know of such action and do nothing also act unethically. Hence, City officials and employees are obligated to counsel an official or employee who is engaged or is about to engage in unethical behavior. If counseling is not appropriate or is ineffective, City officials and employees are obligated to report the unethical behavior.

City employees should notify their supervisor or other management staff within the program, personnel staff, the City Manager or the City Attorney. City officials should notify the City Manager, or the City Attorney.

City officials and employees shall never attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any person with the intent of interfering with that person's duty to disclose unethical or illegal activity. Additionally, City officials and employees shall never attempt to use their authority or influence for the purpose of retaliation against another City official or employee who reports unethical behavior.

Every attempt should be made to keep confidential the identity of a City official or employee who reports unethical behavior; however, there are no guarantees in the event of administrative, criminal, or civil proceedings.

17.9 ACCOUNTABILITY

Adherence to this policy will be considered in evaluating the job performance of City employees and those City officials who are subject to performance reviews. Violations of this policy will be measured against a "reasonable person" standard. Violations may expose City officials and employees to a variety of penalties, depending on the specifics of the situation.

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CHAPTER 18. MISCELLANEOUS POLICIES

18.1 DRESS AND APPEARANCE

Employees of the City are required to dress appropriately and professionally for the jobs they are performing. Employees are expected to dress and groom themselves so as to maintain a professional appearance and not interfere with workplace safety. Uniforms and safety equipment must be worn where applicable. Footwear must be appropriate for the work environment and functions being performed.

18.2 USE OF CITY PROPERTY

City officials and employees shall request, use, or permit the use of City property or resources, including the work of City officials or employees, only to carry out the duties of their City employment or position, or as authorized by City ordinances, resolutions or written policies. Use of City resources for personal, political, employee organization or other non-City business is strictly prohibited. City resources include, but are not limited to, facilities, equipment, devices, telephones, computers, copiers, fax machines, supplies, email, internet access, and any time for which you are receiving compensation from the City. Inappropriate use of City resources may result in discipline up to and including termination of employment.

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18.3 USE OF TECHNOLOGY AND DEVICES

18.3.1 SCOPE

This policy applies to all employees of the City and any temporary City personnel, interns, contractors, or any other individuals performing work on the City's behalf or who have access to the City's information systems. This policy governs devices and resources including, but not limited to, the Internet, E-mail, voice-mail, City-owned cellular telephones, personal digital assistants, smartphones, Blackberry devices, tablets, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, transmission devices, data processing or storage systems, servers, networks, input/output and connecting devices, software, copiers, scanners, and printers that support electronic communication services.

18.3.2 PROHIBITED USES

Electronic communications should conform to the same standards of propriety and response as any other verbal or written communication at the City. Employees are expected to use common sense and judgment to avoid any communication which is disrespectful, offensive, harassing or illegal.

Examples of inappropriate use of the City's information system resources include, but are not limited to, the following:

- 1) Any use that may, for a reasonable person, create or further a hostile attitude or give offense on the basis of a Protected Status.
- 2) Intentionally or unintentionally exposing others to material which is offensive, obscene, or vulgar, including information which could create an intimidating, offensive, or hostile work environment.
- 3) Sending messages or information which is in conflict with applicable law or City policies, rules, or procedures.
- 4) Communicating confidential City information to unauthorized individuals within or outside of the City.
- 5) Attempting to access unauthorized data or break into any City or non-City system.
- 6) Engaging in theft or the unauthorized copying of electronic files or data.
- 7) Intentionally misrepresenting one's identity for improper or illegal acts.
- 8) Engaging in the creation, downloading, viewing, storage, copying, or transmission of materials related to illegal or prohibited activities, except when necessary for research within the scope of a job assignment.

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- 9) The unauthorized acquisition, use, reproduction, transmission, and distribution of software or other material protected by national or international copyright laws, trademarks, or other intellectual property rights.
- 10) Engaging in personal business activities or outside employment, including consulting for pay or the sale of goods or services.
- 11) Performing acts that are wasteful of computing resources or that unfairly monopolize resources, including unauthorized mass mailings.
- 12) Engaging in recreational use of the City's information system resources that interferes with the ability of the employee or other users to conduct City work, including downloading or uploading recreational software, music, videos, games, or shareware.
- 13) Downloading or installing software onto City equipment without the approval of the employee's supervisor.
- 14) Connecting personal equipment such as a laptop that is not owned by the City to the City network without the approval of the employee's supervisor.
- 15) Giving another person an employee's password without the approval of the employee's supervisor.

Misuse of City technology and/or devices may be grounds for erasure of software and data, removal of computer equipment from the department, or disciplinary action up to and including termination.

18.3.3 INCIDENTAL PERSONAL USE

Information system resources are provided by the City to facilitate the performance of City work. Incidental personal use is permitted only so long as the use takes place during the employee's personal time, does not interfere with the City's mission or operations, and does not interfere with the employee's job duties or other obligations to the City. Personal incidental use of the City's information system resources is a privilege and may be limited or revoked at any time.

18.3.4 MONITORING AND RECORDING OF TECHNOLOGY USE

Employees have no right or expectation of privacy in email, text, data, or image messages created, transmitted, received, deleted, or stored using City equipment. All communications transmitted via City equipment, whether or not related to personal or confidential matters, are subject to monitoring and/or recording at the City's discretion. The City may randomly or routinely search City equipment and related systems to ensure that they are being used in conformance with this policy.

18.3.5 USE OF PERSONAL DEVICES

As used in this section, "personal devices" refers to electronic devices owned by an employee or a third-party but reimbursed in whole or in part by the City. To the extent that such devices are

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used to conduct City business, they are subject to the restrictions on use of City technology and devices set forth above.

18.4 VEHICLE USE

18.4.1 USE OF CITY VEHICLES AND PERSONAL VEHICLES FOR CITY BUSINESS

City vehicles are to be used for City business only. Except where explicitly authorized to do so, employees may not take City vehicles home. City vehicles may not be used for personal business.

Any employee operating a City vehicle or a privately owned vehicle for City business is required to possess a valid California Driver's license. Only authorized individuals are permitted to operate a City vehicle. Passengers are only allowed in City vehicles if they are also on official City business.

Employees and passengers in City vehicles or vehicles used for City business must obey all laws and traffic regulations, including federal, state, and local rules and regulations regarding the use of cell phones and wireless devices while driving. All passengers in City vehicles or vehicles used for City business must wear seatbelts. Employees are responsible for any violations incurred while operating a City vehicle or a vehicle used for official City business.

Smoking is prohibited in City vehicles.

18.4.2 INSURANCE

An employee driving a personal vehicle for City business must, at the employee's expense, carry liability insurance with at least the minimum limits required by the State of California and retain proof of insurance in the personal vehicle. Employees are required to provide proof of insurance each January and may also be required to submit proof of insurance at any time upon request.

18.4.3 MILEAGE REIMBURSEMENT

Employees are entitled to reimbursement for miles traveled when they are required by the City to use their personal vehicles to perform assigned duties for the City. In order to be eligible for such reimbursement, employees must utilize their own vehicles in traveling directly and uninterruptedly from one assigned work location to another assigned work location, at least one of which is located outside of the City limits. Reimbursement will be paid at the current rate established by the Internal Revenue Service. Employees must request reimbursement using the City-designated form.

18.4.4 PERSONAL USE OF CITY-OWNED VEHICLES

The policy of the City is that no City-owned vehicle is to be used for any personal use whatsoever by any employee, except that a program leader may determine that, in the City's best interest, an employee may be required to commute to and/or from work in such a vehicle.

When a program leader decides that the use of a City vehicle for commuting is required, the employee may not use the assigned vehicle for any personal use other than commuting (except for de minimis use). De minimis use is defined as an occasional nonscheduled personal use of the

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vehicle such as a stop for lunch while conducting City business. A separate trip of several miles to have lunch at home or at a restaurant not in the general work area is not de minimis and will be counted as a full commute.

At any time an employee is operating a City-owned vehicle, the operator is strictly prohibited from transporting passengers who are not connected with official City business. This prohibition includes family members and friends.

18.4.4.1 Taxation of Commuting In City-Owned Vehicle

The Internal Revenue Service provides in its temporary regulations regarding the tax treatment of fringe benefits (50 FR 52281) for special rules for valuing employer-provided vehicles. These temporary regulations were finalized in the Federal Register of July 6, 1989, and are found in 26 Code of Federal Regulations Parts 1 and 602. These final regulations determined that the recordkeeping requirements for compliance were too onerous and made a provision for a flat dollar amount commuting valuation.

The City Manager has determined that the best interests of the city require city employees to use the Commuting Valuation Rule (“Rule”) in determining the values for taxation purposes of commuting to and from work in a City-owned vehicle. This rule will allow the employee to be exempt from the “Recordkeeping Requirements” normally associated with personal use of employer-owned vehicles.

This Rule allows the city to establish a value to the employee, a fixed amount (\$3.00 per round-trip commute), as the taxable value of the personal use. The value determined (as outlined below) will be reported in an employee’s gross pay, excluded from net pay, and be subject to federal and state income tax as well as Social Security tax (Medicare portion) as applicable.

“Control employees” may not use the Rule. Control employees are subject to the “Recordkeeping Requirement” and are subject to the “Vehicle cents per mile” or the “Fair market value method” of determining the amount of income to be reported.

Control employees are defined as:

1. Elected officials; or
2. Employees whose compensation equals or exceeds the federal pay rate for positions of Executive Level V (For calendar year 2015, this amount is \$148,700).

Highly compensated control employees who use a City vehicle for commuting purposes shall meet with a representative of the City’s Finance Department in order to determine the recordkeeping requirements and method of valuation for personal miles.

18.4.4.2 Exceptions

The Internal Revenue Service [Reg 1.274 – 5T(K)] has exempted certain vehicles from the above taxing requirements. A complete description of such exempted vehicles is available from the City’s Finance department.

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18.4.4.3 Program Responsibilities

The following programs and persons have the responsibility to implement and maintain this policy as follows:

Department Heads:

Shall notify the City Manager, (or his /her designee) when there is any change in the status of employees; who are using City-owned vehicles to commute to and from work. This notification is to include the employee's name, social security number, City vehicles number and City benefit derived from employee using city-owned vehicles to commute.

City Attorney:

Shall determine if the vehicle and employee are eligible for using the special \$3.00-a-day rate, are control employees who must use another method as prescribed by the Finance Department, or are exempted by the nature of the vehicles being used.

Finance Department:

Shall ensure that the payroll system is properly including in taxable income the amounts determined to be the value of personal use of city-owned vehicles.

Shall enter the proper amount in the payroll system (as determined above), under the appropriate code.

Shall work with control employees and determine the appropriate method of recordkeeping and to determine the value of their benefit.

Employee:

Shall notify the Finance Department on a quarterly basis and in writing, due to vacation, sick leave, or other forms of leave the employee did not have use of an assigned City-owned vehicle for a period of not less than one week. The above notification shall be approved by his/her department head.

18.5 TUITION REIMBURSEMENT

The purpose is to establish guidelines and procedures for the approval and processing of tuition reimbursement requests.

18.5.1 POLICY

It is the policy of the City of Oxnard to encourage employee development and excellence of performance by sharing in the cost of educational programs presented by accredited academic institutions which are directly related to the employee's occupational field with the City or are directly related to and part of a planned course of study being actively pursued for promotion within the City service. Please see the relevant MOU for the specific amount of the annual reimbursement.

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There shall be no obligation to the City to reschedule the normal work hours of eligible employees to facilitate their taking advantage of the Tuition Reimbursement Program.

18.5.2 ELIGIBLE COURSES

Unless otherwise provided in a Memorandum of Understanding between the City and a recognized employee organization, the following criteria will be used in determining eligibility for reimbursement:

- Eligible courses must have a reasonable potential for resulting in more effective City service.
- Eligible courses must be directly related to the employee's occupational field with the City or directly related to and be part of a planned course of study being actively pursued for promotion in the City service.
- Eligible courses must be presented by an accredited high school, college, university or other accredited institutions.
- Eligible courses must be satisfactorily completed. A grade of "C" or higher is required for reimbursement.

18.5.3 INELIGIBLE COURSES

Courses which do not qualify for this benefit are:

- Courses taken to bring unsatisfactory performance up to an acceptable level.
- Courses which duplicate in-service training or other training the employee has already received.
- Courses for which the employee receives reimbursement from any other source.

18.5.4 MAXIMUM REIMBURSEMENT

Employees in position classifications assigned to the employee representation groups listed below shall be limited to the maximum reimbursement of tuition or fees as specified in his or her respective Memorandum of Understanding:

- Professional, Technical and Administrative Support Unit
- Maintenance, Operations and Repair Unit
- Police Unit
- Fire Unit

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- Management employees

18.5.5 PROCEDURES

- The employee shall submit the appropriate Tuition Reimbursement Application to his/her Department Director at least two weeks prior to the first class session (see attachments).
- The completed Application form indicating approval or disapproval shall be returned to the employee.
- Upon completion of the course, the employee shall submit a Tuition Reimbursement Request form with the required documentation.

18.6 EDUCATIONAL INCENTIVE AWARD

To establish education incentive award objectives for non-management and non-safety employees and administrative procedures for the operation of the educational incentive award program for all eligible employees.

18.6.1 PROCEDURES

1) Request for Approval of Academic Course:

- An employee desiring to participate in the Educational Incentive Award Program must make application utilizing the Educational Incentive Award Credit Form.
- Upon the recommendation of the department head and the Personnel and Employee Relations Director, approval or rejection will be made by the City Manager.
- The Educational Incentive Award Credit form and related materials will become a part of the employee's permanent personnel records.

2) Request for Award Qualification:

- An employee must request approval of an awards qualification upon completion of the courses. A Request for Educational Incentive Pay form must be completed and submitted for approval.
- Evidence of satisfactory completion of the required courses must be submitted with the Request form.

3) Effective Date of Award:

- The effective date of the educational award shall be the first pay period following the City Manager's approval.

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18.7 WHISTLEBLOWER PROTECTION

If any employee reasonably believes that a policy, practice, or activity of the City is in violation of state or federal law, that employee may file a written complaint with the Human Resources Director. If the employee believes that the Human Resources Director is involved in the violation, then the written complaint may be filed with the City Attorney or member of the City Council. It is the intent of the City to adhere to all laws and regulations that apply to the City.

The City will not retaliate against an employee who has, in good faith, made a protest or raised a complaint against a practice of the City on the basis of a reasonable good faith belief that the practice is in violation of state or federal law or a clear mandate of public policy.

18.8 SERVICE ANIMALS

The City of Oxnard prohibits bringing a pet (a domestic animal kept for pleasure or companionship) to work or having a pet on City premises and onto City property, with the exception of assistive or service animals that are necessary as a reasonable accommodation for an individual with a disability. This policy applies to all employees, visitors, contractors and consultants.

City employees requesting accommodation for a disability, which includes an assistive or service animal, must contact the City's Human Resources Department. Employees must obtain the Human Resources Department's approval before they can bring their assistive and service animals into City buildings and property. Employees must register their assistive and service animals with the Human Resources Department.

ASSISTIVE OR SERVICE ANIMALS

Under California law, an assistive animal means an animal that is necessary as a reasonable accommodation for a person with a disability. This includes guide dogs, signal dogs and service dogs that are trained to recognize and respond to an individual's disability-related need for assistance. Assistive animal also includes "support" dogs or other animals that provide emotional, cognitive, or other similar support to a person with a disability, including, but not limited to, traumatic brain injuries or mental disabilities.

Under federal law, a service animal means a dog or miniature horse that has been individually trained to do work or perform tasks for the benefit of an individual with a disability. Other species of animals are not service animals included in this definition. The work or tasks performed by the service animal must be directly related to the individual's disability.

An employee who seeks to bring an assistive/service animal on City property as a reasonable accommodation must provide a certification letter from his/her health care providers stating that the employee has a disability and explaining why the presence of the animal in the workplace is required. The following rules apply to individuals who own assistive/service animals, and bring them onto City property:

- The owner is solely responsible for the care, supervision, and maintaining the cleanliness of the assistive/service animal. An assistive/service animal must display habits appropriate to the work environment, e.g., elimination of urine and feces shall be at appropriate locations outside of City buildings. The owner must clean and dispose of all animal waste.
- The owner must be in full control of the assistive/service animal at all times.
- The owner must place and maintain on the animal an identification tag, which includes the owner's name and phone number, at all times.

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- The owner must keep the assistive/service animal on a leash, harness or other type of restraint at all times, unless the owner is unable to retain an animal on leash due to his/her disability.
- The owner must keep the assistive/service animal clean and free from offensive odors.
- The owner must not allow the assistive/service animal to endanger the health and safety of itself or any individuals.
- The owner must keep animal food in an appropriate secure container(s).

Reasonable behavior is expected from assistive/service animals while on City property. If an assistive/service animal is out of control and the owner does not take effective action to control the animal, or if the animal is not housebroken, the City may require the owner to remove the animal from City property.

COMPLAINT PROCEDURES

If an employee has concerns or problems because of an animal at City premises, he or she can take any of the following steps:

1. Speak to the animal owner about the issue; or
2. Contact his/her supervisor; or
3. Contact the Human Resources Department.

Supervisors must take employee concerns seriously and report complaints immediately to the Human Resources Department.

References:

California Code of Regulations, title 2, § 11065.

Code of Federal Regulations, title 28, § 35.104 and § 35.136