



Personnel Rules and Regulations

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Personnel Rules and Regulations

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CHAPTER 1: INTRODUCTION

Section 1.1 Purpose of Rules

The purpose of the rules, policies and procedures contained in this document are intended to govern employment and personnel matters in the City of El Centro (“the City”).

All of the rules, policies, provisions and procedures may not be set forth here. Other pertinent rules that apply to the City’s employment and personnel issues or matters may be found in other documents including the City ordinances, contracts and employee bargaining unit memorandums of understanding (individually, “MOU;” in the plural, “MOUs”).

Section 1.2 Adoption of Personnel System

These policies and procedures are adopted to establish the City’s personnel system and the uniform rules that will govern the City’s personnel matters.

The personnel system set forth in these Personnel Rules and Procedures (“these Personnel Rules”) is hereby adopted.

These Personnel Rules are adopted by the City Council pursuant To Article III Division 2 of the El Centro City Code and they supersede any prior rules and regulations and may be changed only upon approval of the City Council.

Where an applicable MOU between the City and a recognized employee organization contains provisions that are inconsistent with those contained in these Personnel Rules, the language contained in the MOU will govern. This will be the case unless there is a State or Federal law or regulation that supersedes the language contained in the applicable MOU.

Section 1.3 Intent of Personnel Rules

These Personnel Rules are intended to include the policies and authority that govern the nature and management of the various employment relationships the City has with its employees.

Nothing in this chapter is intended to be construed as or create any employment contract. The contents herein are intended to be used as the primary source of authority in the City’s management of employment relationships.

Section 1.4 Management’s Rule-Making Authority

The City’s management reserves the right to change or add policies and procedures and to issue administrative rules, directives or policy statements as needed to update these Personnel Rules and provide guidance on important personnel policy issues for the proper management and uniform administration of the City’s personnel matters. The City recognizes that these rules, directives or policy statements may be subject to meet-and-confer requirements by existing MOUs and the applicable provisions of the Meyers-Milias-Brown Act under Government Code §§3500 *et seq.*

When the City’s management does change or add policies, procedures, rules or policy statements pursuant to this section, a copy of such changes will be provided to all employees and employee groups before they are made a part of and incorporated into these Personnel Rules.

- A. **Items Subject to Bargaining:** Items or issues that are subject to bargaining will not be added to this document until an agreement is reached between the City and the affected employee collective bargaining groups.

- B. Policy Statements: Changes or additions to these Personnel Rules can be made through Policy Statements issued by the City Manager and incorporated into these Personnel Rules by reference, amendments and/or addendums.
- C. Committees: The City Manager, under this authority, if advisable, may form a committee to review and recommend substantive changes to these Personnel Rules.
- D. Suspension of the Policies: In the event of an emergency, any part or all of these policies may be suspended by order of the City Manager and such suspension shall remain in effect until the City Manager's order is withdrawn through written notification to employees.

Section 1.5 Applicability of Policies

The provisions of these policies shall apply to all offices, positions and employees in the competitive service of the City, except as otherwise indicated within a specific provision of these Personnel Rules or by contract or MOU.

With the exception of the City's Equal Employment Opportunity policy, Complaint Procedure and Reasonable Accommodation Policy, these Personnel Rules do not apply to the following offices and positions outside the City's competitive employment service:

- A. Elected officers;
- B. Members of appointed boards, commissions and committees;
- C. Persons engaged under contract to supply expert, professional or technical services for a finite period of time.

These rules, policies and procedures shall not apply to employees of the El Centro Regional Medical Center, which is an agency of the City.

Section 1.6 Violations

Violation of the provisions of these Personnel Rules or other applicable rules or ordinances of the City may be grounds for management to exercise their right to suspend, demote, discharge and/or proceed with other appropriate disciplinary action.

Section 1.7 Waiver of Rules

When it is determined on the basis of the facts prevalent that the strict application of the provisions of these Personnel Rules will result in undue hardship to an employee or employees or would be detrimental to the best interest of the City, the City Manager, in his/her discretion, may waive the applicable provisions. Any such waiver shall not be final until a written report thereon has been made to the City Council at its next regularly-scheduled Council meeting and the Council has agreed to such waiver.

CHAPTER 2: DEFINITION OF TERMS

Section 2.1 Definition of Terms

Words and terms used in these Personnel Rules and in any ordinance or resolution dealing with these Personnel Rules and any other personnel rules, regulations or procedures are defined in the policy to which they apply or, if not defined therein, as follows:

1. “Acting appointment” or “Interim appointment” means the assignment of an employee to a classification in the City’s service on an interim basis during which that person continues to occupy the position from which he/she was appointed.
2. “Actual hours worked” means all hours in which the employee actually performed work and does not include any paid or unpaid leave time, including but not limited to vacation and sick leave.
3. “Advancement” means a salary increase within the limits of the pay range established for classifications provided by resolution.
4. “Appointing Authority” means the City Manager or the City Manager's designee.
5. “Appointment” means the employment of a person in a position.
6. “Classification” means a group of positions substantially similar in duties, authority, responsibilities and minimum qualifications for employment to permit combining them under a single title and the application of common standards of selection and compensation.
7. “Classification plan” means the designation by resolution of the City Council of a title for each classification together with the specifications for each classification as prepared and maintained by the Human Resources Department.
8. “Compensation” shall mean the same as “Salary,” which is defined in section 2.1(35), *infra*.
9. “Compensatory time off” means paid time off from work in lieu of overtime pay.
10. “Competitive service” means employment in all positions in the City service except those specifically excluded by these Personnel Rules.
11. “Day” means calendar day unless otherwise noted.
12. “Demotion” means the voluntary or involuntary reduction of an employee from a position in one (1) classification to a position in another classification having a lower maximum salary rate.
13. “Discharge” means the involuntary separation of an employee from the City service.
14. “Eligibility list” means a list of names of persons who have successfully completed the examination process for a position in the competitive service.
15. “Emergency” means a serious situation or occurrence that happens unexpectedly and demands immediate action (e.g., natural disaster or fiscal emergency).
16. “FLSA” stands for the Fair Labor Standards Act of 1938, as amended.
17. “FLSA-exempt” refers to all employees who meet one (1) or more of the duties test exemptions

- from overtime under the FLSA (executive, administrative or professional) and who is paid on a salary basis.
18. “Full-time position” means employment in which the employee normally works at least thirty (30) hours per week.
 19. “Hiring Manager” is the person who will be the supervisor for an open position once filled.
 20. “Hourly basis” means compensation paid according to the number of hours that employee actually works.
 21. “Hourly position” means employment in which the employee normally works less than forty (40) hours per week or no more than one thousand (1,000) hours per fiscal year.
 22. “Lay-off” means the termination of an employee from City service for reasons of economy, efficiency or other non-disciplinary reason.
 23. “Merit salary increase” means the performance-based advancement of an employee’s salary to a higher salary level within the established salary range for the employee’s classification.
 24. “Non-exempt” refers to employees who are entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis. Non-exempt does not include employees performing exempt duties on a primary basis under a temporary or acting appointment to an exempt-designated position.
 25. “Overtime” means all actual hours worked by a non-exempt employee in excess of forty (40) hours in the employee’s designated workweek, except as otherwise designated by an applicable MOU, or as otherwise designated for employees on a flexible work schedule, or as designated under the FLSA.
 26. “Position” means a combination of duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.
 27. “Probationary appointment” means employment for a working test period that is part of the selection process, during which a new or promoted employee is required to demonstrate satisfactory or better performance of the position’s duties.
 28. “Promotional appointment” means the advancement of an employee from a position in one (1) classification to a position in another classification having a higher maximum salary range.
 29. “Reclassification” means the reassignment of a position to another classification due to the material change of the job duties of a position.
 30. “Regular appointment” means the employment of a person in an authorized full-time position following successful completion of a probationary period in a full-time authorized position.
 31. “Rejection” means the discharge from the competitive service of an employee who has not successfully completed the initial probationary period.
 32. “Reemployment” means the reemployment of an employee to a position in the same or a comparable classification within twelve (12) months of his/her separation in good standing..”
 33. “Resignation” means the voluntary separation of an employee from the City’s service.
 34. “Safety sensitive” means a position or duty of a position that the City has designated as safety

sensitive for purposes of implementing its Drug and Alcohol Policy.

35. "Salary" means the salary range established in the compensation plan, exclusive of any overtime, shift-differential, incentive or other excludable pay an employee may receive.
36. "Salary basis" means compensation in a predetermined amount that is not reduced, regardless of the quality or quantity of work actually performed.
37. "Salary evaluation date" means the date on which a probationary or regular employee's performance is evaluated and the date upon which the employee is eligible, on the basis of job performance for a prescribed period, for a merit salary increase within the established salary range.
38. "Seniority" means the employee's number of continuous years in competitive service from the employee's first hire date by the City in a regular full-time or probationary position. Seniority in classification means the number of continuous years of service in the present or higher classification.
39. "Separation" means the voluntary or involuntary termination of employment from City service.
40. "Service anniversary date" means the original date of hire as a full-time employee for purposes of accruing benefits and determining years of service with the City.
41. "Suspension" means the temporary separation without pay of an employee from the competitive service for disciplinary purposes
42. "Temporary appointment" means an appointment to a regular position for a period of no more than one thousand (1,000) hours, unless extended in writing by the City Manager.
43. "Transfer" means the reassignment of an employee from one position to another position in the same classification or another classification having the same maximum salary range, involving the performance of basically similar duties and requiring substantially the same minimum qualifications.
44. "Workweek" means, for purposes of overtime determination, a consecutive seven (7) day period that begins at 12:01 a.m. on Tuesday and ends at 12:00 midnight on the following Monday, except as otherwise designated by an applicable MOU, as otherwise designated for employees on a flexible work schedule or as designated under the FLSA for safety employees.
45. "Y-Rated" means the employee's existing salary is frozen until the maximum of the new (lower) salary range assigned to the reclassified position equals or exceeds the employee's rate of pay.

CHAPTER 3: EMPLOYEE UNION ACTIVITIES

Section 3.1 Employer–Employee Relations Ordinance

With regard to employee organizations or unions, it is the policy of the City to promote employer-employee relations, to maintain full communication between the City and its employees and employee organizations and to recognize the right of employees to join organizations of their own choice and be represented by recognized employee organizations for purposes of collective bargaining.

To this end, on July 3, 2002, the City adopted Resolution #02-71 which contains the City’s Employer-Employee Relations Ordinance that provides procedures and processes for collective bargaining matters.

CHAPTER 4: RECRUITMENT AND SELECTION

Section 4.1 Equal Employment Opportunity

The City is an equal opportunity employer. Pursuant to this and in accordance with applicable State and Federal law, the City bases all employment-related decisions on principles of equal employment opportunity, including:

- A. The City recruits, hires, discharges, promotes, reassigns, compensates and trains highly-qualified persons without regard to actual or perceived race, color, religious creed, sex, sexual orientation, gender identity, marital status, military status, national origin, ancestry, age, disability, general medical conditions, pregnancy, childbirth or related medical conditions or any other basis prohibited by applicable laws.
- B. The City administers all personnel actions such as compensation, benefits, transfers, layoffs, reductions in force, training, education, social and recreational programs without regard to actual or perceived race, color, religious creed, sex, sexual orientation, gender identity, marital status, military status, national origin, ancestry, age, disability, general medical conditions, pregnancy, childbirth or related medical conditions or any other basis prohibited by applicable law.
- C. The City will provide reasonable accommodation where necessary and when it does not create an undue hardship, and otherwise treats equally qualified individuals with disabilities.
- D. While overall authority for implementing this policy is assigned to the Human Resources Director, an effective equal employment opportunity program cannot be achieved without the support of supervisory personnel and employees at all levels. Any employees who believe they have suffered from discrimination should report this concern to their supervisor or the Human Resources Department.
- E. All complaints of discrimination will be investigated promptly and in as impartial and confidential a manner as possible and a timely resolution of each complaint should be reached and communicated to the parties involved. The City prohibits any form of retaliation against employees for bringing bona fide complaints or providing information about discrimination.

Section 4.2 Purpose

The purpose of this policy is to outline the City's procedures for filling both temporary and permanent/probationary status position vacancies and to establish equitable and uniform rules and procedures to govern the City's personnel matters to:

- A. Attract the best and most competent persons available;
- B. Assure that appointments and promotions of employees will be based on merit and fitness as determined by competitive tests; and
- C. Ensure equal employment opportunity is provided to all individuals throughout the recruitment and selection process.

Section 4.3 Job Requisition

The Department Head shall complete the Position Vacancy Form and submit it to the Human Resources Department for further processing. Human Resources will obtain the required signatures and notify the Department Head once the position has been approved. Requests for filling positions are filled in the order

in which they are received.

Section 4.4 Temporary Employees

Whenever the need for temporary coverage arises, the Hiring Manager shall initiate the request for a temporary employee by completing a Temporary Employee Position Vacancy Form and submitting it as indicated in section 4.3 above.

The Human Resources Department will manage all outside employment agency relationships, negotiate terms and conditions and monitor service levels. The request for a temporary employee will be submitted to an outside employment agency with all pertinent information and an updated job description attached. The agency shall be instructed to submit resumes to the Human Resources Department for review. The Hiring Manager will then be contacted to arrange for interviews and the selection of a temporary employee. Exceptions to using an outside employment agency shall be obtained from the Human Resources Director and attached to the Requisition Form.

As decided by the Director of Human Resources and the City Manager, the position may be submitted to an employment agency as described above, or the position may be treated as a regular recruitment and handled directly by the Human Resources Department. If the temporary employee is hired directly by the City, under no circumstances shall a temporary employee work more than one thousand (1,000) hours in that position. Department Heads are responsible for monitoring the one thousand (1,000) hour limit and avoiding any hours over this amount unless a written waiver is obtained from the City Manager and is submitted to the Human Resources Department. This does not apply to temporary employees hired through outside staffing agencies.

Section 4.5 Job Descriptions

A completed job description is required prior to the initiation of the recruitment process. When a new position is created, the Human Resources Department will assist the Department Head with writing a new job description and evaluation for a grade level assignment. The Human Resources Department shall be responsible for preparing and maintaining job descriptions for all positions. The specifications shall include, but not be limited to, a list of essential job functions, minimum qualifications, experience and education required for the position.

Section 4.6 Promoting from Within

It is the policy of the City to encourage the advancement of personnel within the organization. Management prefers to promote from within and may first consider current employees with the necessary qualifications and skills to fill vacancies above the entry level, unless outside recruitment is considered to be in the City's best interest.

Permanent and temporary employees are eligible to apply during the internal posting timeframe provided they meet the following qualifications: (1) employee must meet the requirements of the new job, (2) employee must have successfully completed their probationary period with an overall rating of satisfactory or better or have six (6) months of continuous service for temporary employees who are not evaluated, (3) have a satisfactory performance record demonstrated by an overall rating of "Satisfactory" or better on their last performance evaluation, and (4) have no corrective actions within the previous twelve (12) months and no disciplinary actions within the previous twenty-four (24) months.

Job openings and promotions for which Human Resources solicits candidates from within the City normally will be announced via email and/or employee publications. However, as it considers appropriate, Human Resources may fill job openings or make promotions without posting notices. When job openings or promotion opportunities are posted:

- A. Interested employees must submit a City of El Centro Internal Application Form, letter of interest, current resume and any supporting documentation that would demonstrate that they meet the minimum qualifications for the position prior to the deadline specified in the posting.
- B. The Human Resources may, at its discretion, solicit outside candidates during or after the posting period.

Employee candidates normally will be screened and selected on the basis of attendance and work records, performance appraisals and job-related qualifications including, in some instances, aptitude or achievement tests. Seniority will be considered if required by an MOU or if two (2) or more candidates are judged to be equally qualified based on merit, work record and other qualifications. In addition, employees seeking promotion may be required to have a medical examination if the examination is job-related and consistent with business necessity. The Hiring Manager will have the right to review the last performance evaluation and any disciplinary write-ups on file for internal applicants by submitting a request to the Human Resources Department.

Employees selected for promotion will be subject to the provisions of the probationary period as outlined in section 5.2.

Section 4.7 Veteran's Preference

Each person who provides proof of an honorable discharge from the service of any branch of the United States military or United States armed forces within ten (10) years of the final filing date for an open position, and who meets the application requirements, will receive preferential consideration as required by law.

Section 4.8 Hiring Family Members

A member of an employee's immediate family will be considered for employment by the City if the applicant possesses all the qualifications for employment. An immediate family member may not be hired, however, if the employment would:

- A. Create either a direct or indirect supervisor/subordinate relationship with a family member; or
- B. Create either an actual conflict of interest or the appearance of a conflict of interest.

Section 4.9 Transferring Family Members

The criteria in section 4.8 will also be considered when assigning, transferring or promoting an employee. For purposes of this policy, "immediate family" includes the employee's spouse, brother, sister, parents, children, stepchildren, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law and any other member of the employee's household.

Section 4.10 Employees Who Marry

Employees who marry or become members of the same household may continue employment as long as there is not:

- A. A direct or indirect supervisor/subordinate relationship between the employees; or
- B. An actual conflict of interest or the appearance of a conflict of interest.

Should one of the above situations occur, the City will attempt to find a suitable position within the City to which one of the affected employees may transfer. If accommodations of this nature are not feasible, the

employees will be permitted to determine which of them will resign.

Section 4.11 Reemployment of Former Employees

Former employees who left the City in good standing may be considered for reemployment. Former employees who resigned without written notice or who were dismissed for disciplinary reasons may not be considered for reemployment. A former employee who is reemployed will be considered a new employee from the date of reemployment unless the break in service is less than thirty (30) days, in which case the employee will retain accumulated seniority.

With the approval of the Department Head and the City Manager, a permanent or probationary employee who has resigned with a good record or has been terminated for reasons other than discipline may be reappointed within one (1) year of the effective date of resignation to a vacant position in the same or comparable class. With the exception of possible credit for purposes of layoff as provided elsewhere herein, no credit for former employment shall be granted in computing salary, vacation, longevity pay, educational incentive or any other benefits. However, the employee so reappointed shall receive a credit of fifty (50) percent of his/her accumulated unreimbursed sick leave hours. A former permanent or probationary employee who has resigned as hereinabove described shall not be reappointed so long as there exists a re-employment list for said position.

Section 4.12 Confidentiality

Confidentiality is an important consideration in the recruitment process and pertains to the names of those who have applied, those who serve on the interview panel and those who are selected or not selected for employment with the City. The Human Resources Department strives to maintain and protect this confidentiality in conformity with Federal and State law.

Under no circumstances shall any party with knowledge of any aspect of the recruitment process divulge information about applicants who have applied for City employment, the composition of an oral interview panel or any other confidential matter related to this process. Examples of such restricted activity would include contacting an applicant's current or former employer or coworker, contacting a panel member regarding the proceedings of an interview and advising other individuals about who has applied for a particular position with the City. Matters pertaining to the recruitment process shall be addressed by the Human Resources Department only. To ensure confidentiality, panel members will be required to sign a confidentiality agreement. Employees of the City serving on an interview panel will be subject to discipline for breach of confidentiality unless information could be used to verify the legitimacy of a candidate's response. Under such circumstances, information shall only be shared with members of the Human Resources Department or background investigator.

CHAPTER 5: EMPLOYMENT

Section 5.1 Type of Employment

Employment with the City is divided into the following categories:

A. Regular Employees:

Regular employees are those hired for an indefinite period of time, received a regular appointment and successfully completed a probationary period. Appointments can be either full-time or part-time employees and exempt or non-exempt.

1. Full-time: employees working thirty (30) or more hours per week.
2. Part-time: employees working twenty-nine (29) or fewer hours per week. Eligible for pro-rated paid holidays, vacation, leaves of absence credits and retirement. Employees working twenty-nine (29) hours or less will not be eligible for group health coverage, life insurance and other compensation benefits.

B. Probationary Employees

Probationary employees are those who have been appointed to an authorized position in the employee classification plan, but whose appointment is not complete because they have not completed the assigned probationary period. Employment of probationary employees is considered at-will and the City maintains the rights to suspend, demote or terminate the employment relationship at any time, for any lawful reason, with or without notice.

C. Acting/Interim Employees

Acting employees are regular employees temporarily assigned to a position and who perform all the duties of a position other than the position the employee normally occupies. An acting employee can be removed from his/her acting position and returned to his/her regular position at any time without cause and with no right of appeal or hearing.

Acting appointments shall be made on a temporary, at-will basis and compensation will be provided as per Section 8.4. When the employee is relieved of the acting appointment, the employee shall be reinstated, without right of appeal, to the former position and acting pay will be stopped.

D. Temporary Employees

Temporary employees are those hired for a definite period of time, not to exceed one-thousand (1,000) hours and can be either full-time or part-time employees. Compensation is set on a per diem or hourly basis. Temporary employees are not eligible for paid holidays, vacation, leaves of absence credits, retirement, health and life insurance or other compensation benefits. Retirement benefits shall be paid by the City if hours worked exceed one thousand (1,000) per year. Temporary employees serve at the will of the City and are subject to termination at anytime without cause and have no right of appeal or hearing.

Seasonal employees are those employees hired part-time for a specific assignment. The assignment is seasonal in nature and the work cannot exceed one thousand (1,000) hours per year. Seasonal employees are not eligible for paid holidays, vacation, leaves of absence credits, health and life insurance or other compensation benefits. Retirement benefits shall be paid by the City if hours worked exceed one thousand (1,000) per year. Seasonal employees serve at the will of the City, and

are subject to termination at any time without cause and have no right of appeal or hearing.

Temporary or seasonal employees hired through an outside employment agency are not subject to the one thousand (1,000) hour limit.

E. Retired Annuitant Employees

Retired Annuitant Employees are those employees retired under the California Public Employees' Retirement System ("CalPERS") who are permitted to be employed by the City for a limited time. In accordance with Government Code §21224, a retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration. These appointments shall not exceed a total for all CalPERS employers of nine hundred sixty (960) hours in any fiscal year, and the rate of pay for the employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

Section 5.2 Probationary Period

All original appointments and reappointments to the City shall be considered at-will and subject to a probationary period of six (6) months except for sworn employees of the Police and Fire Departments and Public Safety Dispatchers, who shall be subject to a probationary period of one (1) year. Permanent part-time employees shall serve a probationary period in excess of one (1) year. The exact length of the probationary period for permanent part-time employees shall be determined by calculating the time required to serve two thousand eighty (2,080) total hours for a one (1) year probationary period or one thousand forty (1,040) hours for a six (6) month probationary period. The probationary period commences when the employee begins work in the applicable position.

A. Extension of Probationary Period

The probationary period for non-safety members may be extended with the approval of the City Manager for a period not to exceed three (3) additional months. Notice thereof shall be given to the employee prior to the expiration of the initial probationary period. No periods of absence shall be credited toward the completion of the probationary period if they exceed ten (10) working days.

B. Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position and for rejecting any probationary employee whose performance does not meet the acceptable standards of work.

C. Probationary Employee Performance Evaluations

Prior to the end of the probationary period, the employee's supervisor will evaluate the employee's performance. If the supervisor's evaluation indicates that the employee is performing satisfactorily, or has remedied any noted performance issues, and is continuing to perform satisfactorily, the supervisor shall submit a recommendation to the Human Resources Department that the employee has successfully completed his/her probationary period and should become a regular employee. All probationary employees are to be evaluated at the end of six (6) months employment and at the completion of twelve (12) months employment.

D. Accruals

Probationary employees are eligible to be paid for recognized holidays. They will also accrue sick and vacation benefits. Aside from sick leave, these accruals cannot be used until after the completion of the probationary period.

E. Rejection of Probationary Employee

During the probationary period, an employee may be suspended, demoted or terminated, (or have his/her probationary period extended) at any time without the right of appeal or the right to submit a grievance. Recommendations for termination, demotion or suspension should be submitted to Human Resources in writing by the Department Head. Such recommendations should include an evaluation and a list of actions taken to assist the employee. Action to terminate can only be carried out by the Human Resources Department.

F. Probation Period for Promoted Regular Employees

Regular employees appointed to a new position due to promotion or transfer will serve a six (6) month probationary period, unless they served in the position in an acting capacity for at least six (6) consecutive months prior to their promotion. No periods of absence shall be credited toward the completion of the probationary period if exceeding ten (10) consecutive working days.

The probationary period for promoted or transferred regular employees may be extended with the approval of the City Manager for a period not to exceed three (3) additional months. Notice thereof shall be given to the employee prior to the expiration of the initial probationary period.

During this probationary period, the City has the discretion to move the employee back to his/her prior position at-will and without right of appeal if it determines that it is in the best interest of the City or if it determines that the employee is unable to satisfactorily perform the new position. Written notification will be provided to the employee prior to any action being taken.

Transferred or promoted employees, although evaluated according to this policy, remain eligible for all benefits and accruals while demonstrating their ability to perform their new jobs.

Section 5.3 Exempt and Non-Exempt Status

A. Exempt Status

Certain positions are designated as being exempt from overtime provisions. Such positions are typically those held by managers, directors, high-level administrators or professionals, as defined by the FLSA. Among other things, these positions typically require attendance at numerous extra hour meetings and conferences. These positions shall be identified on the applicable job description and salary schedule.

B. Non-Exempt

Employees who are subject to the overtime requirements of the FLSA shall be compensated in the manner set forth in such act and the regulations duly adopted pursuant thereto.

CHAPTER 6: POSITION CLASSIFICATION

Section 6.1 Classification of Position

All positions in the City service shall be grouped into grade levels. Each grade shall include those positions sufficiently similar in duties and responsibilities to require similar standards of education, experience, ability and personal traits.

Section 6.2 New Positions

When a new position is created, and before it may be filled, the Department Head shall notify the Human Resources Department for the creation of a job description and grade level assignment. No person shall be appointed or employed to fill any new position until the salary structure has been amended to include the newly established position.

Section 6.3 Reclassification

Positions in which the duties have changed so as to necessitate reclassification shall be evaluated by the Human Resources Department to a more appropriate classification.

CHAPTER 7: COMPENSATION POLICY

Section 7.1 Compensation System

An employee compensation plan shall be established each year to provide salary schedules, salary rates and salary ranges. Each class in the City classification plan shall be assigned a salary range or a rate established in the compensation plan. All City officers and employees covered by these Personnel Rules shall be compensated in accordance with the compensation plan in effect.

Section 7.2 Basic Compensation Plan

The City Council shall administer an employee compensation plan for the City Clerk, City Treasurer, City Manager and City Attorney. The City Manager shall administer the compensation plan for all other employees. At least once each year, the City Manager shall recommend to the City Council an appropriate salary range classification for all competitive positions.

When the salary range for a position class is changed by the City Council, all employees in that class shall be adjusted to the corresponding level, or as close thereto, in the new range according to time in range.

Section 7.3 Beginning Compensation

New employees start and are paid the entry level rate allocated to the position for which the employee has been hired and as stated in the job offer. However, upon recommendation of the Department Head and with the approval of the City Manager, such new employee may be offered the job at a higher salary within the salary range for that classification.

Section 7.4 Promotional Advancement

When an employee is promoted to a position with a higher salary range, such employee shall be assigned to the minimum rate of the higher classification; provided, however, that if such employee is already being paid at a rate equal to or higher than the minimum, he/she shall be placed higher in the range with a salary that will grant such employee a salary increase of not less than five (5) percent. Under no circumstances shall the employee's salary exceed the maximum of the range.

When the effective date of a promotion is within sixty (60) days before an employee's merit increase eligibility date, any merit increase which would have been granted to become effective on that merit increase date, shall become effective on the effective date of promotion and shall be in addition to the promotional increase.

Section 7.5 Transfer

Any employee transferred to a position which has a different job classification title shall assume the equivalent compensation on salary range appropriate for his/her classification. The salary shall not be less than the employee's current salary.

Section 7.6 Adjustment in Salary—Reclassification

The salary of an employee in a position which is reclassified shall be determined as follows:

- A. Same Range: If the position is reclassified to a class that is allocated to the same salary range, the salary shall not change.
- B. Higher Range: If the position is reclassified to a class which is allocated to a higher salary range, such employee shall be assigned to the minimum of the higher classification; provided, however,

that if such employee is already being paid at a rate equal to or higher than the minimum, he/she shall be placed higher in the range with a salary that will grant such employee a salary increase of not less than five (5) percent. Under no circumstances shall the employee's salary exceed the maximum of the range.

When the effective date of a promotion is within sixty (60) days before an employee's merit increase eligibility date, any merit increase which would have been granted to become effective on that merit increase date, shall become effective on the effective date of promotion and shall be in addition to the promotional increase.

- C. Lower Range Y-rating: If a position is reclassified to a class that is allocated to a lower salary range, the position shall be Y-rated. The salary of the employee assigned to a Y-rated position will remain at the rate of pay received immediately before the reclassification until the maximum of the new (lower) salary range assigned to the reclassified position equals or exceeds the employee's rate of pay.
- D. Cost-of-living adjustment increases will not be given to Y-rated employees until the maximum of the new (lower) salary range assigned to the reclassified position equals or exceeds the employee's rate of pay.

Section 7.7 Reduction in Salary

In the event the City Council, after evaluating all available options, determines it necessary to reduce salaries because of budgetary limitations or business necessity and through no fault of the employee, the salaries of one (1) and/or all employees may be reduced.

If this process is undertaken, the City Manager shall notify all employees in writing and will hold employee meetings to explain the business necessity of this action. The City will also notify the employee representative group pursuant to existing MOUs and collective bargaining procedures.

The City Council may restore employees' salaries to the prior levels if and when budgetary or business conditions sufficiently improve.

Section 7.8 Reduction in Salary due to Unsatisfactory Performance or Demotion

A. Unsatisfactory Performance

When an employee is disciplined for reasons of unsatisfactory performance or any other form of disciplinary action or has his/her job duties and/or responsibilities reduced, the employee's salary may be reduced. The employee's evaluation date shall be changed to one (1) year from the effective date the discipline was imposed. Reduction in pay can be temporary or permanent as recommended by the Department Head and approved by the City Manager. Any further changes are subject to approval of the Department Head and/or the City Manager.

B. Demotion

An employee may be demoted when his/her performance of required duties is unsatisfactory, for reasons set forth in section 18.4, when the need for the position no longer exists or when the employee requests such demotion. An employee must meet the minimum qualifications of the position to which he/she is being demoted. Written notice of a demotion for disciplinary reasons shall be given as provided in section 14.6. When an employee is demoted for other than disciplinary reasons, he/she shall be placed in the salary range of the class to which he has been demoted which most closely corresponds to the compensation he/she received immediately preceding his/her demotion. When an employee is demoted for disciplinary reasons, his/her salary may be set at any

level in the new range.

Section 7.9 Special Salary Adjustments

With the recommendation of the Department Head, the City Manager may approve placement of an employee who has attained permanent status within his/her class at a higher position within his/her current salary range to:

- A. Correct salary inequities.
- B. Recognize outstanding performance.

Section 7.10 Change of Status for Departments

Any change in the status of a Department Head, including consideration for advancement, reduction in salary, reassignment, demotion or termination, must be approved by the City Manager.

Section 7.11 Salary of the City Attorney

The salary of the City Attorney is set by the City Council.

Section 7.12 Salary of the Secretary to the City Council

The salary of the Secretary to the City Council is set by the City Council.

Section 7.13 Salary of the City Manager

The City Council sets the salary of the City Manager.

CHAPTER 8: OTHER PAY POLICIES

Section 8.1 Overtime Pay

It is the policy of the City that overtime work be kept to the minimum consistent with the protection of life, property and the efficient operation of the departments and activities of the City and that overtime work be compensated for by compensatory time off where practical. All scheduled overtime work shall be authorized only with the prior authorization of the Department Head. Only non-exempt employees will be eligible for compensated overtime.

A. Overtime Defined

1. Forty (40) hour employees: Overtime shall be paid at a rate of time and one-half (.5) for all hours worked in excess of forty (40) hours in a standard work week. The regular hourly rate of pay shall be based on two thousand eighty (2,080) hours per year.
2. Twenty-four (24) hour employees: Overtime shall be paid at a rate of time and one-half (.5) for all hours worked in a work period in excess of the maximum hours standard set forth in 29 CFR §553.230. The regular hourly rate of pay shall be based on two thousand nine hundred twelve (2,912) hours per year.

Hours worked for the purpose of computing overtime pay shall be in accordance with the provisions of the FLSA; provided, however, that scheduled use of vacation, annual leave, administrative leave and compensatory time shall be considered “hours worked.”

B. Overtime Compensation

1. Compensatory Time: Overtime, where practical, shall be compensated for by compensatory time off. Compensatory time off shall be taken at the discretion of the Department Head with due regard for the wishes of the employee. Compensatory time shall be accrued at a rate of one and one-half times the number of overtime hours worked. Compensatory time may accumulate to a maximum of two-hundred forty (240) hours. Employees may request to be paid for up to one (1) week (40 or 56 hours depending on assigned schedule) of accumulated compensatory time on any one (1) payday per fiscal year.
2. Overtime Pay: Overtime pay will be calculated using one and one-half times the employee’s hourly rate and the number of overtime hours worked.

C. Overtime Not Applicable: Administrative Leave

Managerial employees shall be exempted from overtime compensation except as approved by the City Manager. In lieu of such normal overtime compensation, managerial employees shall be entitled to administrative leave of absence in the amount of days as approved by the City Council by resolution. If such managerial employee does not take such administrative leave during the yearly period between July 1, and June 30, then such unused administrative leave shall be forfeited effective July 1 of the following fiscal year unless otherwise authorized by the City Manager. Administrative Leave provided pursuant to this section shall not be considered “vacation leave” within the meaning of Labor Code §227.3.

Section 8.2 On-Call Pay

Whenever a non-exempt employee is scheduled for standby duty, such employee will be considered to be on-call. “On-call” means and includes that period of time, other than regularly-scheduled work time, during which an employee may be called back to provide services that are the responsibility of the department in

which the employee is employed. During this period of on-call, the employee is free to engage in the employee's regular activities so long as the employee is available to respond by phone or beeper within a period of time specified by the department, and is in a condition to work.

An employee placed on an on-call status shall be paid for one (1) hour of on-call pay for each weekday (Monday – Friday) and two (2) hours of on-call pay for each weekend day (Saturday – Sunday) that the employee is on-call at the employee's regular rate of pay.

An employee who is unable to report to work or cannot be located shall forfeit on-call pay, be removed from on-call status and be subject to discipline.

Section 8.3 Callback Pay

“Callback” means and includes those occasions when a non-exempt employee reports to duty during off-duty hours responding to a request from the City made after the employee has completed the normal shift and left the work station.

For purposes of callback, the employee shall be paid for the reasonable estimate of time required to travel to and from the employee's place of residence and the work area and for hours actually worked. The total paid time of callback pay, including travel time, shall not be less than three (3) hours of straight time. Whenever an employee is called out multiple times within a three (3) hour period, the additional call outs within these three (3) hour periods will count as one (1) call out for callback pay purposes.

Scheduled overtime shall not result in callback pay.

Section 8.4 Acting/Interim Employee Pay

An employee who is assigned the duties of a higher job classification for a minimum of two (2) consecutive workweeks (fourteen (14) days) shall receive a ten (10) percent increase over their regular base rate of pay for all hours that the employee is assigned to such duties, excluding the initial two (2) consecutive workweeks (fourteen (14) days). An employee who is assigned the duties of a lower job classification, in addition to their regular duties, for a minimum of two (2) consecutive workweeks (fourteen (14) days) shall receive a five (5) percent increase over their regular base rate of pay for all hours that the employee is assigned to such duties, excluding the initial two (2) consecutive workweeks (fourteen (14) days).

Section 8.5 Bilingual Pay

Employees will be eligible to receive forty dollars (\$40) per pay period upon becoming certified to use a foreign language, in addition to English, in an exam administered by the City testing language proficiency provided that the position occupied has been designated to receive such pay by the Human Resources Director. In order to be eligible, the use of a foreign language must be a necessary part of the employee's daily work activities and used for work purposes during the majority of time spent in communication with the public.

A. Examinations

Eligible employees who desire to receive bilingual pay may request to be examined for proficiency in a foreign language by submitting a memorandum to their Department Head. The Department Head must sign the memorandum to certify that the use of a foreign language is a necessary part of their daily work activities and used for work purposes during the majority of time the employee is at work. The memorandum should then be forwarded to the Human Resources Department for approval. Tests will be arranged through the Human Resources Department.

B. Expectations

Employees receiving bilingual pay are expected to translate for employees who are not bilingual in the event such services are needed, even if the employee needing assistance is not from the same department or work unit.

C. Monitoring

Department Heads will be responsible for monitoring the employees in their respective departments who are receiving bilingual pay to ensure the use of a foreign language is a necessary part of their daily work activities. Audits may be conducted by the Human Resources Department at any time.

CHAPTER 9: PERFORMANCE EVALUATIONS

Section 9.1 Performance Evaluations

It is the policy of the City that the job performance of each employee be evaluated by the employee's supervisor.

A. Regular Employees

All regular employees (except those that are on contract or are at-will) shall be presented with an annual employee performance evaluation no later than their established anniversary date.

B. Probationary Employees

All probationary employees are to be evaluated at the end of six (6) months employment and again at the completion of twelve (12) months employment.

C. Public Safety Positions

Probationary periods for designated police and fire personnel shall be one (1) year. Probationary employees are to be evaluated at the end of six (6) months employment and again at the completion of twelve (12) months employment.

Section 9.2 Supervisor's Responsibility

Each supervisor is responsible for monitoring and periodically evaluating an employee's work performance and behavior relative to actual job duties. It is the supervisor's responsibility to monitor due dates and complete the performance evaluation in a timely manner.

Performance evaluations shall be completed and submitted to the Human Resources Director for review and approval prior to presenting it to the employee.

Section 9.3 Merit Increase Eligibility

In order to be eligible for a merit increase, the employee's evaluation must rate his/her overall performance as satisfactory or better. Exact amount of merit increase is determined by respective MOU, resolution or contract.

Merit increase eligibility date and performance review date shall change in the following situations:

A. Promotional Advancement/Transfer

The merit increase eligibility date shall be changed to the anniversary date of the promotion or transfer.

B. Range Change and Reclassification

The merit step increase eligibility date shall change to the anniversary of the employee's reclassification date.

Section 9.4 Retroactivity

If the employee's review is late, any merit and/or step increase he/she is entitled to and eligible for shall be made retroactive to the step eligibility date.

Section 9.5 Denial of Merit Increase

An employee may be denied a merit or step increase by the evaluating supervisor for unsatisfactory performance. If merit increase is denied, the evaluating supervisor shall coordinate with their Department Head and the Director of Human Resources to design an action plan of limited duration, specifically designed to address the performance deficiencies of the subject employee. Additionally, the action plan shall include a strategy that provides support and training designed to equip the subject employee to overcome their performance deficiencies.

Following the presentation of the performance evaluation and the required action plan, the employee may write a rebuttal to the performance evaluation, which must be included in his/her personnel file.

During the life of the action plan the employee shall receive bi-monthly performance evaluations until such time as the employee either improves his/her performance sufficient to justify advancement within the salary schedule, or until such time as the action plan expires without the employee achieving the required job proficiencies in which case the employee would be subject to discipline up to and including discharge.

If the subject employee qualifies for a merit step increase, the next merit step increase eligibility date shall be based on the date of the last satisfactory performance evaluation.

Employee merit increase eligibility and review dates will conform to Chapter Seven (7).

CHAPTER 10: EMPLOYEE BENEFITS

Section 10.1 Group Health Insurance

It is the policy of the City to provide its employees with various health benefits. Information and summaries intended to explain these benefit plans will be furnished to all plan participants on a timely and continuing basis. Each employee filling a full-time position normally scheduled to work at least thirty (30) hours per week, shall have the opportunity to participate in the City's group health insurance which include medical, dental, vision, life insurance, mental health counseling, short-term disability and long-term disability for themselves and dependents as may be provided for by the City. Benefit programs are reviewed annually and adjustments are made each year to accommodate the market and employee's needs. All benefits provided by the City are described in official documents that are kept on file in the Human Resources Department. These documents are available for examination by any plan participant or beneficiary.

Section 10.2 Beneficiaries

For certain City insurance and retirement plans, each employee must designate a beneficiary for the employee's death benefits. The designation must be made in writing on forms available in the Human Resources office. It is the employee's responsibility to maintain the proper beneficiary designations and to alert the Human Resources Department to any changes in status affecting eligibility or designations.

Section 10.3 Cobra Benefits

Eligible employees and certain family members have the right to continue health care coverage, at their own expense, under the City's group health plans as provided in the Consolidated Omnibus Budget and Reconciliation Act ("COBRA") and Cal-COBRA, provided that they elect to do so within a specified time period after one (1) of several qualifying events.

A. Notice of the Right to Continuation Coverage

The City will provide eligible employees and/or their families notice of the right to continuation coverage after the following qualifying events:

1. The death of the covered employee;
2. The covered employee's termination (other than by reason of the employee's gross misconduct);
3. Reduction in the covered employee's hours; or
4. The covered employee's eligibility for Medicare.

B. Employee Responsibility

The employee must provide the City notice, as soon as possible, but no later than thirty (30) days after, any of the following qualifying events:

1. The divorce or legal separation of the covered employee from the employee's spouse; or
2. A dependent child ceasing to be a dependent child. In order to be eligible for continuation of medical insurance, the employee must self-pay the premiums amount and meet all COBRA and Cal-COBRA criteria.

Section 10.4 Holidays

All regular full-time employees of the City shall be entitled, without loss of pay, to the following holidays:

1. January 1, New Year's Day;
2. The third (3rd) Monday in January, Martin Luther King, Jr. Day;
3. The third (3rd) Monday in February, President's Day;
4. One-half (.5) day on the afternoon of the Friday before Easter, Good Friday*;
5. The last Monday in May, Memorial Day;
6. July 4, Independence Day;
7. The first (1st) Monday in September, Labor Day;
8. November 11, Veteran's Day;
9. The fourth (4th) Thursday in November, Thanksgiving Day;
10. The Friday after Thanksgiving Day;
11. One-half (.5) day on December 24th*;
12. December 25, Christmas Day; and
13. One-half (.5) day on December 31st*.

*See section 10.4(C) for half-day holiday definition.

A. Birthday Holiday

In addition to the above specified holidays, employees shall receive a day off on their birthday. Any birthday holiday not observed during the pay period in which it falls shall be converted to vacation or annual leave and added to the employee's accrual balance. Employees are responsible for making this adjustment on their timesheets.

B. Proclamation by Mayor:

Any day declared to be a holiday by proclamation of the Mayor may also be observed.

C. Holidays Falling on Weekends:

Any holiday falling on Sunday shall be observed on the following Monday. Holidays falling on Saturday shall be observed on the preceding Friday.

D. Half Day Holidays:

Should the holidays set forth in section 10.4(4), (11) and (13) fall on a City workday, the holiday will start at 12:00 p.m. All employees must complete a total of four (4) hours work on such days, providing department coverage until 12:00 p.m. Any employee not working a complete four (4) hours will need to show the difference from accrued leave balances (i.e., if the employee is on vacation the timecard would show four (4) hours vacation and four (4) hours holiday). Departmental schedules may vary depending on need.

E. Holidays Falling on a Day Off:

If a holiday falls on an employee's day off, the employee may take another day off, with the approval of the employee's Department Head, provided, however, that said day off must be

requested on leave forms provided by the City prior to the end of the pay period following said holiday, otherwise the employee shall be paid for said holiday.

In order to receive holiday pay, an employee must work or be on paid leave his/her last scheduled shift preceding the holiday and his/her first scheduled shift succeeding the holiday.

Section 10.5 Vacation Leave

All employees shall be eligible for vacation leave with pay except for the following:

1. Probationary employees. Vacation hours shall accrue during the probationary period and shall be granted to the employee when he/she receives a permanent appointment.
2. Permanent part-time employees who work less than one thousand forty (1,040) hours per year.
3. Temporary employees.
4. Employees eligible for Annual Leave per the terms of their applicable MOU.

A. Accrual

Vacation leave accrues only when an eligible employee is in a pay status of fifty (50) percent or more of that bi-weekly period.

Vacation leave shall be accrued and credited biweekly for all regular full-time employees working forty (40) hours per week at the following rates:

- 0-60 months continuous service - 4.62 hours biweekly;
- 61-72 months continuous service - 4.92 hours biweekly;
- 73-84 months continuous service - 5.23 hours biweekly;
- 85-96 months continuous service - 5.54 hours biweekly;
- 97-108 months continuous- service - 5.85 hours biweekly; and
- 109 or more months continuous service - 6.15 hours biweekly.

Vacation leave shall be accrued on a pro-rated basis for all regular employees working less than forty (40) hours per week.

B. Maximum Accrual and Caps

Vacation accrues up to a maximum of one and one-half (1.5) times the amount of time the employee is currently eligible to earn each year. Accumulation in excess of the maximum must have prior written approval of the City Manager.

Once this cap is reached, no further vacation will be earned until enough vacation is used to bring the employee below the cap. Only when the accrual falls below the cap will vacation compensation again commence to accrue until it reaches the applicable cap.

C. Approval of Use of Vacation Leave

No vacation may be taken at any time without approval of the employee's supervisor and/or Department Head. The times during a calendar year at which employees may take their vacations shall be determined by their Department Head with due regard for the wishes of the employee and particular regard for the needs of the City.

Employees who request more than three (3) consecutive days of vacation time off should do so with at least a two (2) week advance notice. Depending on departmental workload and circumstances, management may or may not grant the requested vacation time off.

D. Illness During Vacation Leave

If an employee becomes ill or injured during his/her annual vacation leave which requires hospitalization or medical attention, those days for which proof of such hospitalization or medical attention is furnished shall not be charged as vacation, but shall be charged as sick leave.

E. Working During Vacation Leave

At no time will an employee be permitted to work for the City during his/her vacation and receive double compensation.

F. Payment for Accrued Vacation Time upon Termination

Employees will be paid for unused accrued vacation time upon termination of employment, minus tax deductions as required by state and federal taxing laws.

Section 10.6 Annual Leave

In lieu of vacation leave, and as per the terms of the employee's applicable MOU, annual leave is provided for the purpose of rest and relaxation from their duties and for attending to medical situations and personal business. Annual leave accrues only when an employee is in a pay status of fifty (50) percent or more of that bi-weekly period.

Annual leave shall be accrued and credited biweekly for all regular full-time employees working forty (40) hours per week at the following rates:

- 0-60 months continuous service – 6.77 hours biweekly;
- 61-72 months continuous service – 7.07 hours biweekly;
- 73-84 months continuous service – 7.38 hours biweekly;
- 85-96 months continuous service – 7.69 hours biweekly;
- 97-108 months continuous- service – 8.00 hours biweekly;
- 109 or more months continuous service – 8.30 hours biweekly;

Annual leave shall be accrued on a pro-rated basis for all regular employees working less than forty (40) hours per week.

Employees shall be eligible to take annual leave after completion of one (1) month of continuous full-time service.

A. Maximum Accrual and Caps

Annual leave accrues up to a maximum of three (3) times the amount of time the employee is currently eligible to earn each year. Accumulation in excess of the maximum must have prior written approval of the City Manager.

Once this cap is reached, no further annual leave will be earned until enough annual leave is used to bring the employee below the cap. Only when the accrual falls below the cap will annual leave again commence to accrue until it reaches the applicable cap.

B. Approval of Use of Annual Leave

No annual leave may be taken at any time without approval of the employee's supervisor and/or Department Head. The times during a calendar year at which employees may take their leave shall be determined by their Department Head with due regard for the wishes of the employee and particular regard for the needs of the City.

Employees who request more than three (3) consecutive days of time off should do so with at least a two (2) week advance notice. Depending on departmental workload and circumstances, management may or may not grant the requested time off.

C. Working During Annual Leave

At no time will an employee be permitted to work for the City during his/her annual leave and receive double compensation.

D. Payment for Accrued Annual Time upon Termination

Employees will be paid for unused accrued annual leave time upon termination of employment, minus tax deductions as required by State and Federal taxing laws.

Section 10.7 Sick Leave

Sick leave shall not be considered a privilege which an employee may use at his/her own discretion, but shall be allowed only in case of necessity and actual personal illness or disability, medical or dental treatment or in case of emergency illness in the immediate family (child, parent, spouse or domestic partner as defined in section 12.7). The abuse of sick leave policies and rules is cause for the imposition of disciplinary action, up to and including termination.

A. Eligibility

All permanent, part-time permanent and probationary employees who have completed the equivalent of one (1) month of service shall be eligible for sick leave except for the following:

1. Temporary employees shall not be eligible for sick leave.
2. Employees eligible for Annual Leave per the terms of their applicable MOU.

B. Accrual

Sick leave shall be accrued and credited biweekly for all eligible employees who are on pay status for fifty (50) percent or more of that bi-weekly period. Eligible employees shall accrue sick leave hours at a rate of three and sixty-nine one hundredths (3.69) hours biweekly (for forty (40) hour employees) and five and fifty-four one hundredths (5.54) hours biweekly (for twenty-four (24) hour employees).

Sick leave shall be accrued on a pro-rated basis for all regular employees working less than forty (40) hours per week.

C. Accumulation

Sick leave hours may be accumulated without restriction.

D. Use of Sick Leave – Notification Requirement

When an employee is going to be absent due to illness or a medical condition that prevents him or her from coming to work, the employee shall notify his/her Department Head or manager, or their designee, as soon as possible, but, unless there is an emergency circumstance, no later than the time set for beginning daily duties.

An employee may use accrued sick leave because of illness or injury or to attend medical, dental

and optical appointments to the extent that such appointments cannot be scheduled outside the workday.

An employee may also use his/her sick leave accrued time to attend to the illness of a child, spouse, domestic partner, child of a domestic partner or parent.

E. Sick Leave Certification and Approval

If the City has a preponderance of evidence supporting the conclusion that sick leave is being abused, it may at its discretion require any employee requesting paid sick leave to furnish substantiating evidence or a statement from his/her attending physician certifying that absence from work was required. The City may also request such a statement whenever sick leave is requested for three (3) or more consecutive work days.

The City shall have the right at its discretion to verify the report of the attending physician concerning the illness or disability of an employee, and to require the employee to be examined, at the City's expense, by a physician selected by the City to determine the nature and extent of the illness or disability.

As a result of such physician's statements and examination, the City may approve or deny an employee's sick leave requests, and establish limits and conditions for any further approved sick leave connected with the same illness or disability. The City has the right to discipline an employee for prohibited behaviors relating to abuse of sick leave or excessive absenteeism. All documentation excusing their absence and confirming their fitness to return to duty should be filed with Human Resources Department.

F. Sick Leave Release

An employee who is sick or disabled for five (5) or more consecutive workdays (in the case of forty (40) hours or less employees) or three (3) or more consecutive shifts (in the case of twenty-four (24) hour employees) may be required, and any employee who is sick or disabled for ten (10) or more consecutive days (in the case of forty (40) hours or less employees) or five (5) or more consecutive shifts (in the case of twenty-four (24) hour employees) shall be required, at the City's discretion and at the City's expense, to secure and submit a physician's release certifying that he/she is fit to return to work. This release must be submitted to the employee's supervisor before the employee will be permitted to return to work. The City may also require, at its discretion and its expense, that an employee take a medical physical in conjunction with the above sick leave release procedure.

G. Holidays Within Sick Leave

When a recognized City holiday falls within an employee's bona fide use of sick leave for which he/she normally would have been excused from work, that day shall not be charged as a day of sick leave.

H. Sick leave accumulated which exceeds two hundred eighty-eight (288) hours for forty (40) hour employees and three hundred sixty (360) hours for twenty-four (24) hour employees may be converted to cash reimbursement as follows:

1. Zero (0) to sixty (60) months of continuous service – five (5) percent.
2. Sixty-one (61) to one hundred twenty (120) months of continuous service – fifteen (15) percent.
3. One hundred twenty-one (121) to one hundred eighty (180) months of continuous service – twenty-five (25) percent.
4. More than one hundred eighty (180) months of continuous service – fifty (50) percent.

Cash reimbursement will be paid in January of each year or upon separation.

J. Sick Leave upon Retirement

Upon retirement, an eligible employee whose retirement date is within four (4) months of separation from employment may convert all unused sick leave hours to additional service credit in accordance with Government Code §20965.

Section 10.8 Donation of Hours

A. Purpose

The purpose of this policy is to outline the City of El Centro's procedure for donating vacation, annual or compensatory leave hours. Donating leave hours is the practice of giving the time to another employee on a strictly voluntary basis for a specific cause such as a serious illness, injury or a Family Medical Leave Act ("FMLA")-qualifying event as specified in the City's Personnel Rules and Regulations, Section 12.7.

B. Policy

It is the policy of the City of El Centro to establish and follow procedures for employees to voluntarily donate accumulated vacation, annual or compensatory leave hours for another employee who is unable to work due to an illness, injury or a FMLA-qualifying event.

C. Applicability

This policy applies to all permanent employees.

D. Procedure, Eligibility and Use

1. Employees may not solicit or distribute lists for donation of hours.
2. Employees wishing to donate hours must do so on a strictly volunteer basis.
3. Employees wishing to donate hours must complete the Donation of Hours Request form which is available the Human Resources Department or it can be found on the J Drive: common folder-Human Resources-forms.
4. Submit the Donation of Hours Request form for approval to their Department Head, Human Resources and City Manager.
5. Employees may not donate more than eighty (80) hours per incident.
6. Employees may not donate sick or administrative leave.
7. Employees donating hours to another employee must retain eighty (80) hours of vacation or annual leave for their own personal use.
8. Donated hours are converted into an equivalent number of sick time hours, regardless of differences between participants' pay rates.
9. Donated hours will be transferred to the designated recipient per pay period as is needed.
10. Donated leave hours that have been transferred will not be returned to the donor.
11. Donated leave hours that have not been transferred will remain with the donor.
12. The recipient employee must use the donated time to manage his or her own illness or injury.
13. The recipient employee must have exhausted all of their available paid leave options (sick, vacation, annual, administrative or comp time).
14. The condition must be certified by a physician to verify that the time off is due to an illness or injury.
15. Donated leave may run concurrently with FMLA leave.

CHAPTER 11: EMPLOYEE DEVELOPMENT

Section 11.1 Seminars and Work-Related Training

The City encourages employees to broaden their knowledge and improve their skills in their City occupational field or area to improve their on-the-job performance, and to increase their overall value to the City by attending seminars, conferences, training workshops and/or certificate licensing programs.

Under this program, the City will pay for the cost of these trainings or will reimburse employees who pay for them ahead of time. Reimbursement is available for regular employees who are performing their job in a satisfactory manner. Requests for reimbursement require pre-approval of the Department Head and are subject to budget and staffing availability. Requests may be denied if it would result in the payment of overtime compensation.

Seminars, conferences, training workshops and/or certificate licensing programs contemplated under this program are defined as courses of study that are specifically related to the employee's presently-assigned position. These trainings are generally completed within five (5) days and usually require attendance during regular working hours. Courses, classes and/or certificates that are eligible for educational incentive pay per MOU are excluded from reimbursement under this section.

To qualify for payment, this type of training must be provided by or through an educational institution, a professional society or an approved contracting agency.

This type of training will not be eligible under this program if the knowledge can be obtained through in-house training, or if it is oriented solely towards personal satisfaction or enjoyment.

Employees who attend seminars or training will be compensated for hours worked when any of the following apply:

1. It is required by the City;
2. The seminar or training is directly related to the employee's current job;
3. The employee performs productive work during the seminar or training; or
4. The seminar or training occurs during normal work hours, regardless of the day of the week.

Reimbursable expenses include meals, travel, mileage, hotel costs and parking costs, with a completed Claim Form submitted to the Finance Department.

Section 11.2 Certificate and Licensing Programs

The City will pay the cost for employees whose job qualifications require certification or licensure to obtain recertification or licensure for the specific position held.

Certificate and/or licensing programs are usually a series of courses that need to be completed in order to obtain a document certifying that the employee has fulfilled the requirements of a program.

The certificate program or a specific license or renewal of a license may be allowed under the employee's bargaining unit and MOU, and it must be job-related to the employee's presently assigned position.

"Job related" means and includes courses which maintain or improve the employee's job performance, meets any specified education requirements of the employer or profession licensure or meets any

requirements necessary for the employee to retain his/her salary status or employment.

Certificates or licenses covered under this program must be provided by or through an educational institution, a professional society or an approved contracting agency, must contain sufficient content and requirements, must be the most effective means of obtaining the knowledge and must have a reasonable expectation of providing more effective on-the-job service by the employee.

Section 11.3 Education Reimbursement and Professional Development Program

The City subscribes to and supports an educational tuition reimbursement and professional development program for the benefit of employees who want to further or continue their education. Employees shall be eligible for reimbursement of up to one thousand dollars (\$1,000) per year for tuition reimbursement and/or professional development. Guidelines are as follows:

- A. **Tuition Reimbursement** - Employees who, in their sole discretion, want to broaden their knowledge by pursuing academic training and higher education on their off-duty hours may receive reimbursement for expenses as provided herein. Under this program, reimbursement is available for regular employees who are performing their job in a satisfactory manner.

Expenses for tuition and textbooks will be reimbursed subject to the approval of the Department Head and the Director of Human Resources.

Continuing education under this program is defined as postsecondary college level course work necessary to obtain a diploma or degree. Reimbursement will be subject to the following criteria:

1. That a degree or certificate is sought;
2. Applicability of the degree to future positions in the organization;
3. Courses may not be taken during the employee's regular working hours (unusual exceptions require appropriate approval);
4. Completion of the course must be verified with a grade of "C" or better;
5. If the employee withdraws from a course, the employee will be responsible for any expenses incurred; and
6. The employee must remain an active "Regular" employee through conclusion of the course.

Reimbursement Procedure:

1. Employee completes Tuition Reimbursement Request form and submits to Department Head for approval;
2. If approved, Department Head will submit to Human Resources for approval;
3. If approved by Human Resources, a copy of the approved form will be returned to the employee;
4. The employee then makes all registration arrangements and pays for tuition and books/materials;
5. After completing the course, the employee will provide Human Resources with grade sheet and receipts for tuition and books; and
6. Employee's department will prepare a Claim Form for any reimbursements due the employee.

- B. **Professional Development Training** - The City encourages employees to broaden their knowledge and improve their skills in their City occupational field or area to improve their on-the-job performance, and to increase their overall value to the City by attending seminars, conferences, training workshops and/or certificate licensing programs.

Reimbursement is available for regular employees who are performing their job in a satisfactory manner and requests for reimbursement are subject to the approval of the Department Head and the Director of Human Resources.

Seminars, conferences, training workshops and/or certificate licensing programs contemplated under this program are defined as courses of study that are specifically related to the employee's presently-assigned position, but not required by the City.

Employees who attend seminars or training under this program will not be compensated for time off. The use of leave accruals will be allowed.

Reimbursable expenses include registration, tuition, books and materials.

Reimbursement Procedure:

1. Employee completes Professional Development Reimbursement Request form and submits to Department Head for approval;
2. If approved, Department Head will submit to Human Resources for approval;
3. If approved by Human Resources, a copy of the approved form will be returned to the employee;
4. The employee then makes all registration arrangements and pays for tuition and books/materials;
5. After attending the seminar, the employee will provide Human Resources with any certificate, attendance verification and/or receipts related to the seminar; and
6. Employee's department will prepare a Claim Form for any reimbursements due the employee.

CHAPTER 12: ATTENDANCE AND ABSENCE FROM WORK

Section 12.1 Attendance and Punctuality

It is the policy of the City to require employees to report for work punctually and to work all scheduled hours and any required overtime. Excessive tardiness and poor attendance disrupt work flow and customer service and will not be tolerated.

Supervisors should notify employees of their starting, ending and break times. Employees are expected to be engaged in carrying out their duties during all scheduled work time and should be ready to begin working at their scheduled starting time.

Employees should notify their supervisor as far in advance as possible whenever they are unable to report for work, know they will be late or must leave early. The notice should include a reason for the absence and an indication of when the employee can be expected to report for work. If the supervisor is unavailable, notification should be made to the Human Resources Department. Failure to notify the City properly of any absence may result in loss of compensation during the absence and may be grounds for disciplinary action.

Employees who report for work without proper equipment or in improper attire may not be permitted to work. Additionally, employees who report for work in a condition considered not fit for work, whether due to illness or any other reason, will not be allowed to work.

Unauthorized or excessive absences or tardiness will result in disciplinary action, up to and including termination. An absence is considered to be unauthorized if the employee has not followed proper notification procedures or the absence has not been properly approved.

Employees who are absent from work for five (5) consecutive days without giving proper notice to the City will be considered to have voluntarily quit. See section 19.8 for more information on job abandonment.

Section 12.2 Workweek Designated

The standard work period for City employees shall be as follows:

- A. For miscellaneous employees, the work period is seven (7) days commencing at 12:01 a.m. on Tuesday and continuing through 12:00 a.m. the following Monday.
- B. Employees of police, fire and dispatch will work shifts as assigned by their Department Head.
- C. For employees utilizing the 9-80 schedule (as that term is defined in section 12.3), the work week begins at 12:00 p.m. on Friday and ends at 11:59 a.m. on the following Friday.

This section shall not preclude the City Manager from designating other work periods when the best interest of the City may be served by adjustment of standard work periods and hours.

A work week which is different than the work week as set forth in this subsection may be established for departments, divisions within departments and individual employees, if requested by a Department Head and approved by the City Manager, and if documented in payroll records.

Section 12.3 9-80 Work Schedule

The City may approve the use of a 9-80 work schedule for certain positions designated by the City Manager. The 9-80 alternative work schedule is not to be used without the express approval of the employee's Department Head.

Work Week and Work Days

Under this policy, the work week begins at noon on Friday and ends at 11:59 a.m. on the following Friday. The workday begins at noon on any given day and continues until 11:59 a.m. on the following day. The 9-80 schedule is consistent and repeatable every two (2) weeks.

Employees using the 9-80 work schedule are required to work nine hours (for example from 7:30 a.m. to 5:30 p.m.) for eight (8) work days, and eight (8) hours on a ninth (9th) work day. Employees participating in a 9-80 work schedule will have alternate Fridays off. In smaller departments, it is expected that staff members participating will have different Fridays off in order to ensure office coverage.

Effect on Overtime

The workweek thus defined herein continues to provide for a normal work schedule of forty (40) hours in a work week although the employee would work forty-four (44) hours in one (1) calendar week and thirty-six (36) hours in the second (2nd) calendar week of the two (2) week payroll period. Overtime would not be paid unless an employee exceeded forty (40) hours of work in the work week (not the calendar week). This is consistent with the City's policy of keeping overtime to a minimum and with the FLSA.

City Office Hours

City offices will remain open to the public from 8:00 a.m. to 5:00 p.m. Monday through Friday.

Work Day Beginning and Ending Times and Core Hours

An employee's beginning time may vary between the hours of 7:00 a.m. and 8:00 a.m. provided the employee's starting time is observed on a regular basis. All employees are expected to be at work during core hours of 8:00 a.m. to 5:00 p.m. except for their regularly-scheduled lunch period of one (1) hour. Hours may vary depending on department schedule.

Holidays

For any week in which there is a scheduled holiday, City offices are closed. An employee working a 9-80 work schedule will work their regularly-scheduled work days (except for the holiday off) and will be paid for eighty (80) hours. In cases where a holiday falls on an employee's regular Friday off, the employee will be allowed to add eight (8) hours to the employee's annual or vacation leave balance with the addition reflected on the employee's time sheet for the pay period in which the holiday falls. If an employee is scheduled to be off on any one-half (.5) day holiday, the employee shall have four (4) hours added to their leave balance. Department Heads will approve work schedules to ensure coverage of their departments during the City's office hours.

Voluntary Implementation

The use of a 9-80 work schedule is voluntary, and employees are to request use of a 9-80 work schedule on forms provided by the City. The forms will allow for designation by the employee of his/her starting and ending times for the work day, and employees would be permitted to change their regular starting and ending times by providing reasonable notice (i.e., two (2) weeks' notice) to their Department Head, who shall either approve or deny the change.

Failure to Adhere to Work Schedule

Failure to work his/her scheduled hours on the 9-80 alternative work schedule shall be grounds for a Department Head to revoke approval of the 9-80 schedule. Such revocation shall be in addition to any disciplinary action imposed.

Section 12.4 Recording Actual Time Worked

Non-exempt employees must record their actual time worked for payroll and benefit purposes from the time work begins and ends. Non-exempt employees must also record any departure from work for any non-work-related reason. Employee time records should be checked and signed by the supervisor involved.

Filling out another employee's time record or falsifying any time record is prohibited and may be grounds for disciplinary action, up to and including termination.

Section 12.5 Pay-periods

Pay periods for all employees shall be bi-weekly and paydays shall be paid on alternate Fridays. When a regular payday coincides with a holiday, paychecks will be issued on the workday nearest that holiday. Except for employees being terminated, employees will be paid only on regular paydays. The method of distributing payroll checks shall be established by the City Manager.

Employees who discover a mistake in their pay check, lose their pay check or have it stolen should notify Payroll immediately. In the case of a mistake, the error will be remedied promptly. In the case of loss or theft, the Finance Department will attempt to stop payment on the check and reissue a new check to the employee. However, the employee is solely responsible for the monetary loss, and the City will not be responsible for the loss or theft of a check if it cannot stop payment on the check.

Section 12.6 Personal Leave

Employees may be granted up to one (1) week of personal leave to attend to personal or family matters. This leave must be requested in writing and may be granted only if the employee's absence will not create hardship on the department and other staff. It must be approved by both the Department Head and the City Manager, and if granted only accrued vacation or annual leave hours can be used for this purpose.

Section 12.7 Family and Medical Leave Act of 1993/California Family Rights Act

To the extent not already provided for under current leave policies and provisions, the City will provide family and medical care 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 leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA") and the regulations of the California Family Rights Act ("CFRA"). Unless otherwise provided by this policy, leave under this policy shall mean leave pursuant to the FMLA and CFRA.

A. DEFINITIONS

1. Twelve (12) Month Period: a rolling twelve (12) month period measured backward from the date leave is taken and continuous with each additional leave day taken.
2. Single Twelve (12) month period: a twelve (12) month period which begins on the first day the eligible employee takes FMLA/CFRA leave to take care of a covered servicemember and ends twelve (12) months after that date.
3. Child: person under the age of eighteen (18) years of age, or eighteen (18) years of age or older who is incapable of self-care due to a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.

A child is incapable of self-care if he/she requires active assistance or supervision to provide

daily self-care in three (3) or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

4. Parent: biological, adoptive, step- or foster 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. Spouse: means a husband or wife as defined or recognized under California State law for purposes of marriage.
6. Domestic Partner: shall have the same meaning as “spouse” for purposes of CFRA Leave.
7. Serious health condition: an illness, injury impairment or physical or mental condition that involves:
 - a) Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity (i.e., inability to work or perform other regular daily activities due to the serious health condition, treatment involved or recovery therefrom); or
 - b) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one (1) or more of the following:
 - i. A period of incapacity (i.e., inability to work or perform other regular daily activities) due to serious health condition of more than three (3) full consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - a. Treatment two (2) or more times within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse, or by a provider of health care services (i.e., a physical therapist) under orders of or on referral by a health care provider. The first in-person treatment visit must take place within seven (7) days of the first day of incapacity; or
 - b. Treatment by a health care provider on at least one (1) occasion which must take place within seven (7) days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
 - ii. Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.)
 - iii. Any period of incapacity or treatment for such incapacity due to a chronic

serious health condition. A chronic serious health condition is one which:

- a. Requires periodic visits (defined as at least two (2) times per year) for treatment by a health care provider or by a nurse;
 - b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - c. May cause episodic rather than a continuing period of incapacity (i.e., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one (1) day.
- iv. A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
 - v. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment.

8. “Health Care Provider” means:

- a) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
- b) Individuals duly licensed as a physician, surgeon or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;
- c) Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California law;
- d) Nurse practitioners and nurse-midwives, clinical social workers and physician assistants who are authorized to practice under California law and who are performing within the scope of their practice as defined under California law;
- e) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
- f) Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

9. “Active Duty or Call to Active Duty Status” means a duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation for members of the Reserve components, the National Guard, and certain retired members of the Regular Armed Forces and retired Reserve while serving on active duty

status during a war or national emergency declared by the President or Congress.

10. “Contingency Operation” means a military operation that is (1) designated by the Secretary of Defense as an operation in which members of the United States Armed Forces are or may become involved in military actions, operations or hostilities against an enemy of the United States or against an opposing military force or (2) that results in the call to order to, or retention on, active duty members of the United States Armed Forces by law or any other provision of law during a war or national emergency declared by the President or Congress.
11. “Covered Servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.
12. “Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either (1) a military medical treatment facility as an outpatient or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
13. “Next of Kin of a Covered Servicemember” means the nearest blood relative other than the covered servicemember's spouse, parent, son or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his/her nearest blood relative for purposes of military caregiver leave under the FMLA.
14. “Serious Injury or Illness” means an injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank or rating.

B. REASON FOR LEAVE

Leave is only 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 domestic partner who has a serious health condition;
4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
5. Leave for a qualifying exigency may be taken arising out of the fact that an employee's spouse, son, daughter or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation (under the FMLA only, not the CFRA); or
6. Leave to care for a spouse, son, daughter, parent or next of kin servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty (this leave can run up to twenty-six (26) weeks of

unpaid leave during a single twelve (12) month period) (under the FMLA only, not the CFRA).

C. EMPLOYEES ELIGIBLE FOR LEAVE

An employee is eligible for leave if the employee:

1. Has been employed for at least twelve (12) months; and
2. Has been employed for at least one thousand two hundred fifty (1,250) hours during the twelve (12) month period immediately preceding the commencement of the leave.

D. AMOUNT OF LEAVE

Eligible employees are entitled to a total of twelve (12) workweeks (or twenty-six (26) weeks to care for a covered servicemember) of leave during any twelve (12) month period. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

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 one (1) year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two (2) weeks. However, an employee is entitled to leave for one (1) of these purposes (i.e., bonding with a newborn) for at least one (1) day, but less than two (2) weeks duration on any two (2) occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

2. Spouses Both Employed By The City: In any case in which a husband and wife both employed by the City are entitled to FMLA/CFRA leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks during any twelve (12) month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave).

In any case in which a husband and wife both employed by the City are entitled to leave to care for a covered servicemember, the aggregate number of workweeks of leave to which both may be entitled may be limited to twenty-six (26) workweeks during any twelve (12) month period.

Except as noted above, this limitation does not apply to any other type of leave under this policy.

E. EMPLOYEE BENEFITS WHILE ON LEAVE

Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job. Employees may make the appropriate contributions for continued coverage under any voluntary plans by payroll deductions or direct payments made to these plans. Depending on the particular plan, the City will inform you whether the premiums should be paid to the carrier or to the City. Employee contribution rates are subject to any change in rates that occur while the employee is on leave.

Your coverage on a particular plan may be dropped if you are more than thirty (30) days late in making a premium payment. However, you will receive a notice at least fifteen (15) days before coverage is to cease, advising you that you will be dropped if your premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (i.e., unpaid wages, vacation pay, etc.).

F. SUBSTITUTION OF PAID ACCRUED LEAVES

While on leave under this policy, as set forth herein, he/she must exhaust all accrued leaves (vacation and/or annual, except sick leave) in connection with the leave. If an employee requests leave for his/her own serious health condition, in addition to exhausting accrued leave, the employee must also exhaust accrued sick leave (if sick leave is accrued). Sick leave cannot be used if leave is taken for bonding purposes. In cases where it would otherwise be appropriate for the employee to utilize sick leave, the employee can choose to utilize sick leave instead of another accrued leave.

The exhaustion of accrued leave will run concurrently with the leave under this policy.

1. The City's Right To Require An Employee To Exhaust FMLA/CFRA Leave Concurrently With Other Leaves

If an employee takes a leave of absence for any reason which is FMLA/CFRA-qualifying, the City may designate that non-FMLA/CFRA leave as running concurrently with the employee's twelve (12) week FMLA/CFRA leave entitlement. The only exception is for peace officers and firefighters who are on leave pursuant to Labor Code §4850.

2. The City's and Employee's Rights If An Employee Requests Accrued Leave Without Mentioning Either FMLA or CFRA

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

G. MEDICAL CERTIFICATION

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the City.

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

essential functions of his/her position.

Employees who request leave to care for a covered servicemember who is a child, spouse, parent or next of kin of the employee must provide written certification from a health care provider regarding the injured servicemember's serious injury or illness.

The first time an employee requests leave because of a qualifying exigency, the employer may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.

1. Time To Provide A Certification

When an employee's leave is foreseeable and at least thirty (30) days notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the City within the time frame requested by the City (which must allow at least fifteen (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.

2. Consequences for Failure to Provide An Adequate or Timely Certification

If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency.

However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

3. Second and Third Medical Opinions

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

4. Intermittent Leave Or Leave On A Reduced Leave Schedule

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

H. EMPLOYEE NOTICE OF LEAVE

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. Except for qualifying exigency leave, if leave is foreseeable, at least thirty (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 or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be given verbally. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

I. REINSTATEMENT UPON RETURN FROM LEAVE

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 FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City the employee will be reinstated within two (2) business days, where feasible, after the employee notifies the employer of his/her readiness to return.

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.

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, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

4. Reinstatement of "Key Employees"

The City may deny reinstatement to a key employee (i.e., an employee who is among the highest paid ten (10) percent of all employed by the City within seventy-five (75) miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's

intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

J. REQUIRED FORMS

Employees must fill out the following applicable forms in connection with leave under this policy:

1. Request for Family or Medical Leave
2. Medical certification either for the employee's own serious health condition or for the serious health condition of a child, parent or spouse;
3. Authorization for payroll deductions for benefit plan coverage continuation; and
4. Fitness for duty to return from leave form.

Section 12.8 Pregnancy Disability Leave

The City will grant an unpaid pregnancy disability leave for up to four (4) months if an employee is disabled because of pregnancy, childbirth or a related medical condition.

A. Notice and Certification Requirements

Requests for pregnancy disability leave must be submitted in writing and must be approved by the employee's supervisor or Department Head before the leave begins.

The request must be supported in writing by an attending physician that the employee is disabled from working by pregnancy, childbirth or a related medical condition, and must state the expected duration of the disability and date of return to work.

All granted leaves must be confirmed in writing, have an agreed-upon specific date of return and be submitted to the Director of Human Resources prior to being taken. Requests for an extension of leave must be submitted in writing to Human Resources prior to the agreed date of return and must be supported in writing by the statement of the attending physician that the employee continues to be disabled by pregnancy, childbirth or a related medical condition. California law provides that the maximum pregnancy disability leave right is four (4) months.

Failure to return to work after the maximum four (4) month leave period will result in loss of reinstatement rights.

B. Compensation during Leave

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

C. Benefits during Leave

The City will maintain, for up to a maximum of twelve (12) work weeks, any group health insurance coverage that was provided before the leave on the same terms as provided to other employees who become disabled off duty as if the employee had continued to work, if the employee is eligible for concurrent family medical leave, and if the employee has not already exhausted this insurance coverage benefit in the current family medical leave eligibility period. In some instances, the City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave.

An employee on pregnancy disability leave but not receiving continued paid coverage may continue group health insurance coverage through the City in conjunction with COBRA guidelines by making monthly payments to the City for the amount of the relevant premium. An employee should contact their supervisor for further information.

D. Sick and Vacation Leave Accrual

Sick leave and vacation leave cease to accrue at the later of the expiration of pregnancy disability leave/family leave eligibility or when the employee exhausts his/her vacation and sick leave balances.

E. Reinstatement

Upon return from an approved pregnancy leave on the original date agreed to, the employee will be immediately reinstated to her original or an equivalent position so long as it was not eliminated for a legitimate business reason. In the event the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities and geographic location as the employee's original position.

If upon return from a pregnancy disability leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will engage in an interactive process with the employee in order to identify a reasonable accommodation that will not cause undue hardship.

Section 12.9 Bereavement Leave

An employee is entitled to a leave of absence in the event of the death of a member of his/her immediate family, not to exceed three (3) regularly-scheduled days or forty-eight (48) hours for firefighters per calendar year per instance. If required travel exceeds five hundred (500) miles each way, the employee may be granted one (1) additional day (eight (8) hours) of bereavement leave. Leave must be used within thirty (30) days of death. No deduction shall be made from the salary of such employee nor shall such leave be deducted from leave granted by other provisions.

An employee's immediate family shall consist of the following:

- A. Employee's spouse, child, stepchild, parent, grandparent, grandchild, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law;
- B. Domestic partner;
- C. Legal guardians and custodial children.

Documentation of the date and location of the funeral and date of burial shall be furnished by the employee upon request of the City.

Section 12.10 Jury Duty and Court Appearances

All employees, when called to serve on a jury, shall inform their department managers or directors and shall have time off for a period of actual service required on such jury. Such employees shall be paid their regular salary, provided the employee remits to the City all fees received for such duties, other than mileage allowance, within thirty (30) days from the termination of his/her jury service.

An employee who is subpoenaed to appear in court in a matter regarding an event or transaction which he/she perceived or investigated in the course of his/her duty, shall be allowed to do so without loss of

compensation.

An employee subpoenaed to appear in court in a matter unrelated to his/her official capacity as an employee shall be permitted time off without pay, or the employee may choose to use accrued vacation for this purpose.

When not assigned to a case or required to be present at court or other location, the employee must report to work.

Section 12.11 Military Leave of Absence

The City provides military leaves of absence to employees who serve in the uniformed services as required by the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §4301 et. seq. (“USERRA”) and applicable state laws.

A. Notice and Certification Requirements

Whenever possible, employees should provide advance notice of their military service obligations. This notice may be verbal or in writing and may be provided by the employee or by an officer of the military branch in which the employee is serving.

Additionally, an employee should submit copies of their military orders, training notices or induction information. For further information on USERRA, an employee should consult with the Human Resources department.

B. Compensation during Leave

Compensation during military leave is determined as follows:

1. Active Duty (Military Leave). Any employee who has been employed by the City for at least one (1) year is entitled to paid leave for the first thirty (30) calendar days of military leave.
2. Training (Temporary Leave). Any employee who has been employed by the City for at least one (1) year or has a combination of City employment and military service for at least one (1) year is entitled to paid leave for the first thirty (30) calendar days of temporary military leave.
3. Temporary and Military Leave in Same Fiscal Year. When an employee has already received thirty (30) calendar days’ paid leave for temporary leave and is called to active duty in the same fiscal year, the employee will receive an additional thirty (30) calendar days’ paid leave for the active duty leave.
4. National Guard Members. An employee who is a National Guard member and is on active duty is entitled to paid leave for the first thirty (30) calendar days of duty, regardless of length of City employment.
5. Part-Time Employees. Part-time employees subject to paid leave under this section are paid on a prorated basis, depending upon the weekly number of hours they work for the City.

C. Status During Leave

An employee on leave under this policy retains his/her seniority and rights and benefits just as if he/she had remained continuously employed by the City.

A probationary employee who reinstates with the City after military service is completed resumes his/her probationary period where it left off prior to the leave.

D. Benefits During Leave

The City will maintain the employee's group health insurance coverage for at least twelve (12) work weeks if such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work.

E. Sick, Vacation and Holiday Leave Accrual Privileges

Sick, vacation and holiday leave accrual are determined as follows:

1. Active Duty (Military Leave). An employee on military leave does not accrue sick, vacation or holiday leave/privileges.
2. Training (Temporary Military Leave). An employee on temporary military leave who has at least one (1) year of City employment or at least one (1) year of combined City employment and military service continues to accrue sick, vacation and holiday leave/privileges for up to a maximum of one hundred eighty calendar (180) days while on leave.
3. National Guard Members. A National Guard member on military leave is entitled to accrue vacation and holiday leave/privileges but not sick leave for the first thirty (30) calendar days of leave, regardless of length of City employment. A National Guard member on temporary military leave does not accrue sick, vacation or holiday leave/privileges while on leave unless the employee has at least one (10) year of City employment or one (1) year of a combination of City employment and military service.

F. Reinstatement

The City will reinstate an employee returning from leave under this policy immediately upon the employee's request for reinstatement. If the employee's position has been abolished or has otherwise ceased to exist, the employee shall be reinstated to a position of like seniority, status and pay if such a position exists, or to a comparable position for which he/she is qualified.

An employee seeking reinstatement after a war or national emergency must request reinstatement within six (6) months of completing his /her service, but no later than six (6) months after the completion of the war or national emergency. An employee who does not request reinstatement within twelve (12) months after the first date that he/she could terminate active service may be denied reinstatement.

An employee seeking reinstatement after leave not related to a war or national emergency, whose leave is less than thirty-one (31) days, must report to work no later than the beginning of the first full regularly-scheduled work period on the first full calendar day following completion of military service. If the employee's leave was more than thirty (30) days but less than one hundred eighty-one days (181), the employee must submit an application for reemployment to the City no later than fourteen (14) days after the completion of military service. If the leave is more than one hundred eighty (180) days, such an application must be submitted within ninety (90) days of the completion of military service.

The City may refuse to reinstate an employee returning from leave under this policy if (1) the City's circumstances have so changed that reinstatement is impossible or unreasonable, (2) reinstatement would pose an undue hardship for the City or (3) the position the employee left was nonrecurring,

and there was no expectation of its continuing.

G. Retirement Plan Contributions

When the City re-employs an employee returning from leave under this policy, the City will contribute the same amount to the employee's CalPERS retirement plan, if applicable, as it would have had the employee not left. An employee who is a CalPERS member is permitted to spread out any owed contributions for a period of up to three (3) times the length of his/her military leave, but for no more than five (5) years.

Section 12.12 Workers' Compensation Disability Leave

The City will grant a workers' compensation disability leave to employees with occupational illnesses or injuries in accordance with state law. As an alternative, the City will try to reasonably accommodate such employees with modified work when appropriate and if able to do so.

Section 12.13 Leave of Absence

The City Manager may grant leave of absence to any employee who requests it. The City Manager has discretion to grant or deny this leave depending on the requesting employee's circumstances and on the purpose for which the leave is requested.

The employee must first receive approval from his/her department manager and/or director and must then submit a written request to the City Manager. The City Manager may grant an employee this leave for a period not to exceed six (6) months. Employees granted this leave will be required to use their sick and vacation accruals until exhausted during this period.

A. Benefits During Leave

During such leave, vacation, sick leave and holiday credits will not be accrued and the employee will be excluded from all other compensation and fringe benefits, except as otherwise required by law.

Upon the employee's return to work, benefits will resume accruing in accordance with the specific requirements of each benefit.

Section 12.14 School-Related Leaves

An employee who is a parent, guardian or grandparent with custody of a child in kindergarten or grades one (1) through twelve (12), inclusive, may request to take unpaid time off to visit the school of the employee's child for a school activity.

A. Time Off for Parent's School Activities

If employee is a parent, guardian or grandparent with custody of a child in a licensed day care facility, or in kindergarten or grades one (1) through twelve (12), inclusive, and wishes to take unpaid time off to participate in the activities of the child's licensed day care facility or school, the employee may take off up to eight (8) hours each calendar month (up to a maximum of forty (40) hours each school year), provided that employee gives reasonable notice to the City of their planned absence.

B. School Leave (Suspension)

If a school directs an employee who is the parent or guardian of a child who has been suspended

from school to attend the child's school, the employee should alert his/her supervisor as soon as possible. Such time off is unpaid, however an employee may utilize their existing accrued vacation time or floating holiday.

C. School Activities

An employee may take off up to eight (8) hours each calendar month (up to a maximum of forty (40) hours each school year), provided that employee give reasonable notice to the City of their planned absence.

An employee may utilize his/her existing accrued vacation time or other accrued paid time off. The City requires documentation from the school or licensed day care facility as proof that the employee participated in the school or licensed day care activities on a specific date and time.

If both parents of a child work for the City, only one (1) parent, the first to provide notice, may take the time off, unless the City approves both parents taking time off.

Section 12.15 Adult Literacy Leave

The City will make reasonable accommodations for any employee who reveals a literacy problem and requests that the City assist him or her in enrolling in an adult literacy program, unless undue hardship to the City would result.

The City will also assist employees who wish to seek literacy education training by providing employees with the location of local literacy programs.

While the City generally encourages employees to improve their literacy skills, the City will not reimburse employees for the costs incurred in attending a literacy program. Non-exempt employees may use vacation pay to make up for absences from work to attend literacy classes. Time off to attend classes is unpaid.

The City will take reasonable steps to safeguard the privacy of any employee who identifies himself or herself as an individual with a literacy problem. An employee who wishes to identify him/herself as such an individual can contact the Director of Human Resources directly. Further, individuals who are performing satisfactorily will not be subject to termination of employment or retaliation because they have disclosed literacy problems.

Section 12.16 Volunteer, Emergency and Reserve Leaves

The City will not discriminate or retaliate against or discharge any employee for taking time off to perform emergency duty as a volunteer firefighter, reserve officer or other emergency rescue personnel.

An employee anticipating the need for such leave shall alert his/her supervisor so that he/she may be aware of the fact that an employee may have to take time off for emergency duty. If advance notice is not possible, the employee must notify his/her supervisor as soon as possible. Employees may be required to submit to the City proof of the emergency duties performed. Time off for such duty is unpaid.

If the employee provides emergency medical or safety services for the City, the City is not required to permit the employee's leave under this section if doing so would hinder the availability of the employee's services to the City at a time of need.

Volunteer firefighters, reserve officers or other emergency rescue personnel are permitted to take leaves of absence not to exceed an aggregate of fourteen (14) days per calendar year, for the purpose of engaging in fire or law enforcement training. These leaves are unpaid.

Section 12.17 Time Off to Vote

The City encourages its employees to participate in the election of government leaders. Polls are open from 7:00 a.m. to 8:00 p.m. each Election Day. If you are scheduled to be at work during that time, California law allows you to take up to two (2) hours off to vote, without losing pay.

You may take as much time as you need to vote, but only two (2) hours of that time will be paid. Your time off for voting can be only at the beginning or end of your regular work shift, unless you make another arrangement with your supervisor.

If possible, employees should make their requests at least forty-eight (48) hours in advance of Election Day. The employee may wish to inquire of their registrar of voters about the possibility of voting by absentee ballot. Every effort should be made to vote either before or after the employee's normal workday.

Section 12.18 Time-off for Victims of Violent Crimes or Domestic Abuse

The City will not discriminate or retaliate against or discharge employees who are victims of crime or domestic violence if they take time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding, to seek medical or psychological assistance or to participate in safety planning to protect against further assaults.

Affected employees must give the City reasonable notice that they are required to be absent for a purpose stated above, except for unscheduled or emergency court appearances or other emergency circumstances. In such a case, the City will take no disciplinary action against affected employees if, within a reasonable time after the appearance, they provide the City with documentary evidence that their absence was required for any of the above reasons. To the extent allowed by law, the City will maintain the confidentiality of an employee requesting leave under this section. Leave under this section is unpaid unless employees use accrued time off.

Section 12.19 Unapproved Leave - AWOL

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

The fact that an employee has vacation or sick leave accrued does not preauthorize him or her for leave from work. All leaves must be approved by the employee's supervisor, department manager or director prior to the actual leave time, except in extenuating circumstances beyond the employee's control.

If an employee remains absent without leave for five (5) consecutive workdays (or four (4) consecutive shifts in the case of fifty-six (56) hour employees), the City will consider such action a voluntary resignation and may terminate their employment.

Section 12.20 Breaks

It is the policy of the City to provide rest breaks and meal breaks during the course of each workday. Supervisors are responsible for scheduling the time for employees' breaks and should consider the work load and the nature of the job performed.

A. Rest Breaks

Employees are required to take a rest period of fifteen (15) minutes for every four (4) hours worked. Time spent on rest breaks will be compensated as working time. However, employees are expected to be punctual in starting and ending their breaks and may be disciplined for tardiness.

Employees who remain at work during rest breaks are not entitled to arrive later than the scheduled starting time or leave before the normal quitting time and will not receive extra pay for the time

worked.

Employees are not permitted to leave the City's premises during this period. Employees on rest breaks may not interfere with other employees who are continuing to work.

B. Meal Breaks

Employees are required to take a minimum of one-half (.5) hour meal break for every five (5) hours worked. Employees may voluntarily give up their meal breaks if the workday does not exceed six (6) hours. Employees required to work more than ten (10) hours in any workday will be allowed a second meal break no later than six (6) hours after returning from their first meal break.

Unless otherwise agreed upon in an appropriate adopted MOU between the City and a recognized employee bargaining unit, the standard work week does not include employee lunch periods. Employees will not be compensated for their meal break unless they are required to work during their breaks.

No employee may consume food in work areas unless the employee is specifically required to remain at a work station during meal breaks.

CHAPTER 13: HEALTH & SAFETY

Section 13.1 Risk Management

The City has a Risk Management Division that is a division of the City's Human Resources Department that handles among other things city insurance matters, the City's Injury Illness Prevention Program ("IIPP"), safety program and training, workers compensation claims, safety committee, vehicle usage policy, and cellular telephone use policy.

Section 13.2 The City's Safety Program and IIPP Program

It is the policy of the City to maintain a safe and healthful work environment for each employee and to comply with all applicable occupational health and safety regulations. The program covers employees in all job classifications, students, volunteers and outside contractors. This written policy is provided to fully comply with the California Code of Regulations, Title 8, General Industry Safety Orders §3203, Construction Safety Orders §1509, Division of Labor Statistics and Research §14001 and California Labor Code §6401.7 (SB198).

The IIPP is intended to formalize and coordinate existing safety programs at the operational level, such as hazard communication, fire prevention and emergency action plans. It is also intended to establish a framework for identifying and correcting workplace hazards within each department.

A. Guidelines

Diligent implementation of this program will reap many benefits for the City and its employees. Most notably it will:

1. Protect the health and safety of employees and decrease the potential risk of disease, illness, injury and harmful exposure.
2. Improve employee morale and efficiency as employees see that their safety is important.
3. Improve efficiency by reducing the time spent replacing or reassigning injured employees, as well as reduce the need to find and train replacement employees.
4. Reduce workers' compensation claims and costs.
5. Minimize the potential for penalties assessed by various enforcement agencies by maintaining compliance with Health and Safety Codes.
6. Conducting its operations and activities in a safe manner to minimize the risk of injury to people and minimize property damage at all locations where operations and/or activities occur.

B. Responsibility

The ultimate responsibility for establishing and maintaining effective environmental health and safety policies specific to the City facilities and operations rests with the City Manager. The City Manager has the full support of the City Council for the implementation of this program. General policies governing the activities and responsibilities of the safety programs are established under the City Manager's final authority.

Under the guidance of the City Manager, the Risk Management Division of Human Resources is

responsible for implementing the provisions of this program.

Other responsibilities for injury and illness prevention are as follows:

1. Department Head:
 - a. Maintains a place of employment that is safe and healthful.
 - b. Provides and enforces the use of safety devices, personal protective equipment and safeguards.
 - c. Adopts and uses methods and processes are reasonably adequate to assure work performed and place of employment are safe
 - d. Takes every reasonable precaution to protect the life and safety of employees.
 - e. Maintains communication with work-injured employees and cooperates with efforts to return employees to productive employment.
 - f. Provides hazard information to contractors working on City facilities, equipment, and apparatus and maintains safety supervision over contracts.
2. Supervisor
 - a. Presents the proper attitude toward job safety performance and encourages the same in his/her subordinates.
 - b. Trains employees in job safety and health practices.
 - c. Reports work-related injuries and illnesses in accordance with City policies and procedures and State law.
 - d. Investigates every accident and report of injury promptly and thoroughly to determine cause and prevent recurrence.
 - e. Requires all employees to comply with safety and occupational health standards, rules and regulations that are applicable to his/her own actions and conduct.
 - f. Provide safety inspections of facilities, equipment and job sites where City employees are assigned to work and provide the proper training and information to the employees to maintain the City's safety standards.
3. Employee:
 - a. Complies with all safety and occupational health standards, rules and regulations that are applicable to his/her own actions and conduct.
 - b. Takes every reasonable precaution to protect the health and life of other employees.
 - c. Does not remove, displace, damage, destroy or carry off any safety device, notice or warning furnished for use in any place of employment or interfere in any way the use thereof by any other person.
 - d. Reports work-related injuries and illnesses promptly to his/her supervisor and

cooperates with City efforts to provide timely, fair and equitable benefits pursuant to State law and City policies and procedures.

4. Human Resources/Risk Management:
 - a. Assists departments in the management of the IIPP.
 - b. Provides consultation to the departments and sections on matters of health and safety.
 - c. Interprets external regulations and recommends appropriate compliance strategies.
 - d. Assists with training and resources not readily available to the individual departments or sections.

C. Safety and Health Hazards

The system used by the City for identifying, evaluating and controlling occupational safety and health hazards includes the following:

1. Review of applicable general industry safety orders and other safety orders that apply to the agency.
2. Review of industry and general information (including material safety data sheets for chemicals used) for potential occupational safety and health hazards.
3. Investigation of all accidents, injuries, illnesses and unusual events that have occurred.
4. Periodic and scheduled inspections of general work areas and specific workstations.
5. Preparation of job hazard analysis for specific job operations.
6. Evaluation of information provided by employees.
7. Communication of relevant injury and illness prevention information through periodic safety meetings and communication aids such as posters, pamphlets, memorandums, etc.

D. Occupational Injury and Illness Reporting

All work-related accidents will be reported to Human Resources/Risk Management within twenty-four (24) hours of knowledge of the injury. Risk Management and the supervisor will review each accident reported and action will be taken to correct the situation in order to prevent recurrence.

Serious occupational injuries, illnesses, accidents or exposures to hazardous substances (as defined by the California Division of Occupational Safety and Health ("Cal/OSHA")) must be reported to Human Resources/Risk Management immediately. These include fatalities and injuries that cause permanent disfigurement or require hospitalization for a period in excess of twenty-four (24) hours. These injuries must be reported to Cal/OSHA within eight (8) hours of knowledge of the event. Human Resources/Risk Management will perform the required reporting to Cal/OSHA.

Serious injury or illness is defined in Title 8 §330(h), as any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of twenty-four (24) hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement, except an accident on a public street or highway.

E. Accident Investigation

Supervisors will investigate all reported accidents, injuries, occupational illnesses and near-miss incidents to identify causal factors and attendant hazards. Human Resources/Risk Management will provide assistance if desired. Appropriate repairs or procedural changes will be implemented promptly to mitigate the hazards identified in the investigation.

Human Resources/Risk Management, in conjunction with the injured employee's supervisor, will also follow up on serious accidents. For near-miss incidents, departmental personnel may conduct the investigation and retain documents at the departmental level.

Procedures for investigating workplace accidents and hazardous substance exposures include:

1. Inspect the accident scene as soon as possible.
2. Interview injured employees and witnesses.
3. Examine the workplace for factors associated with the accident/exposure.
4. Determine the cause of the accident/exposure.
5. Take corrective action to prevent the accident/exposure from recurring.
6. Record findings and corrective actions that have been taken.

F. Inspections

Periodic inspections provide a method of identifying existing or potential hazards in the workplace, and eliminating or controlling them. The frequency will be at least annually, but may depend on additional factors such as operations involved, the magnitude of the hazards, the proficiency of employees, changes in equipment or work processes and the history of work place injuries and illness. Corrective actions will include such measures as engineering controls, operational controls, physical changes and training.

Employees should report safety and health hazards immediately to their supervisor.

The supervisor is responsible for conducting inspections of their work areas and retaining the records of the inspections for three (3) years.

G. Correcting Unsafe or Unhealthy Conditions

All hazards identified from the above activities will be promptly investigated and all necessary alternate procedures will be implemented as indicated.

Procedures for correcting unsafe or unhealthy conditions, work practices and work procedures are:

1. When observed or discovered.
2. Corrected in a timely manner based on the severity of the hazard.
3. When an imminent hazard exists which cannot be immediately abated without endangering employees and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees needed to correct the hazardous

condition shall be provided the necessary safeguards.

H. Safety Communications

Communications with employees on matters relating to occupational safety and health must be readily understandable by all affected employees. Employees should be encouraged to inform the employer of hazards at the worksite without fear of reprisal.

Employees shall be informed of the following safety issues by:

1. Communication of safe working conditions and work practices.
2. Required personal protective equipment in initial and subsequent training.
3. Safety posters, letters, memos and meetings.
4. Safety Manual.

I. Safety Committee

The Safety Committee will provide employees a voice to Management to ensure all mechanical and physical facilities required for personal safety and health are controlled and maintained in keeping the highest standards.

Duties:

1. All areas of employment are represented.
2. To meet periodically.
3. Review reported occupational injuries and illnesses and submit recommendation to Management.
4. Develop, support, and maintain interaction between management and employees to sustain an active and positive interest in safety.
5. Provide a method for employees to take part in discussions on accident causes and preventive measures.
6. Provide a means for employees to submit safety hazards, problems, conditions or concerns to the committee.

Employees will be instructed how to protect themselves from the hazards specific to their individual job duties. This will entail how to use workplace equipment, safe handling of hazardous materials, and use of personal protective equipment. Training must be completed prior to working on assigned equipment and whenever new hazards or changes in procedures are implemented.

J. Training

Safety and health training is required for all employees. Each supervisor is responsible for training employees under their supervision in safe work procedures for their specific tasks. The supervisor is the key figure in the success of the IIPP. They are responsible for being familiar with safety and health hazards to which their employees may be exposed, being able to recognize these hazards, the potential effects they have on the employees and the rules, procedures and work practices for controlling exposure to those hazards. They must convey this information to employees by setting

good examples and instructing and ensuring the employees fully understand and follow safe procedures.

To ensure all employees are knowledgeable of safe working procedures and practices a variety of training will be provided when:

1. Employees are hired.
2. Employees are given new job assignments for which training has not previously been received.
3. New substances, processes, procedures or equipment are introduced to the workplace.
4. The City is made aware of new or previously unrecognized hazards.

All training will be documented and retained in departmental files.

Employees will be instructed how to protect themselves from the hazards specific to their individual job duties. This will entail how to use workplace equipment, safe handling of hazardous materials and use of personal protective equipment. Training must be completed prior to working on assigned equipment and whenever new hazards or changes in procedures are implemented.

Managers are responsible to provide supervisors with the training necessary so that they are familiar with the safety and health hazards employees are exposed to in the workplace.

It is the responsibility of each supervisor to know the hazards related to employee's job tasks and ensure that all employees receive appropriate training.

K. Compliance

One (1) or more of the following will reinforce employee compliance:

1. Recognizing employees who perform safe and healthful work practices.
2. Appropriate comments on performance evaluations.
3. Recognition at safety meetings.
4. Written commendation or letters of recognition.

One (1) or more of the following may be utilized to address employee non-compliance:

1. An immediate discussion between the supervisor and the employee who is discovered working in an unsafe manner.
2. Corrective safety training.
3. Appropriate disciplinary action up to dismissal pursuant to these Personnel Rules or applicable MOUs.

L. Safety Suggestion/Follow-up

Safety suggestions (Attachment "C") may be submitted anonymously to Human Resource/Risk Management located at City Hall, 1275 Main Street, El Centro, CA 92243. All safety suggestions shall have a follow up in a timely manner. Safety suggestions may also be submitted to supervisors

at safety meetings and the Safety Committee.

M. Recordkeeping

Standards and regulations of Cal/OSHA contain requirements for maintenance and retention of records on occupational injuries and illnesses, medical surveillance, exposure monitoring, inspections and other activities relevant to occupational health and safety. To comply with these regulations, as well as to demonstrate that the critical elements of this IIPP are being implemented, the following records will be kept on file for the time indicated:

DOCUMENTATION	RETENTION	LOCATION
Safety inspections & forms	Three (3) years	Department and facility
Hazard correction	Three (3) years	Department and facility
Supervisor report of injury and illness	Duration of employment	Workers' Compensation file
Vehicle accident report	If no injury, two (2) years	Department
Vehicle accident report	If injured, duration of employment	Workers' Compensation file
Training records	Duration of employment	Department
Employee safety suggestion	Three (3) years	Department
Medical surveillance records	Duration of employment plus thirty (30) years	Human Resources (confidential records)

Each department/division will ensure that these records are maintained and present them to Cal/OSHA or other regulatory agency representatives if requested. Human Resources/Risk Management may conduct a review of these records during routine inspections to determine compliance with safety and health programs and standards.

Human Resources/Risk Management will be available to assist supervisors with training, safety meetings and tailgate sessions. A safe and healthy workplace must be the goal of everyone at the City with responsibility shared by management and employees alike. Questions regarding this IIPP may be directed to Human Resources/Risk Management.

Section 13.3 Workers' Compensation Policy

The City subscribes to and carries workers' compensation insurance for its employees who may be injured or suffer illness while at work. Injuries occurring in the course of employment are paid for by workers' compensation insurance. Workers' compensation insurance pays all medical costs, without a deductible provision, and is paid for exclusively by the City.

A. Workers Compensation Guidelines

The following are well-defined provisions that must be met to ensure that employees qualify for workers' compensation benefits:

1. Any work-related injury or illness must be immediately reported in writing to the employee's supervisor;
2. The workers' compensation insurer will investigate all late reported claims;
3. When facts cannot be verified, the claim may be denied;
4. Any claim for an injury or illness caused by an employee's willful misconduct, alcohol or drug usage or that occur during the employee's voluntary participation in any off-duty

recreational, social or athletic activity sponsored by the City will not be compensable;

5. Workers' compensation fraud is a felony, punishable by fines and/or jail time. The City will prosecute any individual found to be claiming a work-related illness or injury fraudulently;
6. An approved physician must treat the injured employee. The City and its carrier in certain cases will assign specialists. Any treatment other than that approved by the City and its carrier will not be compensable.

B. Worker's Compensation Benefits

There are two (2) types of workers' compensation benefits paid to an employee with a approved work-related injury or illness:

1. Medical benefits:
 - a. Physician's Fees: The approved physician who provides treatment is paid through the workers' compensation insurer;
 - b. Hospital Fees: Paid in full;
 - c. Pharmacy Costs: Paid in full if prescribed by an approved physician;
 - d. Special Costs: Any other medical costs including but not limited to braces, crutches, physical therapy and rehabilitation therapy if deemed necessary by an approved physician will be paid in full according to State law.
2. Wage Replacement Benefits:
 - a. Wage replacement benefits are paid during the time employees are temporarily disabled from an approved work-related injury or illness. Employees receive a percentage of their salary as set by State law.

The workers' compensation laws provide for a waiting period before injured employees become eligible for wage replacement benefits. Employees will be covered for the period of disability to the limit allowed under State workers' compensation law.

C. Compensation During Leave

Employees may utilize any accrued vacation time, sick time and any other accrued paid time off during the leave. All such payments will be coordinated with any short or long-term disability, workers' compensation or other wage reimbursement benefits for which employees may be eligible.

At no time shall an employee receive a greater total payment than the employee's regular salary.

D. Benefits During Leave

If the employee taking workers' compensation disability leave is eligible for leave under the Federal or State family and medical leave laws, the City will maintain the employee's group health insurance coverage for twelve (12) work weeks if that benefit has not been previously exhausted during the current family leave year and if such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work.

Employees on workers' compensation disability who do not receive continued paid coverage, or

whose paid coverage ceases after twelve (12) work weeks, may continue their group health insurance coverage through the City in conjunction with COBRA guidelines, if applicable, by making monthly payments to the City for the amount of the relevant premium.

Upon return from leave of absence, benefits will resume accruing in accordance with the specific requirements of each benefit.

E. Sick, Annual and Vacation Leave Accrual

Vacation, annual and sick leave will accrue during workers' compensation leave.

F. Return to Work¹

The City may provide transitional or modified duty assignments for an employee who has been determined by a physician to be medically unable to perform all of their job duties because of an injury or illness. The return to work ("RTW") program is an important component in workers' compensation management, second only to the IIPP. Once an injury has occurred, the goal of the RTW program is to return the injured employee to work as quickly as possible.

Human Resources/Risk Management will act as the RTW program coordinator. Human Resources/Risk Management will also function as the liaison with the workers' compensation claims administrator.

Identifying RTW Assignments:

Periodically the RTW coordinator will ask each department to identify the possible RTW assignments.

Employee Placed on RTW by a Treating Physician:

1. If the employee has work restrictions, the treating physician must list the specific work restrictions on the RTW form.
2. The RTW program coordinator will coordinate with the employee's supervisor if the division is able to accommodate the restrictions.
3. The employee's supervisor will ensure that the employee is complying with and working within the work restrictions imposed by the treating physician.
4. The City has established a maximum timeframe of ninety (90) calendar days for employee participation in the RTW program. The City Manager or RTW coordinator can approve an extension of that timeframe where circumstances warrant.
5. The employee will not be allowed to return to work, regular duty or modified duty, without a written release from the treating physician.
6. Employees that do not cooperate with the RTW program may have their disability benefits suspended.
7. The RTW status form will be completed by the RTW coordinator and discussed with the supervisor and employee to confirm work status.

Note: The RTW status forms are available from Human Resources or on the J drive, common folder, forms.

Unavailability of RTW Assignment:

1. If the employee's division is unable to accommodate the restrictions, the RTW coordinator will contact other divisions for possible RTW assignments based upon the employee's restrictions.
2. If no RTW assignment is available, the employee will be put off work.
 - a. Employees off work are to contact the RTW coordinator on a weekly basis to check on the availability of RTW assignment.
 - b. Failure to timely contact the RTW coordinator may result in disciplinary action.

Intermittent Assignment:

If an employee completes a temporary assignment and there is no additional transitional work available, the employee will be put off work.

Failure to Return to Work:

An employee who fails to return to work after being released by an approved physician, as determined by the City's carrier, will be deemed to have resigned and will be separated from employment with the City.

Section 13.4 Reporting Injuries and Illnesses

This section outlines the procedure for the management of a work-related injury or illness claim.

A. Reporting Injuries and Illnesses

1. Assisting the employee in obtaining medical treatment.
 - a. For a serious injury or illness call 9-1-1 so the employee can be transported to the nearest medical facility.
 - b. If the injury or illness requires immediate medical attention but is not life-threatening, the supervisor should take the employee to the City's designated medical facility.
 - c. If the injury occurs after normal business hours when the designated medical facility is not open, the injured employee will go to the nearest medical facility.
 - d. Minor injuries that only require first aid can be treated at the employee's work place. First aid is defined as a one (1) time treatment of minor scratches, cuts, burns, splinters, etc.
 - e. All injuries that require medical treatment must be reported to Human Resources/Risk Management.
2. Completing the Injury Reports

a. The forms are:

- Supervisor's Report of Injury or Illness
 - The supervisor must complete this form and submit to Human Resources/Risk Management with twenty-four (24) hours of learning about the incident.
- Employee's Claim for Workers' Compensation Benefit, DWC-1
 - This form is given to the injured employee to complete their portion if they wish to file a claim.
 - Prior to giving the DWC-1 to the employee, the supervisor should fill in the date on line 12.
 - Once the employee has completed their portion, the DWC-1 is returned to their supervisor to complete the employer portion. The employee will keep the temporary receipt until the form is completed by the supervisor. Once completed, the supervisor will give the employee their completed copy.
 - The original and claims administrator's copy will be submitted to Human Resources/Risk Management immediately.

Note: The DWC-1 forms are available from Human Resources or on the J drive, common folder, forms.

B. Pre-Designated Physician

1. If an employee has been injured on the job, they have the right to be treated by their personal doctor if they have notified the employer of the doctor's name and address in writing before the injury. The employee must complete a personal physician predesignation form and submit to Human Resources/Risk Management. A written authorization from the pre-designated physician must also be in file in Human Resources.
2. A pre-designated physician must be their personal physician. Pursuant to Title 8, California Code of Regulations §9780, "personal physician" is defined as:
 - A doctor of medicine or doctor osteopathy,
 - Who, prior to the injury, has directed medical treatment of the employee and retains the medical records and medical history of the employee.

C. After the Doctor's Visit

Once the employee has received medical treatment, he/she will need to submit a work status form from the doctor to Human Resources/Risk Management. This form must be brought to Human Resources/Risk Management prior to returning to work. Human Resources/Risk Management will notify the appropriate personnel of the return to work status.

If it is after normal working hours and the injured employee may return to work after the medical care, the employee will take the work status form to the immediate supervisor and then forward to Human Resources/Risk Management the next business day.

If the employee has work restrictions, Human Resources/Risk Management and supervisor will determine if accommodations are available. Refer to Policy Statement #409, Return to Work Program.

Section 13.5 Safety Committees

The duties of the Safety Committee are to:

- A. Sustain an active and positive interest in safety.
- B. Review and make recommendations on employee safety suggestions.
- C. Review investigations of occupational accidents, injuries, and exposures to hazardous substances.
- D. Assist in setting goals and objectives
- E. Review results of facility inspections.
- F. Promote safety measures to all employees.
- G. Develop and support interaction between management and employees.
- H. Keep the management team informed on safety issues and activities.

Regular meetings of the Safety Committee shall be held periodically.

The order of business for a regular meeting shall be as follows:

- A. Roll call
- B. Approval or correction of the minutes
- C. Report of special committee, assignments, and/or projects
- D. Old business
- E. New business
- F. Open discussion
- G. Adjournment

Safety Committee members are appointed by Department Heads. At the request of the City Manager, a committee of the Safety Committee and Human Resources/Risk Management shall meet to discuss the City's safety program, trends, and goals to affirm safety efforts.

Section 13.6 Smoking Policy

In order to promote public health by providing City employees and the public with a smoke-free environment in City facilities, it is the policy of the City Council to prohibit smoking in certain areas, which are used by or open to City employees and the public. This policy applies to employees, students and the general public.

- A. Consistency with the City Ordinance on Clean Indoor Air

The City's policy is consistent with the provisions of City Ordinance No. 93-1, which requires each employer to adopt a written policy on workplace smoking, and also prohibits smoking in all City facilities. This policy was written to comply with both of those requirements.

B. Definition

“Smoking” as defined in this policy means inhaling, exhaling, burning or carrying any lighted cigar, pipe, cigarette, weed, plant or other combustible substance.

C. Designation of Non-Smoking and Smoking Areas

1. General

Smoking is prohibited in all enclosed buildings and within twenty (20) feet of main entrances, exits and operable windows of any building owned, leased and occupied by the City.

2. Vehicles

Smoking is prohibited in all City vehicles whether located on or off City premises.

D. Responsibilities and Enforcement

1. City Manager and Department Heads: The City Manager is authorized to enforce and interpret this policy. Department Heads are responsible for the implementation and enforcement of this policy in those areas occupied by their respective departments. Department Heads are responsible for the dissemination of information to their employees regarding the implementation of this policy.
2. Signage: The Building Official is responsible for posting “No Smoking” signs within twenty (20) feet of all City facilities. Ash receptacles should be located twenty (20) feet away from the entrances of City facilities where smoking is prohibited.
3. Meetings and Training: Persons responsible for meetings or training may allow breaks at least every ninety (90) minutes to permit those who smoke to do so in a designated outdoor smoking area.
4. Conflict Resolution: The resolution of any conflicts in the implementation of this policy shall be based on reasonable accommodation for non-smokers and smokers and shall include the expectation that employees will demonstrate a cooperative attitude and a willingness to compromise in order to maintain harmonious working relationships. City employees violating provisions of this smoking policy may be subject to appropriate disciplinary action prescribed in Chapter 10 of these Personnel Rules.

Section 13.7 Vehicle Usage Policy

A. Purpose

To provide guidelines governing the use, operation, maintenance and replacement of City vehicles and privately-owned vehicles in connection with official City business. To also provide procedures that will reasonably, effectively and economically control the use of vehicles by employees.

B. Responsibility

1. Human Resources Department: Human Resources receives pull notice reports from the California Department of Motor Vehicles and communicates results to the Department Heads and Human Resources Department when necessary. Human Resources will ensure that the appropriate proof of insurance is maintained for each employee.

2. Department Heads: Department Heads are responsible for keeping a list of employees who have the potential to drive pool or private vehicles on City business. The list will include each employee's name and driver's license number. Human Resources will coordinate with the Department Heads to keep employee lists current.
3. Employees: Employees are responsible for complying with the specifics of this policy. Employees that have had their license suspended or revoked must immediately notify their supervisor. Employees that neglect to do so shall be subject to disciplinary action.

C. Definitions

1. Authorized Driver – an employee, volunteer, Council Member or appointed member of a City board to whom permission has been given to drive a City-owned vehicle for the purpose of conducting City business only.
2. DMV – Department of Motor Vehicles
3. Pool Vehicles – A City vehicle available to any Authorized Driver for the purpose of conducting City business. City Pool Vehicles are generally used for a single trip or specific job assignment that is short in duration.
4. POV – Privately-owned vehicles
5. Motorized Equipment – Tractors, lifts, backhoes, forklifts, dump trucks, etc.

D. General Provisions

It is the policy of the City that Authorized Drivers requiring transportation for official business will be provided with a City vehicle or will be reimbursed for use of their POV.

This policy is not intended to address every issue, exception or contingency that may arise in the course of vehicle use. Accordingly, the basic standard that should always prevail is to exercise good judgment in the use and stewardship of the City's resources.

E. General Conditions

1. Use of City vehicles for any purpose other than authorized City business is prohibited.
2. Only Authorized Drivers possessing a valid California driver license of the proper class for the vehicle being operated shall operate City vehicles.
3. Use of a City vehicle for transportation to home or a restaurant for meals is prohibited unless the following conditions exist:
 - a. The employee is en route while on field duty or attending a meeting on official City business; or
 - b. The employee has been authorized to use a City vehicle after normal business hours.
4. Transportation of any person not connected with City business is prohibited in City vehicles except where (1) with prior approval of the Department Head, such transportation is in the furtherance of City business, or (2) in situations imposing immediate personal danger an employee or volunteer may assist any such person to another location.
5. All vehicles, unless exempt, must have operational seat belts installed.

6. Seat belts shall be worn while operating or riding in City vehicles. The vehicle operator shall be responsible for ensuring that the driver and all passengers use seat belts, and have them adjusted properly before starting the engine of the vehicle.
7. City vehicles are considered an employee workplace and in accordance with State and local ordinances, the use of tobacco products or smokeless tobacco is prohibited in all City vehicles.
8. An Authorized Driver operating a City vehicle is protected against claims for damage, injury or death only if the Authorized Driver is acting within his/her authorized capacity. An Authorized Driver who operates a vehicle outside the scope of his/her authorized capacity is not protected by the City's insurance, and may be subject to personal liability for damages in addition to other appropriate disciplinary action.
9. Authorized Drivers causing vehicle damage due to gross negligence may be responsible for the cost of repairs.
10. Only authorized personnel or persons performing authorized City business may ride in a City vehicle. Family members of City employees shall not ride in City vehicles. On certain occasions, spouses or significant others may accompany City employees, on authorized City business, such as conferences and local professional association or League dinners and banquets.
11. City vehicles may ONLY be operated by Authorized Drivers with a legitimate City business transportation need.

F. Use of Pool Vehicles

1. Use of Pool Vehicles offers the City a greater amount of control over the mileage costs, vehicle usage, quality of maintenance, inspections, operation of safety equipment, insurance and other critical factors.
2. All City-owned Pool Vehicles are restricted to official City business.
3. Only Authorized Drivers are allowed to operate City-owned Pool Vehicles.
4. City-owned Pool Vehicles may carry only those employees whose duties require the use of a motor vehicle, and such other persons whose business activities are important to the City interests.

G. Use of POVs

1. An employee may use his/her POV when there may be a transportation need for City business and upon written authorization by his/her supervisor.
2. Employees authorized to use POVs on City business must provide proof of insurance in accordance with §IX, Evidence of Financial Responsibility. In the State of California, insurance follows the vehicle. Insurance Code §11580.9 states that where two (2) or more policies affording valid and collectible liability insurance apply to the same motor vehicle in an occurrence out of which a liability loss shall arise, it shall be conclusively presumed the insurance afforded by the policy in which the motor vehicle is described or rated as an owned vehicle is primary and the insurance afforded by any other policy shall be excess.
3. Employees who regularly use his/her POV on City business should notify his/her insurance company of that use.

4. It is the responsibility of the individual utilizing his/her POV to maintain accurate records of the purpose and extent of his/her travel and to make substantiated claims for reimbursement.
5. The vehicle and/or mileage allowance is intended to cover the employee's cost of operating the POV on City business, including the cost of insurance. Further, all operating expenses of the POV are to be borne by the employee. This includes, but is not limited to, gasoline, oil, maintenance, wear and tear, depreciation and insurance.
6. The City is not liable for any damage to an employee's POV, unless it is caused by the City's negligence.
7. It is the responsibility of the employee involved in an accident to notify his/her immediate supervisor, the DMV and the insurance company.
8. If an employee is responsible for an accident while driving his/her POV, insurance premiums may be increased.

H. Driver Training

1. New employees expected to drive for City business shall be required to complete the first appropriate defensive driver course offered after employment begins. All new employees must be instructed regarding policies related to driving City vehicles before they are allowed to drive such vehicles.
2. All employees who are required to participate in defensive driver training shall be required to repeat such training at least one (1) time every three (3) years.

I. Driver Responsibility

1. When using any vehicle on City business the Authorized Driver will:
 - a. Operate the vehicle in a safe, reasonable manner consistent with the intended use of the vehicle.
 - b. Observe all traffic laws, rules and regulations. Fines and penalties imposed for violation of traffic laws, rules and regulations while on City business, other than those due to City equipment violations, are the responsibility of the driver.
2. When using a POV on City business the Authorized Driver will:
 - a. Ensure that the vehicle has a current registration.
 - b. Ensure that the vehicle is insured by a company authorized to do business in the State of California.

J. Evidence of Financial Responsibility

1. City-Owned Vehicles: The State of California requires evidence of financial responsibility be carried at all times in all vehicles. In accordance with the provision of Vehicle Code §16051, the City Clerk will complete and sign a Statement of Government Ownership for each City-owned vehicle. The statements shall be laminated and given to the Equipment Maintenance Supervisor for placement in each vehicle.
2. POVs
 - a. Proof of insurance will be required before use of a POV for City business is authorized.

i. Insurance Requirements

- Employees who receive a monthly vehicle allowance shall maintain coverage in an amount not less than one hundred thousand dollars (\$100,000) per person/three hundred thousand dollars (\$300,000) per occurrence (or a combined single limit of three hundred thousand dollars (\$300,000)) and property damage coverage in an amount not less than one hundred thousand dollars (\$100,000) per occurrence. Employees that are reimbursed for mileage shall maintain a minimum coverage in an amount not less than fifty thousand dollars (\$50,000) per person/one hundred thousand dollars (\$100,000) per occurrence (or a combined single limit of one hundred thousand dollars (\$100,000)) and property damage coverage in an amount not less than fifty thousand dollars (\$50,000) per occurrence.
- The City is not legally liable for any damage sustained to the employee's POV when used on City business.
- The City shall not be responsible for any increase in the employee's premium rate as a result of an accident.
- In the event of an accident, the employee is responsible for paying any deductibles the insurance company may require.
- If insurance coverage is canceled, terminated, lapsed or for any other reason curtailed, the immediate supervisor and Human Resources/Risk Management must be notified and the POV shall not be used for City business.
- Employees authorized to use POVs shall provide an insurance policy, certificate or other proof of coverage to Human Resources/Risk Management in January of each year.

- b. Should an employee using his/her POV on City business be involved in an accident with resulting injury or property damage, the employee's own insurance carrier will respond to defend the employee. Should a claim exceed the limits of the employee's liability insurance coverage, the California Joint Powers Insurance Authority ("JPIA") liability protection program would respond in an excess capacity if the accident qualifies as a covered occurrence.

K. Use of City Vehicles After Normal Business Hours

1. Authorized Drivers who respond to emergencies after normal business hours may be assigned a City vehicle on a twenty-four (24) hour basis. The City vehicle generally will be used only for responding to emergencies, in call back situations or on other authorized City business such as employees whose regular work schedule is before or after regular City business hours. Personal use of the vehicle while on-call is at the discretion of the Department Head.
2. City vehicles that might require overnight use shall be pre-approved by the Department Head.
3. City vehicles are provided solely for carrying out authorized City business and shall not be considered the personal transportation of the Authorized Driver unless personal use is authorized by the Department Head for employees placed on-call.

4. Employees on leave exceeding three (3) days, who are assigned a City vehicle on a twenty-four (24) hour basis, shall leave the vehicle at City facilities during the leave period.

L. Accident Policy

1. All accidents involving City vehicles shall be reported as follows:
 - a. Summon medical care for any injured parties.
 - b. Notify appropriate law enforcement agencies.
 - c. Notify the employee's supervisor.
 - d. The supervisor shall immediately notify Human Resources/Risk Management.
 - e. The supervisor shall be responsible for initiating the departmental investigation of the accident, completing all required City reports and recommending follow-up preventative actions.
 - f. In the event of a serious bodily injury, a significant incident report shall be completed and submitted by Human Resources/Risk Management to the California JPIA.
 - g. When the employee is determined to be at fault in the vehicle accident, the supervisor shall recommend disciplinary action subject to review and approval by the Department Head.

M. Driver License

1. All City employees authorized to use City-owned or POVs on City business must possess a valid California driver license and provide proof of licensing upon hire.
2. Employees must maintain driver licenses appropriate for the class of vehicle to be driven.
3. An employee whose driver license has been suspended, revoked or restricted for any reason must immediately notify their supervisor and shall not be allowed to operate any City-owned or POV on City business.

N. DMV Pull Program and Record Review

1. Prior to hiring, all applicants for regular or temporary positions that will operate City vehicles or equipment must provide (at applicant's expense) the Human Resources Department with a current driving record from the DMV. The date on which the driving record was obtained shall be no more than five (5) business days prior to the proposed hire date. The Human Resources Department will review the driving record to determine whether the applicant can be authorized to drive City vehicles and/or equipment, and will submit enrollment forms to the DMV pull-notice program as appropriate. Through this program the City will be automatically notified if any employee has been convicted of a driving offense, is accumulating a negligent operator's record, has had their driver license suspended/revoked or has had any other action taken against the driving privilege or certificate.
2. Those employees whose duties require them to operate any licensed motor vehicle on City business will be required to possess and maintain a valid California driver license. The Human Resources Department shall maintain all DMV employer pull notice and licensing requirement documents and shall notify the appropriate supervisor immediately upon being put on notice by the DMV of any change in the status of an employee's license or other action which affects the employee's ability to perform his/her job requirements or which may require action by the City.

3. In compliance with Vehicle Code §1808.47, all information received from the DMV will be used solely for the intended purpose. All information will be stored in locked areas and no addresses or other information will be given to a third party.
4. The appropriate supervisor shall investigate all cases in which an employee's state driver license is suspended, if the employee's job duties require driving a motor vehicle.
5. The Department Head shall review each case and if necessary take appropriate disciplinary action based on the facts presented and the recommendations of the supervisor and Human Resources.
6. Any Authorized Driver who is convicted of a reportable DMV violation or whose license or required endorsement is suspended/revoked or expired must report this situation to the Authorized Driver's supervisor and the Human Resources Department within one (1) business day. Failure to make a timely report of this information may result in suspension or revocation of driving privileges of City-owned vehicles and/or disciplinary action. The Human Resources Department will confer with the Department Head regarding appropriate action.
7. Any conviction for driving under the influence of alcohol or drugs or refusal to submit to a lawful roadside sobriety test shall result in disciplinary action up to and including suspension of City driving privileges.
8. Employees that the DMV considers negligent operators (those that have an accumulation of four (4) or more points in a twelve (12) month period or six (6) in a twenty-four (24) month period or eight (8) in a thirty-six (36) month period) may have City driving privileges suspended at the discretion of the City. Appendix A contains a partial list of violation point counts.
9. An employee who has been determined to be at fault in two (2) or more accidents within a thirty-six (36) month period while driving a City-owned vehicle or POV in the performance of official City business shall be subject to disciplinary action up to and including suspension of City driving privileges.
10. Temporary or permanent suspension of City driving privileges for employees whose position requires operation of a vehicle shall be considered a loss of the ability to perform an essential job function.

O. Department of Transportation ("DOT") Drug and Alcohol Testing

Operators shall comply with the most current DOT drug and alcohol-testing protocol as discussed in the City's drug and alcohol testing policy for employees driving commercial vehicles.

P. Use of Cellular Telephones or Other Devices

See section 13.9 for information on utilizing cellular telephones while operating a City vehicle.

Q. Travel Outside Imperial County

1. City vehicles used for business purposes outside Imperial County shall be in accordance with the City's travel policy subject to the following:
 - a. Advanced approval by the Department Head or City Manager;
 - b. No reasonable air transportation is available; or
 - c. Time and cost of City vehicle is less than by air transport.

2. Private vehicles may be used for business purposes outside Imperial County in accordance with the City's travel policy subject to the following:
 - a. Advance approval by the Department Head or City Manager and the amount of reimbursement for mileage will not exceed the cost of air transport;
 - b. Mileage rates, if any, will not apply if eligible reimbursement costs exceed air transport cost.

R. Rental Vehicles

Rental vehicle shall be in accordance the City's travel policy.

S. Equipping and Marking Vehicles

1. Unless it is impractical or unsafe, the Equipment Maintenance Supervisor will equip each new vehicle with the following articles:
 - a. First aid kit
 - a. Fire extinguisher
 - b. Flares
 - c. Flashlight
 - d. Litterbag
 - e. Vehicle registration form
 - f. Statement of Government Ownership
2. Vehicle Markings:

All City vehicles shall be properly marked as described below unless (1) the vehicle is used for undercover law enforcement purposes or (2) has been exempted by the City Manager.

- a. All City vehicles will be marked with a City identification number in a conspicuous area near the rear of the vehicle and/or consistent with City custom and practice. "Emergency – Dial 911" and "www.cityofelcentro.org" will appear on the rear of all vehicles except motorcycles.
- b. General purpose sedans, station wagons, mini vans and passenger vans, pickup trucks and heavy motorized equipment will be marked with the current standard City logo on each side.
- c. Police patrol sedans and patrol motorcycles will be marked so that they will be immediately recognizable as City public safety vehicles.
- d. Emergency response and other vehicles in the fire fleet will be marked with the words "El Centro Fire Department" and the vehicle number.

T. Maintenance of Vehicles

1. Departments assigned City vehicles are responsible to ensure that proper and regular maintenance is performed, and that the vehicle is washed and cleaned inside and outside as necessary to maintain an orderly appearance.

2. Vehicles assigned to a department, but not to a particular individual, shall have an individual assigned to ensure that the department's vehicles are cleaned and washed to maintain an orderly appearance
3. Cleaning and washing of City Hall Pool Vehicles shall be the responsibility of Building Maintenance.

U. Replacement of Vehicles

Vehicles should be considered for replacement if one of the following criteria is met:

1. Nine (9) years or older
2. High mileage (generally defined as one hundred thousand (100,000) miles or sixty (60,000) miles for law enforcement vehicles)
3. Poor mechanical condition
4. Other factors i.e., safety problems, wrecked, blown engines, rust out, etc.

V. Violations of the Vehicle Policy

Violations of this vehicle policy may subject employees to disciplinary action, up to and including termination.

W. Department of Motor Vehicles, Vehicle Code §12810, Partial List of Violation Point Values (updated 12/16/2003):

Violations With a Value of Two (2) Points:

- Any conviction of reckless driving
- Any conviction of a violation of any of the following sections:
 - Penal Code §192 (manslaughter)
 - Vehicle Code §22348 (driving over 100 mph)
 - Vehicle Code §21651 (illegally crossing the median of a highway)
 - Vehicle Code §§2800.2 or 2800.3 (fleeing an officer)
 - Vehicle Code §23109 (racing or exhibition driving)
 - Vehicle Code §31602 (transmission of explosives)
 - Vehicle Code §§20001 or 20002 (failure to stop in the event of an accident)
 - Vehicle Code §§23152 or 23153 (under the influence of alcohol or drugs)
 - Vehicle Code §§14601, 14601.1, 14601.2, 14601.3, 14601.5 (driving with a suspended or revoked license)

Violations With a Value of One (1) Point:

- Any traffic conviction involving the safe operation of a motor vehicle upon the highway
- Any traffic accident in which the operator is deemed by the department to be responsible
- Failure to safely secure child in proper passenger restraint system

Section 13.8 Electronic Tracking Technology Policy

This policy governs City's use of electronic tracking technology in vehicles it owns or leases that are used by its employees.

Employees of City may, in the course of employment, be required to drive and/or ride in a City-owned or leased vehicle equipped with electronic tracking technology.

Electronic tracking technology means a technological method or system used to observe, monitor, or collect information, including telematics, global positioning system, wireless technology or location-based technologies. Electronic tracking technology may include event data recorders, sensing and diagnostic modules or other systems that are used for the purpose of identifying, diagnosing or monitoring functions related to the potential need to repair, service or perform maintenance on the City's vehicle and/or to capture safety systems-related data for retrieval after a collision or similar incident has occurred.

Electronic tracking technology allows the City to monitor location, elevation and velocity of its vehicles. Electronic tracking technology use for public safety greatly enhances job performance, personnel safety, situational awareness and may provide assistance in time critical scenarios. Electronic tracking technology in the City may also be used to for other business-related purposes, including but not limited to measuring productivity, locating stolen vehicles, providing aid to vehicles that break down, increasing employee safety, managing City resources effectively or ensuring that employees are following their routes or assignments.

The City may use electronic tracking technology at the City's discretion, and in the ordinary course of business.

The City may utilize electronic tracking technology to initiate counseling with employees for misuse or abuse of their vehicles, inappropriate use of time, speeding or other misconduct. Such incidents of counseling should be documented. Employees who have been counseled for misuse or abuse of their vehicles, inappropriate use of time, speeding or other misconduct associated with the electronic tracking technology may be monitored using the electronic tracking technology to ensure compliance with this policy.

The City may also utilize electronic tracking technology to initiate a disciplinary investigation or discipline of its employees pertaining to the misuse or abuse of their vehicles, inappropriate use of time, speeding or other misconduct, but only where an investigation into the alleged violation of this policy has been conducted. Data retrieved from the electronic tracking technology may be used to corroborate information discovered during any investigation into an employee's violation of this policy.

The California Public Records Act may require that the City disclose specified public records. In response to requests for such disclosure, it may be necessary to examine electronic tracking technology records to determine whether they are public records that are subject to disclosure. Additionally, the City may be required to produce information obtained from electronic tracking technology pursuant to a court order, subpoena or statute.

Employees are prohibited from altering or attempting to alter or disable electronic tracking technology in City vehicles.

Section 13.9 Cellular Telephone Use Policy

It is the policy of the City of El Centro to provide a safe and healthful work environment for its employees and, to the extent reasonably possible, to prevent injury to third-parties while employees are performing their work activities. The policy is to ensure the compliance with all local, State and Federal guidelines.

A. Purpose

It is the intent of the City to provide each department with effective communication devices, within the constraints of available resources. The City recognizes the need for City-owned cellular telephones and by this section establishes procedures for their authorization, deployment and use in order to contain costs, ensure departmental accountability and personal responsibility and prevent improper use. It is important that each user assumes personal responsibility for the prudent use of taxpayers' dollars.

It is the City's policy to provide a safe and healthful work environment for its employees and to the extent reasonably possible, to prevent injury to third-parties while employees are performing their work activities.

This section is established to:

- a. Delineate the provisions and usage of City-owned cellular telephones
- b. Contain cost
- c. Ensure departmental and personal accountability and responsibility
- d. Prevent the improper use of cellular telephones
- e. Maintain a safe environment when utilizing a cellular phone

B. General Provisions

Technology can significantly enhance local service delivery. Cellular telephones are often practical and economical, especially for safety services and emergency communications, and can enhance productivity. The issuance of cellular telephones to employees is a privilege, not a right or an entitlement. Failure to abide by the procedures set forth in this section may result in the loss of use of the equipment and/or disciplinary action.

The City-issued cellular telephone is not being provided for personal use. Personal use of City-provided cellular telephones is allowed only on a very minor, incidental basis and reimbursement should be made to the City. Excessive personal use or abuse of this privilege can result in loss of the use of the cellular telephone and/or disciplinary action. The City reserves the right to terminate cellular telephone privileges for any reason.

In no instance will it be deemed acceptable for an employee to use a City-issued cellular phone to make harassing, threatening or intimidating calls, personal or otherwise.

The City cannot and does not imply, extend or guarantee any right to privacy for voice calls and/or electronic communications placed over City-provided cellular phones, including but not limited to call detail records, logs, voice mail messages, data storage, text messages, emails and address books.

The Director of Finance or his/her designee will administer the City's cellular telephone program to ensure that the City is receiving the best cellular telephone rates possible. At least one (1) time per year, the Director of Finance or designee will review the different rate plans available, the assignment of equipment and the rate plans to individuals.

C. Working Condition Benefit/De Minimus Personal Use

Cellular telephones are intended to be used for business purposes only. It is understood that there may be a *de minimus* use of cellular telephones for personal calls. ***IRS tax laws provide that a working condition benefit may arise in the case of an employer providing cellular telephones to employees. Personal use of City-provided cellular telephones is subject to personal income taxes and withholdings. An alternative for excluding cellular telephones from income is through the use of the de minimis fringe benefit rule, which provides that a minimum percentage of personal use is allowed without triggering taxation.***

- *However continuous use of the cellular telephone for personal reasons undermines the argument that any personal use is excludible for an employee's gross income as de minimus.*

Consistent with IRS tax law regarding working condition benefits for employees, *the City hereby establishes that such de minimus use shall be determined to be less than fifteen (15) percent of the total phone calls made on an annual basis.* If an employee uses the City's cellular telephone in excess of the fifteen (15) percent threshold on an annual basis, the entire value of the cellular telephone for that year shall be deemed taxable and shall be reflected as a taxable working condition benefit on the employee's W-2 tax statement.

Consistent with IRS tax laws, the City shall establish a sampling method whereby employees shall be required to indicate on randomly-selected cellular telephone bills whether each phone call was for business or non-business use. Employees shall be required to sign an acknowledgement indicating that the employee has reviewed the cellular telephone bill and has accurately reflected business and non-business phone calls. *Failure of an employee to comply with these substantiation requirements will render the entire value of the cellular telephone on an annual basis to be a taxable working condition benefits, and shall be reflect as such on the employee's W-2 tax statement.*

D. Utilizing Cellular Telephones

When an employee is required to operate any motor vehicle for City business, the use of the cellular telephone is prohibited by the driver unless the driver is using a hands-free device. If the driver does not have a hands-free device, they shall pull safely off the road and stop driving before making or receiving a phone call. Texting and/or e-mailing while operating a motor vehicle is prohibited.

Drivers of emergency response vehicles are currently exempt from the State regulations that require the hands-free device; however, they shall make every attempt to refrain from using cellular telephones without the hands-free device in order to reduce the driver's distraction while operating a City vehicle.

E. Acquisition

1. Department Heads will determine which of their employees should be issued a City-owned cellular telephone. Their recommendation shall be based on a valid business purpose and shall follow the specific criteria described in these Personnel Rules. However, because of financial or other management considerations, meeting the criteria does not guarantee issuance of equipment. If a radio or pager provides reasonable access to the employee for work-related matters, a cellular telephone will not be issued. The following criteria are among those that should be considered:
 - a. Management – The employee is in a managerial role and a critical component of his/her job responsibilities, regardless of location, is contact with staff, citizens and other agencies.
 - b. Work location – The requirements of the job regularly take the employee away from his/her primary work location, either to serve the public or to complete work assignments, and the Department Head believes a cellular telephone is a critical tool for performing the job. Employees who are regularly assigned to a desk with a land-line telephone and who do not meet the other criteria will ordinarily not be assigned a cellular telephone or pager.
 - c. On call – The employee is either regularly on call or regularly expected to respond to City matters during non-business hours.
 - d. Other considerations:

- i. Whether a radio would meet the needs of the City and the employee as efficiently as and at a lesser expense than a cellular telephone.
 - ii. Whether assignment of a cellular telephone will enhance emergency response, employee safety or work efficiency.
 - iii. Adequacy of the present system of communication and whether a cellular telephone is the most appropriate and economical choice.
 - iv. Whether the cellular telephone is a convenience or a necessity for job performance.
 - v. Whether the employee can share a cellular telephone with other employees.
2. The request for a cellular telephone shall be submitted to the Finance Department by the Department Head or designee on a cellular telephone authorization request form (see attached). The justification for receiving a cellular telephone must be provided on the cellular telephone authorization request form as cellular telephones will only be distributed to employees with a demonstrated need.
3. Department Heads and their designees, including supervisors, have the responsibility for ensuring that cellular telephones are being used appropriately.
4. Department Directors have the budgetary responsibility for the purchase and monthly expenses associated with cellular telephones.

Employees will be issued a cellular telephone if authorized by the Department Head and approved by the Director of Finance or designee. If approved the Finance Department will order the requested equipment from the City's cellular service provider and arrange delivery.

Employees are responsible for maintaining adequate physical protection of both the equipment issued to them by the City and access to the cellular telephone service associated with the equipment. Employees shall immediately notify their Department Head or designee, who in turn shall notify the Director of Finance or designee, if any City-owned cellular telephones are damaged, lost or stolen.

Any equipment purchased by the City is owned by the City and should be returned to the City when the employee separates from service or when the need for such equipment no longer exists

F. Review

Department Heads, supervisors, and cellular telephone users are responsible for cellular telephone bills within their department. Users are responsible for reviewing the accuracy of their individual bills and for documenting the reasons for any instances in which the plan service level is exceeded. The Finance Department will provide to Department Heads copies of the bills on a monthly basis. Department Heads and their designees, including supervisors, are responsible for reviewing and approving bills (along with any supporting documentation) that has been submitted to them by users. Periodically, the Director of Finance or designee may audit City cellular telephone bills.

Plan service levels should be sufficient to meet business call needs, and not set at a higher level to also accommodate personal calls. Any concern about the plan service level for a particular cellular telephone should be brought to the attention of the Director of Finance or designee by the Department Head or designee in a timely manner.

Employees will be financially responsible for any and all calls made to or from a cellular telephone while in his/her possession that are not in conformance with this policy.

Department Heads should review the list of users annually to ensure that designated employees continue to demonstrate a need for a cellular telephone. Each January, the Finance Department will

provide Department Heads with a cellular telephone inventory for review.

G. Accountability

Department Heads and users are responsible for cellular telephone bills within his/her department. Appropriate disciplinary action may be taken if an employee is found in violation of this policy.

H. Personal Use of City Cellular Telephone

City cellular telephones are issued for the primary purpose of conducting City business and are not intended to be a substitute for an employee's personal cellular telephone. Employee use of cellular telephones for personal matters shall be kept to a minimum. To help define the term "minimum," Department Heads and their designees, including supervisors, shall utilize the standard described in the next paragraph.

1. Calls

Personal calls shall not exceed ten (10) percent of the total number of base plan monthly minutes allowed under the City-provided cellular telephone plan or sixty (60) minutes, whichever is less, provided such usage does not interfere with the conduct of City business.

If in any month, an employee's personal calls exceed the lesser of ten (10) percent of the total number of base plan monthly minutes or sixty (60) minutes, the Department Head or supervisor must discuss the matter with the employee to determine the reason for the excessive personal usage and counsel appropriate to the situation. Employees shall be notified that continued frequent and/or repeated use of the cellular telephone for personal use in violation of this policy may result in revocation of the cellular telephone and termination of the employee's City provided cellular telephone plan and may, depending on the circumstances, result in disciplinary action, up to and including termination.

The employee will be required to reimburse the City for some portion or all of the minutes that result from personal use. The number of minutes subject to reimbursement will be computed as follows:

- a) Add up the number of minutes of all personal use for both calls received and calls made.
- b) Compare that number to the threshold amount (the lesser of ten (10) percent of base plan monthly minutes or sixty (60) minutes).
- c) If personal use does not exceed the threshold amount, no reimbursement is due to the City.
- d) If personal use exceeds the threshold amount, the amount of the excess will have to be paid back to the City.
- e) The rate of reimbursement shall be forty-five (45) cents per minute. This rate may be modified from time to time by the Director of Finance.

2. Texting

The use of City provided cellular telephones for personal texting is not allowed. The cost of incidental use of any personal texting should be reimbursed to the City at the actual cost incurred by the City. The reimbursement will have to be paid back to the City within thirty (30) days after the date of the cellular telephone or pager bill. Excessive personal use or abuse of this privilege can result in loss of the use of the cellular telephone and/or disciplinary action. The City reserves the right to terminate cellular telephone privileges for any reason.

3. Reimbursements

All amounts must be paid within thirty (30) days after the date of the cellular telephone or pager bill. Checks should be made payable to the City of El Centro, not the cellular telephone service provider. A copy of the monthly cellular telephone with all personal calls highlighted, along with a copy of the reimbursement calculation, must be included with the reimbursement. The Director of Finance or designee may develop more specific reimbursement procedures.

All amounts due from an employee are immediately payable at the time the employee separates from the City. Any unpaid amount due the City is considered a debt and may result in legal action against the employee after separation from the City.

The Director of Finance or designee will review bills showing regular personal usage.

Excessive personal use or abuse of this privilege can result in loss of the use of the telephone and/or disciplinary action. The City reserves the right to terminate cellular telephone or pager privileges for any reason.

F. Use of Personal Cellular Telephone

Employees should use the most economical form for placing a call. Occasionally, employees who do not have a City-issued cellular telephone may need to use their personal cellular telephone for critical City business. These calls may be eligible for reimbursement by the City upon review and approval, of the request, by the Department Head or designee.

Requests for reimbursement should be submitted on a claim for payment. A copy of the monthly cellular telephone bill with business calls highlighted should be attached.

Employees who purchase cellular telephones for personal use should not include the City as co-owner or co-lessee.

Employees are prohibited from using a personal cellular telephone for City or personal business while operating a vehicle unless the driver is using a hands-free device. If the driver does not have a hands-free device, they shall pull safely off the road and stop driving before making or receiving a phone call.

Section 13.10 City Policy in Emergency Situations

In the event of declared City emergency, all City employees may be declared emergency service workers.

If an emergency occurs during non-work hours, employees must attempt to contact their immediate supervisor, or follow department specific policy regarding reporting for duty.

If unable to reach a supervisor, all employees should, unless physically incapacitated, return to work as soon as practical after the emergency has occurred.

Employees who are primary or alternate emergency response team members are to report to the emergency operations center for emergency team assignment by their section chief. All other employees not listed on the team may also be assigned emergency team duties as necessary, and are to report to work.

CHAPTER 14: EMPLOYEE DISCIPLINE & PROCESS

Section 14.1 Disciplinary Action

As part of the City's personnel ordinance and rules, corrective or disciplinary action may be taken against any regular, acting, temporary, seasonal, part-time, probationary or contract employee.

Disciplinary action shall mean a personnel action that may result in a reduction in salary, suspension, demotion, or dismissal for a violation or violations of prohibited behaviors or conduct.

Corrective actions shall mean a personnel action that may result in a counseling memorandum, verbal warning, a written warning or a reprimand for a violation or violations of prohibited behaviors or conduct.

Section 14.2 Management Employees

Management employees have the right to process disciplinary action and to take corrective disciplinary action when necessary including to counsel, warn or reprimand employees for a violation of prohibited behaviors or conduct.

Supervisors will be responsible for preparing the appropriate and necessary personnel action document for review and approval by the Director of Human Resources.

All disciplinary write-ups, including counseling memorandum, written warnings and reprimands will be placed in an employee's personnel file.

Section 14.3 Right to Contest Disciplinary Actions

Employees who are not designated at-will have the right to contest, rebut or appeal personnel actions involving suspension, demotion, reduction in pay or discharge from employment.

Employees who are designated at-will by City policy, document, resolution or ordinance can be terminated at-will as they have no rights to any of the disciplinary procedures described in this article or in the City's personnel rules unless provided for by statute.

Section 14.4 Causes for Discipline

Employees may be disciplined for conduct involving any of the following: misconduct, incompetence, inefficiency, excessive tardiness and/or absence, negligence, dishonesty, violating the public trust or failure to observe written City or departmental rules, regulations or engaging in any of the prohibited behavior and conduct listed in section 18.4.

Exempt Employees: Notwithstanding any provision in this chapter regarding disciplinary action, any regular or acting employee who is exempt from the provisions of the FLSA is not subject to any form of disciplinary penalty which would violate his/her FLSA overtime-exempt status.

Section 14.5 Administrative Leave Pending Disciplinary Investigation

A Department Head or manager, after consulting with the Director of Human Resources and the City Manager, may immediately place an employee on an administrative leave with pay.

Administrative leave with pay is authorized when the City Manager believes that the employee's continued presence at the work site could have detrimental consequences.

Administrative leave with pay is also authorized, pending investigation into charges of misconduct.

If the charges against the employee are substantiated by the investigation, appropriate disciplinary action may be taken in accordance with the procedures set forth in this section.

Section 14.6 Types of Discipline

A. Corrective Actions

Except as otherwise provided for by law, counseling memorandums, written admonishment and written reprimand are considered corrective actions. These three (3) forms of disciplinary write-ups represent the mildest forms of progressive disciplinary actions none of which can result in the loss of pay for the employee.

1. Verbal Corrective Actions:

Based upon reasonable justification, the immediate supervisor may counsel, admonish or reprimand an employee verbally or in writing, which constitutes only a warning to the employee that he is not satisfactorily fulfilling the duties and responsibilities of his position.

2. Written Corrective Actions and Employees Response to City Manager:

If the counseling, admonishment or reprimand is written, a copy will be sent to the City Manager, and it shall become part of the employee's permanent record, and the employee may, within ten (10) days of receipt of the written reprimand, respond in writing to the City Manager to the charges made.

3. City Manager Review:

The City Manager shall review the written reprimand and response and may sustain the employee's position.

If the employee's position is sustained, the written reprimand and the employee's written response shall be purged from the employee's permanent record.

If the employee's position is not sustained, the employee's written response shall become part of the employee's permanent record.

B. Disciplinary Actions

Notices of intent to suspend, demote, reduce pay or discharge are considered disciplinary actions.

The City Manager and Department Heads may recommend the suspension, demotion and a reduction in pay or the discharge of an employee from his position for cause.

1. Employee Entitled to Written Notice:

An employee subject to such disciplinary action shall be entitled to the prior written notice of the proposed action.

2. Employee Entitled to Respond:

The employee shall be entitled to respond orally or in writing, to the proposed disciplinary action and shall be entitled to a pre-disciplinary review.

3. No More than Twenty (20) Day Suspension:

No employee shall be penalized by suspension for more than twenty (20) working days in

any fiscal year for disciplinary reasons.

C. Demotion or Reduction in Pay for Failing to Perform to Standard

An employee whose ability to perform his required duties falls below standard, or for disciplinary purposes, may be demoted or be subject to reduction in pay.

No employee shall be demoted to a position for which he does not possess the minimum qualifications.

Section 14.7 Informal Counseling with the City Manager

Nothing in these rules and regulations shall prohibit the City Manager from meeting informally with an employee regarding possible disciplinary action in order to attempt to resolve the problem.

Section 14.8 The Skelly Process

As disciplinary actions may result in a significant impact on an employee's job, it is the policy of the City to provide a pre-disciplinary meeting of the sort contemplated by Skelly v. State Personnel Board [(1975) 15 Cal.3d 194] ("Skelly procedure") to allow subject employees a meaningful opportunity to contest, rebut or appeal disciplinary actions described in section 14.6(B) that they do not agree with.

The procedure established for this purpose is described in the following provisions.

A. Disciplinary Action Subject to Skelly Procedure:

Disciplinary actions that may be contested, rebutted or appealed under this process are suspensions; demotions; reduction in pay; and dismissals from employment.

Prior to a disciplinary suspension, a reduction in pay, a demotion or a dismissal of a regular or acting employee for disciplinary purposes, management and subject employee shall comply with the procedure set forth in subsection C of this section.

B. Administrative Suspensions with Pay:

Pending investigation of an accusation against an employee, the City Manager may approve the temporary suspension of an employee with pay, pending the undertaking or completion of an investigation or opportunity to respond as may be required to determine if any disciplinary action shall be taken.

C. The Skelly Procedure:

1. Written Notice of Intent:

The Department Head, or his/her designee, with the assistance of the Director of Human Resources, shall give the employee a written notice of the proposed or intended disciplinary action at least ten (10) working days prior to the effective date.

The written notice shall be personally delivered to the employee or sent by certified mail to the employee's last known address. The notice should include the following information:

- a. A description of the proposed action to be taken and its proposed effective date or dates;
- b. The specific charges alleged, including the grounds and particular facts upon which the action is proposed to be taken;
- c. A copy of the written materials alleged to support the proposed action;

- d. A statement advising the employee of the right to respond, orally or in writing, within ten (10) working days of receipt of the notice; and
- e. A statement that failure to timely respond constitutes a waiver of the right to respond prior to the imposition of discipline.

2. Employee Review and Response:

The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based.

D. Pre-Disciplinary Meeting with the Department Head

An employee may request a pre-disciplinary meeting with his/her Department Head for any proposed disciplinary action which involves a suspension, demotion, reduction in pay or termination by delivering a written answer to the charges and a request for a pre-disciplinary meeting to the Department Head.

The written answer and request for the pre-disciplinary meeting must be received no later than ten (10) working days from receipt of the pre-disciplinary notice from the Department Head or his/her designee.

1. Dates and Time of the Pre-Disciplinary Meeting:

The Department Head shall set a date for the pre-disciplinary meeting within a reasonable time after receipt of a timely written answer and request for pre-disciplinary meeting, but in no case no later than fifteen (15) days after receipt of the request for the pre-disciplinary meeting.

An employee who, having filed a timely written answer and request for the pre-disciplinary meeting, and who has been notified of the time and place of the pre-disciplinary meeting, and who fails to appear personally at the meeting, may be deemed to have abandoned his/her request for a pre-disciplinary meeting. In this case, the Department Head may (1) impose the disciplinary action as recommended by the Department Head or his/her designee; (2) impose the disciplinary action as modified by the Department Head; or (3) decline to impose the disciplinary action.

2. Continuances:

The Department Head may continue a scheduled pre-disciplinary meeting upon a showing of good cause made by the employee.

3. Conduct of the Pre-Disciplinary Meeting:

The Department Head may establish any procedures he/she deems necessary to carry out the intent of this procedure and to assure a uniform and well-understood process.

4. Written Decision:

The Department Head shall notify the employee in writing of his/her final determination within ten (10) working days of the employee's pre-disciplinary meeting.

The Department Head's decision shall be final and conclusive in the absence of a timely petition to appeal to the City Manager.

5. No Imposition of Discipline:

Except as otherwise provided by law, a decision not to impose any disciplinary action

should be accompanied by a directive from the Department Head to delete all references to the pending action from the employee's personnel file(s).

E. Right of Appeal to the City Manager

1. Any permanent employee shall have the right of appeal to the City Manager from suspensions, demotions, reduction in pay and dismissals from employment imposed by his/her Department Head. Such appeal must be filed with the City Manager within ten (10) working days after the employee receives his/her Department Head's written notice of determination to suspend, demote, reduce pay or dismissal from employment. The appeal must be in writing and it must state specifically the reasons upon which it is based.
2. Upon receipt of a written appeal from an affected employee, the City Manager shall give consideration to the matter and inform the employee in writing as to whether the disciplinary action has been affirmed, revoked or modified within ten (10) working days. The decision of the City Manager may be appealed to the Personnel Appeals Board.

F. Right of Appeal to Personnel Appeal Board

Any regular employee shall have the right to appeal to the Personnel Appeal Board any disciplinary action taken under this chapter. The employee shall first appeal the disciplinary action to the City Manager as described above.

G. Appeal Procedure to Personnel Appeal Board

Within ten (10) working days after an employee has received the decision of the City Manager, the employee may file a written demand with the City Clerk's office requesting a hearing before the Personnel Appeal Board.

Appeals shall be in writing, signed by the appellant, addressed to the Personnel Appeal Board, explaining the matter appealed from and setting forth therein a statement of the action desired by the appellant, with reasons therefore.

The formality of a legal pleading is not required.

H. Notice of Personnel Appeal Board Hearing

Upon the filing of an appeal, the City Clerk's office shall, within a time period not less than five (5) days and not more than fifteen (15) days from the date of filing, schedule a date of hearing on the appeal.

The City Clerk shall immediately notify each member of the Personnel Appeal Board, the City Manager and other persons or officers named or affected by the appeal or the filing of the appeal and the date and time of the hearing, at such places as the Chairperson of the Personnel Appeal Board shall prescribe.

I. Personnel Appeal Board Hearings

Unless otherwise agreed upon by the parties:

1. The appellant shall appear personally, unless physically unable to do so, before the Personnel Appeal Board at the time and place of the hearings.

He/she may be represented by any person the employee may select and may at the hearing produce on his/her behalf relevant oral or documentary evidence.
2. Oral evidence shall be taken only on oath or affirmation and shall be recorded verbatim.

3. Each party shall have these rights:
 - a. to call and examine witnesses;
 - b. to introduce exhibits;
 - c. to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination;
 - d. to impeach any witness regardless of which party first called him to testify; and
 - e. to rebut the evidence against him/her.

If the employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination.

4. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely, regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding.

Irrelevant and unduly repetitious evidence may be excluded.

5. Subpoena Power:

The Personnel Appeal Board shall have subpoena powers as provided in the City Code.

The Chairman of the Board may direct any person present to testify in a hearing whether or not such person was subpoenaed to testify.

6. The Chairman of the Board shall require the maintenance of order in the hearing room, may order the exclusion of witnesses, and may expel anyone who disturbs the hearing.
7. After determining the majority wishes of the Board, the Chairman of the Board shall rule on objections raised by either party to the hearing.
8. The order of proof in the hearing shall be as follows:
 - a. The appointing authority shall present evidence in support of the charges;
 - b. The employee or his counsel or representative shall produce such evidence as he may wish to offer in his defense;
 - c. Any party may then offer rebuttal evidence; and
 - d. If evidence relative to the fitness and suitability of the employee is to be introduced, it may be introduced with evidence in support of the charges or after such evidence has been presented.

J. Official Notice

In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact, which may be judicially noticed by the courts of this state.

Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein or appended thereto.

The parties shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Personnel Appeal Board.

K. Findings and Decision

1. After completion of the hearing, the Personnel Appeal Board shall within ten (10) days after the conclusion of the hearing, certify its finding and decision in writing to the appellant and the City Manager.
2. The Personnel Appeal Board may sustain, reject, amend or modify the imposed disciplinary action against the involved employee.
3. The decision and findings shall be prepared and copies thereof and decision shall be delivered to the parties personally or sent to them by registered mail.

Section 14.9 Releasing of Information Relative to Disciplinary Actions

Except as otherwise provided for by law, in the interest of preventing undue embarrassment and subsequent loss of ability to perform City work effectively, the following policy will prevail regarding release of information by the City to the news media on personnel actions:

- A. No information shall be released without prior approval of the City Manager.
- B. No information will be released until final action has been determined and taken.
- C. Even after final disposition of the matter, no details will be released other than the exact nature of the action taken and then nothing shall be released which constitutes an invasion of privacy.

CHAPTER 15: GRIEVANCES

Section 15.1 Grievances

The City has an employee grievance policy and procedure for employees to utilize to raise work-related concerns they believe are not being addressed properly or when they believe a policy is not interpreted correctly and is adversely affecting them individually or as a group.

A. Definition of a Grievance

1. The interpretation or application of any City rule, regulation, ordinance or resolution affecting an employee's wages, hours or conditions of work.
2. The interpretation or application of the provisions of MOUs.
3. Alleged unlawful employment discrimination on the basis of race, religion, color, sex (including gender and pregnancy), sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, citizenship status, marital status, pregnancy, age, medical condition, genetic characteristics and physical or mental disability.

B. Employee Right to File

An employee may file grievances when the employee believes that a violation of these rules has occurred with freedom from fear, intimidation or coercion from any party.

Any employee may represent him/herself or select whomever he/she wishes to represent him/her at any or all steps in the grievance procedure.

C. Eligibility to File a Grievance

A grievant is a regular or acting employee who is personally affected by an act or omission that occurred no more than ten (10) calendar days prior to the reporting of the grievance, provided that the act or omission comes within the definition of grievance as described in subsection A of this section. Grievances may be initiated by the employee or an organization on the employee's behalf.

Section 15.2 Matters Not Subject to Grievance Procedures

The following matters or subject areas are NOT subject to the grievance procedures:

- A. Corrective actions or disciplinary actions; these are subject to reconsideration or appeal;
- B. Employee performance evaluations;
- C. Management of the City generally and issues of City or department policy;
- D. Necessity and organization of any service or activity conducted by the City including the expansion or reduction of services or workforces;
- E. Determination of the nature, manner, means, technology and extent of services to be provided to the public;
- F. Methods of financing;
- G. Types of equipment or technology used by the City or departments;
- H. Determination of and/or change in facilities, methods, technology, means and size of the work force by which City operations are to be conducted;

- I. Determination of and change in the location, number of locations, relocations and types of operations, processes and materials to be used in carrying out City functions;
- J. Work assignments or reassignments to other offices or stations and schedules in accordance with needs and requirements as determined by department management;
- K. Establishment, implementation and modification of productivity and performance programs and standards;
- L. Reductions in force or layoffs for lack of work;
- M. Establishment and approved modification of job classifications or reclassifications;
- N. Determination of standards, policies and procedures for selection, training and promotion of employees;
- O. Establishment, implementation and modification of departmental organizations, supervisory assignments, chains of command, reporting responsibilities and transfers of employees to other department or offices;
- P. Levels of compensation pay and benefits based upon budgetary and fiscal considerations.

Section 15.3 Grievance Procedure

The City's grievance processes and procedures consist of the following steps:

A. Informal Resolution with Immediate Supervisor

It is the responsibility of employee or employees who believe they have a bona fide grievance to promptly inform and discuss it with their immediate supervisor as designated by the Department Head or his designee in order to, in good faith, endeavor to resolve the matter expeditiously and informally at the employee-supervisor level. Such notification shall occur no later than ten (10) calendar days after the occurrence of the incident causing the complaint.

If the immediate supervisor fails to reply to the employee within five (5) days after the complaint is discussed or if such informal discussion does not resolve the problem to the employee's satisfaction, and, if the complaint constitutes a grievance as herein defined, the employee may file a formal grievance in accordance with the following procedure.

B. Formal Procedure

If the employee is unable to resolve the grievance informally with his/her immediate supervisor, he/she shall reduce his/her grievance to writing to include the following:

1. The specific rule, ordinance or regulation violated, misinterpreted or misapplied;
2. Specific act or omission which gave rise to the alleged violation, misinterpretation or misapplication;
3. The date or dates on which the violation, misinterpretation or misapplication allegedly occurred;
4. The action taken as a result of the informal procedure in Step 1;
5. The documents, witnesses or other evidence that support the grievance;
6. The desired solution or remedy;
7. Signature of the grievant; and

8. The name of the organization or individual, if any, representing the grievant, followed by the signature of said organization or individual.

The following steps are to be used to resolve the formal grievance (cases of alleged unlawful employment discrimination as described in section 15.1(A) shall commence at Step 3):

1. **Step 1:**

The grievant shall provide a copy of the written grievance to his/her second level supervisor, who shall investigate the grievance and shall confer with the grievant, his/her representative and any other employee or employees involved in attempt to resolve the grievance.

The second level supervisor shall, within ten (10) business days of receiving the written grievance, submit his/her response thereto in writing to the grievant, his/her representative and the Human Resources Department.

2. **Step 2:**

If the dispute is not resolved in Step 1, said written grievance shall be filed with the Department Head, and he/she shall investigate the grievance and shall confer with the grievant, his/her representative and any other employee or employees involved in attempt to resolve the grievance.

The Department Head shall, within ten (10) business days of receiving the written grievance, submit his/her response thereto in writing to the grievant, his/her representative and the Human Resources Department.

3. **Step 3:**

If the written response of the Department Head does not result in a resolution of the grievance, the grievant may within not more than five (5) days from receipt of the Department Head's decision, request consideration of the grievance by the City Manager, by so notifying the City Manager in writing.

- Within ten (10) business days of having received such notification, the City Manager shall investigate the grievance, confer with persons affected and their representative and render a decision in writing to the grievant, his/her representative and the Human Resources Department.

The City Manager's decision shall be final and cannot be appealed.

Section 15.4 Miscellaneous Provisions

A. Time Limits

The time limits of each step may be extended by mutual consent of the parties. If an extension is agreed to, the duration of the extension shall be in writing and the statement signed by both parties involved at the step to be extended.

If the grievance is not appealed within the stated time limits or extensions of any of the above steps, the grievance shall be considered conclusively settled on the basis of the last disposition by the appropriate authority and shall not be eligible for further appeal or review.

If the supervisor or other appropriate authority fails to furnish a written or oral answer within the required time limits or extensions of any of the above steps, the employee may proceed with the grievance to the next appropriate step.

B. Abandonment of Grievance or Extension of Time

The failure of a grievant to comply with said time limits shall constitute abandonment of the grievance, except however, that the parties may extend time limits by mutual written agreement in advance.

C. Resolution - No Appeal to Next Step Considered Settled

Any grievance not appealed to the next step in the grievance procedure within the stated time limit shall be considered settled.

D. Withdrawal

Any grievance petition may be withdrawn by the grievant at any time, without prejudice.

E. Resubmission

Upon consent of the person hearing the grievance petition and the grievant, a grievance may be resubmitted to a lower step in the grievance procedure for reconsideration.

F. Employee Representation

An employee may have representation in the preparation and presentation of the grievance at any step in the grievance procedure, except that no supervisor or department manager shall be represented by an employee who he/she may supervise and no employee shall be represented by a supervisor or department manager.

At least twenty-four (24) hours prior to any meeting convened under the grievance procedure, the employee must notify the City that he/she plans to bring a representative to the meeting, and who the representative will be.

The grievant employee(s) and one (1) employee representative are entitled to be released from work for a reasonable period of time in order to present the grievance.

G. Legitimate Orders

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

H. Freedom from Retaliation or Reprisal

No employee shall be subject to coercion, corrective or disciplinary action, or retaliation for discussing a request or complaint with his/her immediate supervisor, or for filing a grievance petition pursuant to this chapter. See section 17.2 for the policy and complaint procedure against harassment, discrimination and retaliation.

CHAPTER 16: PERSONNEL FILES

Section 16.1 Central Personnel Files

The Human Resources Department will maintain a central personnel file for each City employee indicating the employee's name, title of position, the department assigned, salary, changes in employment status, performance evaluations, disciplinary documents and such other information as may be considered pertinent by the Director of Human Resources. Personnel files shall be kept in locked files located in the Human Resources Department.

Section 16.2 Disciplinary Actions

Disciplinary documents shall be placed in personnel files in accordance with applicable City policies and MOU provisions. Copies of documents concerning disciplinary actions taken by a supervisor or department manager must be placed in the employee's central personnel file. There will be no disclosures of this information to third parties except as authorized by State or Federal law, as required by court order or as duly authorized in writing by the employee.

Section 16.3 Investigative Files

Investigative documents shall be placed in a separate file and kept in the Human Resources Department next to the personnel file of the subject employee. There will be no disclosures of this information to third parties except as authorized by State or Federal law, as required by court order or as duly authorized in writing by the employee.

Section 16.4 Medical Information

All employee medical information will be kept in separate, confidential files located in the Human Resources Department. "Medical information" means any information that identifies the employee or applicant and pertains to his/her medical history, mental or physical condition or treatment.

The City will not obtain employee medical information without prior written authorization from the employee or applicant who is the subject of the information.

The City will not disclose employee medical information without prior written authorization from the employee or applicant who is the subject of the information, unless the City is required to make such disclosure pursuant to the requirements of the California Confidentiality of Medical Information Act, in which case it may make the disclosure without employee or applicant authorization.

In any case, the City will release only the specific medical information that is identified in the employee or applicant's authorization or that is specifically required for compliance with all laws and regulations.

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

Section 16.5 Payroll Files

The Finance Department will maintain a file for each City employee showing the name, title of position, the department assigned, salary, change in employment status, W-4 forms, payroll deductions and such other information as may be considered pertinent by the Finance Director.

There will be no disclosures of this information to third parties except as authorized by State and Federal law, as required by court order or as duly authorized in writing by the employee to third parties.

Section 16.6 Access to Personnel Files and Verification of Employment

A. Verification of Employment:

Verification of an employee's employment and income may be made by the Finance and/or Human Resources Divisions. Written authorization from the employee is required. Under normal circumstances, the only City employees with day-to-day access to an employee's personnel file are the staff of the Human Resources Department.

B. Access to Personnel Files:

The following individuals may request access to personnel files:

- City Manager
- City Attorney (pending litigation or disciplinary action)
- Associate City Attorney (pending litigation or disciplinary action)

Files released to the City Manager, City Attorney and Associate City Attorney should be returned to the Human Resources Department as quickly as possible (normally during the business day, but in no case later than twenty-four (24) hours). An access log shall be kept listing the name of the individual accessing the file, date of review and name of employee.

A Department Head or employee's management-level supervisor may review the contents of an employee's personnel file by requesting an appointment with the Human Resources Department to do so. Under normal circumstances, such review shall take place in the presence of Human Resources staff.

An employee may review the contents of his/her personnel file during regular business hours upon twenty-four (24) hours notice to the Human Resources Department. Such review shall take place in the presence of Human Resources staff.

The City will permit supervised review of an individual's personnel file by a representative of a prospective employer only when the prospective employer presents the City with a written authorization and release from any liability claim signed by the individual. The release form shall provide that the City, its agents, officers and employees are released from liability as a result of complying with a request for information regarding the individual's employment with the City.

Verification of an individual's previous employment with the City shall be made only by the Human Resources Department. Only the following information will be verified:

- Name
- Dates of Employment
- Last Job Title
- Final Salary

An employee shall be provided a copy of any documents placed in his/her personnel file(s), and may review his/her file on request. Employees may be required to pay a reasonable fee for copies of their payroll and/or personnel file documents.

Upon request, an employee may place documents in his/her personnel file that commend his/her job performance with the City or demonstrates educational attainment.

Section 16.7 Employees Responsibility to Update Personal Information

It is the employee's responsibility to notify the Human Resources Department of any changes in his/her address, phone number, marital status, dependent status, name change, training certificates or other pertinent information.

Section 16.8 Destruction of Personnel Records

Personnel records, including employment applications, shall be destroyed only in accordance with the provisions of the City's system for the destruction of public records and then in accordance with applicable State and Federal law.

CHAPTER 17: WORKPLACE POLICIES

Section 17.1 Americans with Disabilities Act Policy and Procedure

To comply with applicable laws ensuring equal employment opportunities for qualified individuals with disabilities, the City will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability, who is an applicant or an employee, unless undue hardship would result or unless the individual poses a direct threat to the health and safety of him/herself or others.

Any applicant or employee who requires an accommodation in order to perform the essential functions of the job should contact the Human Resources Director and request such an accommodation. The individual with the disability should specify what accommodation he/she needs to perform the job.

Requests for an accommodation will be evaluated on a case-by-case basis, and the City may require reasonable documentation of a disability to support the request, including but not limited to a fitness for duty report.

Interactive Process: The City will engage in a good faith interactive process to identify the barriers that make it difficult for the applicant or employee to have an equal opportunity to perform his/her job. The City will identify possible accommodations, if any, that will help eliminate the limitation. If the accommodation is reasonable, will not impose an undue hardship on city operations and does not pose a direct threat to the health and safety of the individual or others, the City will make the accommodation.

Section 17.2 Policy and Complaint Procedure Against Harassment, Discrimination and Retaliation

The purpose of this policy is to establish a strong commitment to prohibit and prevent discrimination, harassment and retaliation in employment, to define those terms and to set forth a procedure for investigating and resolving internal complaints. The City encourages all covered individuals to report as soon as possible any conduct that is believed to violate this policy.

Policy

The City has zero (0) tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of law to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions.

Harassment or discrimination against an applicant or employee by a supervisor, management employee, coworker or contractor on the basis of race, religion, sex (including gender and pregnancy), national origin, ancestry, disability, medical condition, genetic characteristics, marital status, age, sexual orientation (including homosexuality, bisexuality or heterosexuality), or any other protected classification as defined below, will not be tolerated.

This Policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training. Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below.

Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

Definitions

- A. Protected Classifications: This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, religion, color, sex (including gender and pregnancy), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, marital status, pregnancy, age, medical condition, genetic characteristics and physical or mental disability. It also includes status as a veteran or a member of the uniformed services.
- B. Policy Coverage: This Policy prohibits employer officials, officers, employees or contractors from harassing or discriminating against applicants, officers, officials, employees or contractors because:
 - 1. of an individual's protected classification;
 - 2. of the perception that an individual has a protected classification;
 - 3. the individual associates with a person who has or is perceived to have a protected classification.
- C. Discrimination: This policy prohibits treating individuals differently because of the individual's protected classification as defined in this policy.
- D. Harassment may include, but is not limited to, the following types of behavior that is taken because of a person's protected classification.
 - 1. Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification or race-oriented stories and jokes.
 - 2. Physical acts, such as assault, impeding or blocking movement, offensive touching or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering or making explicit or implied job threats or promises in return for submission to physical acts.
 - 3. Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.
 - 4. Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile or offensive working environment.
- E. Guidelines for Identifying Harassment: To help clarify what constitutes harassment in violation of this Policy, use the following guidelines:
 - 1. Harassment includes any conduct which would be "unwelcome" to an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification.
 - 2. It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons including the need to avoid being insubordinate or to avoid being ostracized.
 - 3. Simply because no one has complained about a joke, gesture, picture, physical contact or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in

the future.

4. Even visual, verbal or physical conduct between two (2) employees who appear to welcome the conduct can constitute harassment of a third (3rd) applicant, officer, official, employee or contractor who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
 5. Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates, a protected classification and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).
- F. Retaliation: Any adverse conduct taken because an applicant, employee or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited. "Adverse conduct" includes but is not limited to taking sides because an individual has reported harassment or discrimination, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. Those who make good faith reports of harassment or discrimination and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process are protected from retaliation.

Complaint Procedure

- A. An employee, job applicant or contractor who believes he/she has been harassed may make a complaint verbally or in writing with any of the following (there is no need to follow the chain of command):
1. Immediate supervisor;
 2. Any supervisor or manager within or outside of the department;
 3. Department Head; or
 4. Director of Human Resources
- B. Any supervisor or Department Head who receives a harassment complaint should notify the Director of Human Resources immediately.
- C. Upon receiving notification of a harassment complaint, the Director of Human Resources shall:
1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with 1) the complainant; 2) the accused harasser; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
 2. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, discrimination or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
 3. Report a summary of the determination as to whether harassment occurred to appropriate persons, including the complainant, the alleged harasser, the supervisor and the Department Head. If discipline is imposed, the level of discipline will not be communicated to the complainant.
 4. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate

with the severity of the offense.

5. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.
 6. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- D. The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors or managers become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.
- E. Option to Report to Outside Administrative Agencies: An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on employer bulletin boards for office locations and telephone numbers.

Confidentiality

Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Human Resources Director. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings or to comply with the law or court order.

Responsibilities

Managers and supervisors are responsible for:

- A. Informing employees of this Policy.
- B. Modeling appropriate behavior.
- C. Taking all steps necessary to prevent harassment, discrimination or retaliation from occurring.
- D. Receiving complaints in a fair and serious manner and documenting steps taken to resolve complaints.
- E. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
- F. Following-up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
- G. Informing those who complain of harassment or discrimination of his/her option to contact the EEOC or DFEH regarding alleged Policy violations.
- H. Assisting, advising or consulting with employees and the Human Resources Director regarding this Policy and the Complaint Procedure.
- I. Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Personnel Rules, up to and including discharge.

- J. Implementing appropriate disciplinary and remedial actions.
- K. Reporting potential violations of this Policy of which he/she becomes aware, regardless of whether a complaint has been submitted, to the Human Resources Department or the Department Head.
- L. Participating in periodic training and scheduling employees for training.

Each employee or contractor is responsible for:

- A. Treating all employees and contractors with respect and consideration.
- B. Modeling appropriate behavior.
- C. Participating in periodic training.
- D. Fully cooperating with the employer's investigations by responding fully and truthfully to all questions posed during the investigation.
- E. 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 Head or Human Resources Director.
- F. Reporting any act he/she believes in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to his/her immediate supervisor, Department Head or Human Resources Director.

Dissemination of Policy

All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed.

EEOC CONTACT INFORMATION

EEOC's National Contact Center customer service representatives are available to assist employees in more than one hundred (100) languages between 8:00 a.m. and 8:00 p.m. Eastern Time. An automated system with answers to frequently asked questions is available on a twenty-four (24) hour basis. See the Human Resources Department for contact information.

Section 17.3 Drug and Alcohol Free Workplace

The City is concerned about employees being impaired for the performance of duty or under the influence of alcohol, drugs and/or controlled substances at work, and the use of such substances in the work environment. The City's position is that, any measurable amount of drugs or alcohol in an employee's system while on City time is counter-productive to the goals and mission of City. The City is also concerned about the possession, distribution, purchase or sale of illegal drugs and controlled substances in the workplace.

These activities may adversely affect work performance, efficiency, safety and health. In addition, they constitute a potential risk to the welfare and safety of other, risks of injury to other persons, property loss or damage or negative image for the City.

The City's policy is designed to promote a drug-free workplace and to comply with applicable State and Federal laws. In recognition of the public service responsibilities entrusted to City employees, and because drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following Policy on drug and alcohol testing is hereby adopted by the City.

Policy Purpose

This Policy establishes the rules and procedures regarding the use of drugs and/or alcohol as it pertains to

employment and the procedures to be used to test for drug and/or alcohol use in the following three circumstances: 1) pre-employment testing of external applicants for City special need jobs, 2) reasonable suspicion testing of current employees and 3) post-accident testing of current employees.

The City provides reasonable accommodation as required by law to those employees whose drug or alcohol problem classifies them as disabled. While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those whose continued substance abuse, even if enrolled in counseling or rehabilitation programs, results in performance deficiencies, danger to the health and safety of others and themselves and/or violations of Federal, State or City laws and/or policies.

Violation of Policy

All persons covered by this Policy should be aware that violations of the Policy may result in discipline, up to and including termination, or in not being hired.

Individuals Covered

- A. This Policy applies to external applicants for City special needs jobs, City officials, officers, agents and to all classes of employees identified in section 5.1 of these rules. A copy of this Policy will be given to all employees. Notices of this Policy will be posted on all Department bulletin boards and copies are available in the Human Resources Department.
- B. It is the policy of the City Council that in order to attain or maintain a contract with the City, each contractor shall agree that while he/she or the contractor's employees are performing services for the City, or using City equipment that the contractor or the contractor's employees:
 - 1. Shall not, in any way, be impaired or effected by the use or abuse of alcohol or drugs.
 - 2. Shall not manufacture, distribute, dispense, possess or use a controlled substance or alcohol while on City property or performing services for the City or be under the influence of alcohol or illegal drugs.

Each contractor must provide to the City a Drug-Free Workplace Certification and a copy of their Drug Free Workplace Program which must include:

- 1. The dangers of drug abuse in the workplace.
- 2. The policy of maintaining a drug-free workplace.
- 3. Available drug counseling, rehabilitation and employee assistance programs
- 4. The penalties that may be imposed upon employee for drug abuse violations.
- 5. The drug-testing components equal to or greater than the City's Drug Free Workplace Program requirements.

This policy, as it relates to contractors, shall be implemented by requiring appropriate contract provisions to be included in any contract between the City and a contractor, including contractor's employees.

Confidentiality

Any information about an employee's use of prescription or non-prescription medication, the results of any pre-employment or reasonable suspicion drug and/or alcohol testing and/or an employee's past or present participation in rehabilitation or treatment for substance abuse shall be considered confidential personnel information. The information received in enforcing this Policy shall be disclosed only as necessary for disciplinary actions and appeals, interactive process meetings and

reasonable accommodation efforts, or resolving legal issues. Any reports or test results generated pursuant to this Policy shall be stored in a confidential file, accessible only by those authorized to receive the information, and separate and distinct from the employee's personnel file.

Definitions

- A. "Alcohol" shall mean the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.
- B. "Chain of custody" shall mean procedures to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen at the certified laboratory.
- C. "City equipment" shall mean all property and equipment, machinery and vehicles owned, leased, rented or used by City.
- D. "Collection site" shall mean a designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen to be analyzed. The City will select a Collection Site and require that the Collection Site comply with all methods of collection and Chain of Custody and provide documentation of compliance to the City.
- E. "Contractor" any person or entity that enters into a contract with the City to provide services.
- F. "Designated Employer Representative" ("DER") shall mean the Human Resources Director or designee.
- G. "Drug" or "Drugs" shall mean any controlled substance that is not legally obtainable under State or Federal law or a prescription drug obtained or used without benefit of a prescription by a licensed physician.
- H. "Medical Review Officer" ("MRO") shall mean a licensed physician with knowledge of drug abuse disorders as well as appropriate training to interpret and evaluate an employee's positive test results together with an employee's medical history and any other biomedical information. MRO reviews all negative and positive test results and interviews individuals who tested positive to verify the laboratory report before the City is notified. The City shall select a MRO who is a licensed physician.
- H. "Prescription drug" shall mean any substance that can lawfully be obtained or possessed pursuant to a prescription by a licensed physician.
- I. "Positive test" shall mean to have the presence of a drug or a drug metabolite and/or alcohol in a person's system that is equal to or greater than the levels allowed by this Policy in the confirmation test as determined by appropriate testing of breath, urine or blood specimen and which is determined by the MRO to be the result of the use of drugs and/or alcohol.
- J. "Testing laboratory" shall mean a Substance Abuse and Mental Health Services Administration ("SAMHSA") certified testing laboratory.
- K. "Substance Abuse Professional" ("SAP") shall mean a licensed physician, social worker, psychologist, Employee Assistance Program ("EAP") or certified National Association of Alcohol and Drug Abuse Counselors ("NAADAC") with knowledge of and clinical experience in diagnosis and treatment of alcohol and controlled substance disorders. SAP determines whether an employee is fit for duty following an employee's refusal to test or failed alcohol or drug test, refers employee for a return to duty test and schedules unannounced follow up testing for a period of up to thirty-six (36) months from the date the employee tested positive.

Restrictions on the Use of Alcohol

Employees may not use, be under the influence, or possess alcohol while on City property, while performing their duties (whether or not on City property) or at any time when use of alcohol would impair, to any extent, the employee's ability to perform his/her duties or to operate any City equipment.

Prohibition Against the Use of Drugs

No employee shall possess, use, sell, transfer, manufacture, purchase or transport drugs or attempt to do so or report to work with drugs in his/her system. No employee shall possess, use, sell, transfer, manufacture, purchase or transport prescription drugs, or attempt to do so, or report to work with prescription drugs in his/her system, unless the prescription drug has been lawfully prescribed to the employee.

Criminal Drug Statute Convictions

To fulfill its obligations under the Federal Drug-Free Workplace Act of 1988, the City requires any employee who is convicted of any criminal drug statute, for a violation occurring in the workplace, to provide written notice of the conviction to their Department Head no later than five (5) days after the conviction. The City is also required, and will fulfill its obligations to educate employees on the harmful effects of using and abusing drugs and/or alcohol. As required by law, the City will notify Federal contracting agencies within ten (10) days after receiving notice that an employee directly engaged in performance of work on a Federal contract has been convicted of a criminal drug statute violation resulting from conduct occurring in the workplace.

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

Independent contractors, or employees of independent contractors, working on City projects are required by law or contract to notify the City, the Human Resources Director, or Department Head of a drug and/or alcohol related conviction or positive test for drugs and/or alcohol. Said individuals will not be permitted to work on City projects.

Medication Reporting Requirements

Employees shall, in the case of prescription drugs, ask the prescribing physician and/or, in the case of medication available over-the-counter, review product packaging, to determine whether the use of a prescription drug or over-the-counter medication may impair his/her ability to perform his/her normal job duties or to safely operate City equipment. Any employee taking any over-the-counter medication or prescription drug marked "do not drive," "do not operate heavy equipment" or similarly labeled, shall inform the appropriate supervisor of the use of the medication or drug prior to reporting for duty.

In the case of prescription drugs, the supervisor shall determine whether the employee may work, full duty or light duty, based on the written opinion of the employee's medical provider that the use of the medication may impair the employee's ability to perform specific duties. The supervisor may, upon a determination that the employee is unable to safely perform his/her normal duties, or that a modified work assignment is not available, direct the employee not to work and to return home on paid leave or industrial leave if appropriate. If the employee's personal medical provider provides a written opinion that the use of the drug or medication will not impair the employee's ability to perform his/her normal duties, the supervisor will allow the employee to perform those duties. Notices or communications required by this section shall be confidential and disclosed only to the supervisor and the other employees specifically authorized to receive information pursuant to this Policy.

Indications for Alcohol and Drug Testing

- A. Certain External Job Applicants - City has a special need to require certain job applicants to take a drug and alcohol test after a conditional job offer has been given. Those applying for jobs classified

by City as safety sensitive positions (i.e., including but not limited to those jobs where individuals perform work that involves a danger to the public, such as operating dangerous instrumentalities such as heavy trucks used to transport hazardous material, work regarding national security, work involving the enforcement of drug laws and/or operating natural and liquefied natural gas pipelines), or those applicants seeking jobs which can directly influence children must take and pass a mandatory drug and alcohol test as soon as practical following their acceptance of an offer of employment that is conditioned upon passing a pre-employment physical and drug/alcohol test.

Those external job applicants, described above, who:

1. refuse to submit to testing or attempt to tamper with or adulterate a test sample will be considered to have refused to participate in the testing process shall not be hired and will not be considered for employment for the certain positions described above for one (1) year from the job applicant's refusal to participate in the testing process.
2. test positive for drugs and/or alcohol or unauthorized prescription drug use shall not be hired and will not be considered for employment for a safety sensitive position as described in this policy for two (2) years from the applicant's last positive test.

B. Employees - City may require an employee to submit to a drug and/or alcohol screen test under the following circumstances:

1. Following a work-related accident, incident or mishap that resulted in death or injury requiring medical treatment away from the scene of the accident, or property damage, where drug and/or alcohol use by the employee cannot be ruled out as a contributing factor.
2. When a trained supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations that the employee may be under the influence of drugs and/or alcohol.
3. When a trained supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee either possesses, uses, sells, transfers, manufactures, purchases or illegally transports alcohol, drugs and/or drug related paraphernalia or attempts to do so.
4. Follow-up testing for employees who have returned to work following a positive test and their participation in a drug and/or alcohol rehabilitation program.
5. When an on duty employee is contacted by a police officer who has reasonable suspicion to believe the employee is under the influence of alcohol or drugs or the employee has been involved in an on-duty vehicle-related incident and the officer suspects the employee is under the influence of drugs and/or alcohol.

C. Positive Test or Refusal to Test - Employees who refuse to take a test after direction to do so, or who test positive, will be subject to discipline up to and including termination.

External applicants who test positive or who refuse to take a test after direction to do so, will not be considered for employment for a safety sensitive position as described in this policy and will not be considered for such positions for two (2) years from the applicant's last positive test. A refusal to test is defined as any of the following:

1. Not providing the City a written consent to take the test;
2. The applicant or employee does not supply enough quantity of the laboratory required sample for alcohol or drug testing without sufficient or valid medical explanation;
3. Tampering with a specimen or collection process;

4. Tardiness to reporting collection site after time allocated for applicant or employee to report without valid explanation.

Inspections

The City reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband; affected employees may have union representation involved in this process. All employees, contract employees and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal a drug, alcohol or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including discharge.

Drug and Alcohol Testing

A. Administration

1. The Human Resources Director or his/her designee is the DER and shall be responsible for overseeing implementation of this Policy and the testing procedures in Exhibit C. The Human Resources Director will be responsible for reviewing all disciplinary actions resulting from violations of this Policy to ensure that the action proposed or taken is consistent with this Policy and these Personnel Rules.
2. The DER shall be responsible for the following:
 - i. Communications directly with the MRO and/or SAP and SAMHSA regarding any drug and/or alcohol tests;
 - ii. Overseeing testing programs;
 - iii. Providing training to supervisors and employees.

B. Procedures

1. Mandatory Reporting - Any employee who has reason to believe that another employee may be in violation of this Policy shall immediately notify his/her immediate supervisor. The supervisor should take whatever immediate action is deemed prudent to ensure the safety of the public and employees. Should the supervisor have reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee may be under the influence of drugs and/or alcohol, the employee should be immediately removed from the workplace and placed upon administrative leave with pay until such time as testing results confirm or refute the presence of drugs and/or alcohol. The supervisor shall use the reasonable suspicion evaluation form to assist in making this determination.
2. Acknowledgement - No drug and/or alcohol test may be administered, sample, obtained or drug and/or alcohol test be conducted on any sample in the preemployment context without the written acknowledgment of the applicant being tested. See Exhibit B. Refusal of any applicant or employee to submit to testing or attempt to adulterate or evade the testing process will be viewed as insubordination and will subject the person to disqualification from employment or disciplinary action, up to and including, discharge. The City will pay the cost of all drug and/or alcohol tests required by this Policy.
3. Collection, Integrity and Identification
 - i. After the applicant or employee has been advised about the reason for the test by the supervisor, the applicant or employee will be properly identified and collection site personnel will explain the mechanics of the collection process.
 - ii. Procedures for urine collection will allow for individual privacy unless there is

reason to believe the individual may alter or substitute the specimen to be provided. Samples will be tested for temperature and subject to other validation procedures as appropriate.

4. Chain of Custody

- i. Procedures for the storage and transportation of test specimens shall conform to the Mandatory Guidelines for Federal Workplace Drug Testing Programs promulgated by the Department of Health and Human Services as amended from time to time.
- ii. The test laboratory shall maintain custody of the specimens.

5. Testing Methods — All tests will be screened using an immunoassay technique and for alcohol an Evidential Breath Testing (“EBT”) device. All presumptive positive drug tests will be confirmed using gas chromatography/mass spectrometry (“GC/MS”) and all presumptive positive alcohol tests will be confirmed with a second (2nd) EBT performed within fifteen (15) to thirty (30) minutes after the first (1st) EBT test is completed. The City will test for cannabinoids (marijuana), cocaine, amphetamines, opiates, barbiturates, benzodiazepines and phencyclidine (PCP) as well as alcohol. Tests will seek only information about the presence of drugs and/or alcohol in an individual’s system and will not test for any medical condition.

6. Notification — Any employee who tests positive will be notified by the MRO and will be given an opportunity to provide the MRO any reasons he/she may have that would explain the positive drug and/or alcohol test, other than the presence of alcohol or the illegal use of drugs. If the employee provides an explanation acceptable to the MRO that the positive drug or alcohol test result is due to factors other than the presence of drugs and/or alcohol in the test specimen, the positive test result will be disregarded and reported to City as negative. Otherwise, the MRO will report the positive test result to the Designated Employee Representative or Human Resources Director. Test results will only be disclosed to the extent expressly authorized by this Policy.

7. Split Sample Testing — An employee who has been subjected to drug and/or alcohol screening may request a split sample test be conducted at a certified laboratory chosen by the employee. All costs associated with an employee’s decision to pursue split sample testing will be the full responsibility of the employee. The employee must adhere to the following procedures to maintain strict chain of custody of the sample and validity of the split sample test results:

- i. To request a split sample test to be conducted, the employee must submit his/her written request on the required chain of custody release form provided by the City’s testing laboratory to the DER.
- ii. The request will be forwarded to the testing laboratory used by the City facility. They will release the split sample to the certified lab chosen by the employee provided they have received the properly executed chain of custody release form.
- iii. The laboratory selected by the employee must be a certified laboratory per State regulations and authority and be able to conduct GC/MS method of testing for validation of testing results. Any method of testing performed on the split sample that is not the GC/MS method will be considered invalid.
- iv. The split sample test results will not be released to City without the employee’s written consent.

Rehabilitation

- A. Voluntary Disclosure - Any employee with a drug and/or alcohol problem may voluntarily disclose the problem to the DER who shall refer the employee to the EAP. An employee requesting this assistance may, at the supervisor's discretion, be transferred, given work restrictions or placed on leave while receiving treatment and until the employee is drug and/or alcohol free. An employee's voluntary disclosure of a substance or alcohol abuse problem will not terminate any investigation, criminal or administrative, initiated prior to the disclosure.
- B. Each employee is responsible for seeking assistance before the employee's drug and/or alcohol problem leads to a violation of this Policy, or before the employee is asked to submit to a reasonable suspicion drug and/or alcohol test.
- C. Leave Time - Employees must use available accrued leave time or request a personal leave of absence without pay if time off from work is necessary for any treatment or rehabilitation program. The costs of long-term rehabilitation or treatment services, whether or not covered by the employee's medical plan, are the ultimate responsibility of the employee.

Exceptions

This Policy shall not prevent a safety employee of the City's police department from possessing drugs or alcohol as part of his/her official duties and when in furtherance of the mission of the police department.

Section 17.4 Secondary Employment Policy

The purpose of this policy is to provide a procedure governing secondary employment for City employees. This policy is an attempt to avoid any conflict with proper performance of assigned duties and responsibilities in situations when a City employee wishes to accept employment, become self-employed or perform volunteer work in addition to the employee's position with the City.

A. POLICY

It is the policy of the City to permit employees to engage in secondary employment when it does not create a conflict of interest or constitute an incompatible activity. This policy shall be considered to be a permissive policy and shall be liberally construed. Each employee is required to disclose all secondary employment. Each disclosure shall be treated as confidential and will be reviewed and approved by the respective Department Head to ensure that the secondary employment is compatible with the employee's job and does not impair the employee's ability to perform his/her job for the City in an acceptable manner.

B. AUTHORITY

This policy is consistent with California Government Code §1126 which addresses activities of local agency officer(s) or employee(s) which are inconsistent, incompatible or conflict with one's primary employment, activity or enterprise by local agency officer or employee; political activities are not restricted.

An employee's outside employment, activity or enterprise may be prohibited if it:

1. Involves the use for private gain or advantage of his/her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of his/her local agency office or employment.
2. Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his/her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his/her local agency employment or as a part of

his/her duties as a local agency officer or employee.

3. Involves the performance of an act in other than his/her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other officer or employee or the agency by which he/she is employed
4. Involves the time demands as would render performance of his/her duties as a local agency officer or employee less efficient.

C. APPLICABILITY

This policy applies to all employees of the City excluding elected officials, both of the City and elected officials of other public agencies who work for the City.

D. RESPONSIBILITY

The City Manager is responsible for this policy and procedures and has the authority to decide if secondary employment is consistent with this policy. The City Manager may delegate that responsibility and authority to the respective Department Heads, who in turn, may delegate to his/her designee.

E. DEFINITIONS

The following words and phrases used in this policy have the following meanings unless otherwise clearly indicated by the context:

1. Secondary Employment: Any job other than the employee's job with the City, outside business, self-employment, contract or work agreement made by any employee of the City with another party.
2. Voluntary, non-paid charity or civic work are considered secondary employment for the purposes of this policy if that work is for another governmental organization (such as a City, County, State, Federal or quasi-public agency) or would fall under one (1) of the four (4) conditions detailed above in the section entitled Authority. Additionally, employees should be aware of the various personnel rules and regulations and departmental policies and procedures that may affect such activity.

“Casual or incidental jobs or employment” shall be considered as employment situations that may be available to an employee on short notice, for less than three (3) days duration and not of a recurring nature.

F. PROCEDURES

Prior to accepting secondary employment, as defined above, an employee must complete the secondary employment form and submit it to their Department Head and/or his/her designee through their first line supervisor. Forms are available in the Human Resources Department. Each request will be treated as confidential to protect the rights of the employee.

Annually, all employees are required to complete or update the notification of secondary employment form and submit it to the Department Head and/or his/her designee through their first line supervisor.

Grandfather provisions do not exist for this policy. Upon adoption by the City Council, all employees will have one (1) month to comply with this policy. Employees may continue to engage in secondary employment as long as they have completed the necessary forms and are awaiting a

decision.

The Department Head shall review the notification form and a determination should be made within two (2) working days. If it is determined that the situation is unusual or complicated, an additional review time may be needed; as a general guideline this additional time shall not exceed ten (10) days. The Department Head should determine if:

1. A conflict of interest or an incompatible activity exists.
2. The secondary employment would have an adverse impact on the department.
3. The secondary employment impairs the employee's ability to perform his/her job for the City in an acceptable manner.
4. A conflict is created when a current City employee undertakes a second job with the City.
5. If the second job would fall under one (1) of the four (4) conditions detailed above in the section entitled Authority.

If no conflict is found, the employee will be advised that the secondary employment can be commenced or continued.

If a determination is made that a conflict does exist, the Department Head will contact the employee, review the form with the employee and discuss the exact nature of the secondary employment in detail. The Department Head should advise the employee that employment with the City may be jeopardized if the secondary employment is undertaken or continued. Notification should be in writing and state the specific reasons for the denial.

If a conflict is found and it cannot be worked out between the employee and the Department Head, the employee may, within five (5) days, request that the secondary employment denial be reviewed by the City Manager. The City Manager shall make a final determination within five (5) days from the date submitted.

Casual or incidental jobs or employment will require only oral or phone approval of the Department Head and/or his/her designee prior to beginning.

If secondary or self-employment is approved, each employee should ensure that appropriate evidence is available that the employer (or self-employment) meets all City, County and State (and Federal, if applicable) licenses, permits and insurance requirements, including Workers' Compensation.

A copy of the form with the appropriate signatures of the Department head will be returned to the employee. The Human Resources Department will keep the original form in the employee's personnel file.

Note: This policy applies to all City employees who are off work due to a work related injury including public safety employees while receiving California Labor Code §4850 disability payments and other City employees while receiving temporary total disability payment under the appropriate sections of the Labor Code.

Note: This policy will be reviewed within one (1) year to ensure that it is being applied consistent with the stated purpose.

VIOLATION OF THIS POLICY MAY BE GROUNDS FOR DISCIPLINARY ACTIONS, UP TO AND INCLUDING TERMINATION OF EMPLOYMENT WITH THE CITY.

Section 17.5 Conflicts of Interest

An employee or former employee or former City official shall not engage in any other employment or activities which in any way create a conflict of interest or even the appearance of impropriety.

Former Officials or Employees

It shall be improper for any former employee or former City official to appear as a compensated representative at any time before the City Council, or any of its commissions, boards or agencies, by which he/she was formerly employed in connection with any case or other matter with which such person was duly connected in a policy-making capacity while with the city for two (2) years following the termination of said employment with the City.

Such official or former employee may be released from the obligation imposed by this section upon the submission of a written request to the City Council in advance of his/her proposed appearance including a certification that, while an officer or employee of the City, he/she took no action or obtained no information which would prejudice their conduct or presentation, either while an officer or an employee, or at the time of the said presentation. Such a waiver request submitted to the City Council will include a recommendation from the City Manager.

Section 17.6 Electronic Mail/Internet Policy

The purpose of this policy statement is to establish procedures for the use of e-mail and the internet. Electronic mail, internet and telecommunication access are resources made available to City employees to communicate with each other, other governmental entities, companies and individuals for the benefit of the City.

Policy:

- A. The City's electronic mail ("e-mail") system is designed to facilitate City business communication among employees and other business associates for messages or memoranda. Since no computer system is completely secure, the e-mail system is not intended to transmit sensitive materials, such as personnel decisions and other similar information which may be more appropriately communicated by written memorandum or personal conversation.
- B. The City-owned computers, hardware, software and e-mail system are City property and intended for City business. The system is not to be used for employee personal gain or to support or advocate for non-City related business or purposes. All data and other electronic messages within this system are the property of the City. E-mail messages have been found to be public records and may be subject to the right-to-know laws, depending on their content.
- C. In addition, the City, through its managers and supervisors, reserves the right to review the contents of employee's e-mail communications when necessary for City business purposes and to ensure that e-mail is being used in compliance with the law and City policy. Employees may not intentionally intercept, eavesdrop, record, read, alter or receive other persons e-mail messages without proper authorization.
- D. The City purchases, owns and administers the necessary software and licenses to provide access to e-mail and internet services. Employees may not rent, copy or loan the software, or its documentation. Employees will respect the legal protection provided to programs and data by copyrights and licenses. The City has invested much time and money to secure its electronic systems from intrusion and harmful viruses. Therefore, employees may not provide alternative software to access the system. Employees may be held responsible for any damages caused by using unauthorized software or viruses they introduce into the City system. Department Heads are responsible for the implementation and adherence of this policy within their departments.

- E. Disclosure of information or messages from the e-mail system should only be made to authorized persons.

Procedures:

- A. While users may have a confidential password, this does not mean that the system is for personal confidential communication, nor does it suggest that e-mail is the property right of the employee. The use of the e-mail system is for City business. Passwords should be periodically changed to ensure security of the e-mail system. Users should not share their passwords with anyone else, other than as required by supervisors.
- B. Each e-mail transmission intended for outside recipients must include a signature identifying the name, title and department of the sender.

Guidelines:

- A. Employees should be aware that others may have access to all messages, even those marked as confidential or private. Thus, in certain cases, e-mail may not be the proper means of communications. Encryption technology exists for ensuring that e-mail is read only by intended recipients.
- B. Employees are expected to demonstrate courtesy and good judgment in the messages they choose to transmit via e-mail. In general, e-mail is most appropriate for short informal messages that include some detail intended for the receiver to keep, for example, to communicate a schedule of events. The telephone or voice mail are recommended for shorter, less detailed communication; letters or memoranda are recommended for longer, formal communications.
- C. Employees should be aware e-mail is not a good form of communications with legal counsel when seeking legal advice or transmitting information concerning matters in litigation or disputes which are likely to result in litigation. Inadvertent disclosure or dissemination of the communication could waive the attorney-client privilege.
- D. The open meeting law applies to communications among elected officials, especially when three (3) or more Council Members receive the same e-mail.
- E. Elected officials, officers and employees should be aware that when e-mail communications are sent to the City Council in anticipation of a City Council meeting, such e-mail communications may be subject to public disclosure pursuant to the California Public Records Act.
- F. Employees who receive inappropriate messages from inside or outside the City have a responsibility to bring the messages to the attention of their supervisor.

Internet:

- A. The internet can be a very effective resource in gathering information needed to conduct City business; for this reason, the City provides authorized employees with browsing access to it. However, internet access shall be strictly limited to City-related business activities and employees should not become absorbed with following one link after another, forgetting the original business reason for accessing the internet and visiting a web site. Time on the internet is to be limited to that necessary to conduct City-related business.
- B. Employees who want to have personal internet e-mail or access should contract for this from any number of non-profit or commercial providers and use it at home.
- C. Like all e-mail messages, internet messages are capable of being forwarded without the express permission of the original author. E-mail messages are also routinely passed through routers before they reach their final destination. A message is touched many times before it gets to its recipient,

and the message author should be aware of this. Therefore, users must use caution in the transmission and dissemination of messages outside of the City, and must comply with all State and Federal laws.

Authorization:

- A. Council members, Council-appointed officials, Department Heads, and network systems staff are authorized to use the City's internet connection and e-mail and shall receive and sign a copy of this policy. A signed copy of the policy shall be forwarded to the Human Resources Department and included in the employee's personnel file.
- B. Department Head approval is required for e-mail and/or internet use by all other employees. Department Heads are responsible for providing authorized users with a copy of this policy. A signed copy of the policy shall be forwarded to the Human Resources Department for inclusion in employee's personnel files.
- C. The use of the City's email system and internet connection by unauthorized users is prohibited.

Prohibited Use:

- A. When sending e-mail messages, appropriateness and good judgment should be used. The following are examples of e-mail uses that are prohibited:
 - 1. Communications that in any way may be construed by others as disruptive, offensive, abusive or threatening;
 - 2. Communications of a sexual nature;
 - 3. Communications that contain ethnic slurs, racial epithets or anything that may be construed as harassment or disparagement of others based on race, national origin, sex, age, disability or religious beliefs;
 - 4. Solicitation for commercial ventures, religious or political causes, outside organizations or other non-job-related solicitations; and
 - 5. Any other use that may compromise the integrity of the City and its business in any way.
- B. Good judgment and common sense should always prevail regarding the appropriate use of the City's internet connection. Under this standard, it is not possible to list all of the prohibited uses of the City's internet connection. However, use of the City's internet connection which does any of the following shall be prohibited:
 - 1. Compromises the integrity of the City and its business operation in any way;
 - 2. Commits any illegal act;
 - 3. Violates these Personnel Rules, harassment or workplace violence policies; and
 - 4. Results in private gain or advantage for the employee (such as conducting business related to economic interest outside of City employment)
- C. Retention of E-Mail:
 - 1. Generally, e-mail messages are intended to be temporary communications that are non-vital and may be discarded routinely. However, depending on the content of the e-mail message, it may be considered a public record and subject to disclosure laws and records retention

requirements. Any e-mail correspondence deemed to be a public record should be printed and retained in the same manner as other public records.

2. Employees should be aware that when they have deleted a message from their workstation mailbox it might not have been deleted from the central e-mail system. The message may be residing in the recipient's mailbox or forwarded to other recipients. Furthermore, the message may be stored on the computer's back-up system for an indefinite period. Note that e-mail has been classified as a public document, i.e. available to the media, in at least one (1) state.
3. Employees should delete e-mail messages as soon as possible after reading. An accumulation of files will degrade system performance and response times. The system will automatically delete all messages after ninety (90) days, unless archived by the user. Contact the system administrator for help in archiving messages.

D. Employee Termination, Leave of Absence, Vacation and Other:

1. Employees who leave employment with the City have no right to the contents of their e-mail messages and are not allowed access to the e-mail system. Supervisors or management may, for City business purposes, access an employee's e-mail if employee is on unexpected leave, leave of absence, vacation or are transferred to another department.
2. Systems administrators are responsible for ensuring the integrity and security of e-mail and computer files. If it becomes necessary for a systems administrator, for the benefit of the City, to access a user's files, including e-mail, the system administrator will advise the user's Department Head within twenty-four (24) hours.

E. Penalties:

Use of the internet is a privilege, not a right, and may be revoked at any time for unacceptable use. The misuse of the internet or e-mail privileges may be considered sufficient cause for discipline up to and including dismissal in accordance with these Personnel Rules and/or MOUs. In addition, violations of this policy or misuse of the e-mail system may be referred for criminal prosecution.

F. Acceptance:

1. Authorized employees are required to sign an agreement before using the City's e-mail system and internet connection. Other employees are required to sign that they have received a copy of this policy and agree to abide by it.
2. Copies of the signed agreement will become part of the employee's personnel file.

Section 17.7 E-Mail Etiquette (Netiquette)

Users of the City's e-mail system shall:

- A. Remember that the recipient of e-mail correspondence is a human being. Courteous, well written content should be maintained at all times; a helpful guideline is that users of the system should not send anything that could not be posted on a City bulletin board.
- B. Refrain from sarcasm especially since tone of voice and body language is not available to the receiver.
- C. Refrain from using upper case lettering; IT APPEARS AS IF YOU ARE SHOUTING.
- D. Remember that e-mail is not intended for immediacy. Don't assume that the recipient will read your mail right away. The telephone is a better means of communication if immediacy is needed.

- E. Draft e-mail messages that are concise and to the point.
- F. Remember that there is no such thing as a private e-mail message.
- G. Correspondence sent and received via e-mail should not be construed as a means of documentation intended to supplant formal and written notification in the form of a memorandum.
- H. Advise network users, if you provide other individuals with access to your e-mail, that your mail is not restricted.
- I. Not change the original content of an e-mail.
- J. Respect copyright laws where applicable.
- K. Refrain from sending unsolicited mail which clutters the system and creates additional tasks for the recipient.
- L. Include your name, title, agency, voice telephone number, fax number, etc.
- M. Do not initiate or forward chain letters.

Section 17.8 City Personnel Identification

City badges/cards are made available to identify city employees conducting work on City grounds and buildings. The City has an obligation to maintain a safe and secure work environment. In order to achieve this it is necessary that only City employees have access to certain areas of City buildings and grounds. In order to control access, City employees will be required to wear/carry identification cards/badges at all times, while on duty or when accessing City property.

Procedures:

- A. All employees will be issued an official identification card equipped with a lanyard and clip.
- B. Each employee will be required to wear the identification card/badge whenever they are on-duty or are accessing City property. Uniformed personnel may be exempt from this requirement if authorized by the Department Head.
- C. The official identification card/badge will be clipped on a shirt pocket or hung from the neck on the lanyard provided.

Prohibited Use:

Identification cards shall not be used for any other purpose other than employee identification while in the performance of their duty.

Employee Termination or Leave of Absence:

The City identification card/badge shall be surrendered to his/her direct supervisor.

Loss or Theft:

- A. Any employee who loses their Identification card/badge will notify their supervisor immediately, and a new card will be issued.
- B. Negligent loss of the card may result in disciplinary action.

Section 17.9 Disposal of City Property

Disposal of certain personal property owned by the City must be disposed of in a manner that is consistent with Division 5 Chapter 2 of the El Centro Municipal Code.

Definitions

City property - As used in this policy statement, City property is equipment, supplies, furniture, furnishings, etc. As used in this policy statement City property shall exclude real and unclaimed evidentiary property.

Obsolete property - As used in the policy statement, obsolete property is City property which has functional usefulness, but is either no longer needed in the service of the City or is not fit for the purpose intended.

Scrap property - As used in the policy statement, scrap property is City property that has no functional usefulness, is no longer capable of performing its intended function without costly repair and has no trade-in value or use by another Department.

Procedure

A. Obsolete Property

Departments with obsolete property may submit to the Finance Department a listing of such property on the obsolete property form.

The Finance Department will circulate obsolete property listings to all departments for review. Departments may indicate items that they want and return the list to the Finance Department.

Obsolete City property not needed by any City department may be donated to nonprofit or charitable organizations.

A lottery drawing will establish which interested nonprofit or charitable organizations will receive City obsolete property.

The date, location, time and other lottery procedures by which obsolete property will be donated will be established by the Finance Department and approved by the City Manager on an event-by-event basis.

If the total value of property donated to a nonprofit or charitable organization exceeds two thousand five hundred dollars (\$2,500), the donation must be approved by the City Council.

Donated City obsolete property may not be used by a nonprofit or charitable organization for resale. Prior to taking delivery of donated City obsolete property a nonprofit or charitable organization, as donee, shall sign an agreement not to sell or barter City donated property and a disclaimer of implied warranties and indemnification agreement.

1. Nothing in this Policy Statement shall prohibit the Finance Department from disposing of City property pursuant to section 2-182 of the El Centro Municipal Code.

B. Scrap Property

The Finance Department may dispose of scrap property by negotiated sale to persons licensed pursuant to Chapter 14 of the El Centro Municipal Code.

Departments with scrap property may submit to the Finance Department a listing of such property on the Scrap property form.

C. Symbolic or Ceremonial Property

City property of a nominal value that is of a symbolic or ceremonial nature, may be given to a terminating or retiring employee upon approval of the City Manager.

Section 17.10 Travel Reimbursement Policy

The City acknowledges the value of professional seminars, conferences, training and meetings and recognizes the need for City employees to travel outside the City to conduct City business. It is the intent of the City to provide travel and expense funds for all reasonable expenses incurred in the course of such travel.

This policy addresses the need for uniform guidelines governing travel on official business of the City, by establishing methods of requesting, authorizing and controlling such travel and attendance by all appointed or elected officials and employees at approved events. Everyone who travels on City business - or supervises someone who travels - is responsible for knowing and following this policy.

A. General Provisions

The governing factor in authorizing travel on official City business is the benefit to accrue to the City as the result of such travel.

The City Council authorizes all travel and appropriates all funds for travel in the City's budget.

The City Manager administers the travel program in accordance with the authorization and appropriation made by the City Council in the adopted annual budget.

This policy is not intended to address every issue, exception or contingency that may arise in the course of City travel. Accordingly, the basic standard that should always prevail is to exercise good judgment in the use and stewardship of the City's resources.

B. Planning

Normally, you should leave as late as possible and return as early as possible from your trip after business is completed, with the goal of minimizing the time away from work. If you take time away from official business for personal matters, or if you delay your return after completing your business, you will not be reimbursed for expenses incurred during that time. When combining business and personal travel in this manner, Department Head approval is required. If this extended period occurs during your regular scheduled work hours, the time should be recorded as a usage of accrued leave.

C. Mode of travel

1. General:

When planning the transportation portion of your trip, consider all aspects of cost to the City (e.g., daily expenses, overtime, lost work time) as well as actual transportation costs.

2. Air travel:

Air travel on City business should be at the lowest possible fare class, unless approved in advance by the City Manager. Planning for air travel that originates or ends in Imperial County shall always include a check of fares and flight times of commercial carriers based at Imperial County Airport. You are encouraged to fly from and to the local airport whenever fares are comparable or lower than at other airports, and flight times

accommodate your travel needs. In comparing airfare between carriers based inside and outside of the Imperial County the following factors should also be taken into consideration: employee travel time, mileage cost and long term airport parking cost. If a decision is made to use a commercial carrier not based at the Imperial County Airport, mark the checkbox(es) on the travel authorization (“TA”) form to indicate the factor(s) supporting your decision. You should try to book air travel as early as possible to take advantage of discounts.

3. Driving:

If you will be driving, you should use a City vehicle if one is available. You will be reimbursed for gasoline when you return. If a City vehicle is not available, you may use a rental vehicle or your personal vehicle.

Use of a rental vehicle requires Department Head or City Manager approval. Rentals for two (2) or fewer employees should be made at the compact car rate. When renting a car, insurance and other extras should not be requested.

If you use your personal car, you will be reimbursed at the current Federal privately-owned vehicle mileage reimbursement rate for use of a privately-owned vehicle (“POV”)

To drive a POV on City business you must:

- Possess a valid California driver’s license.
- Carry adequate liability insurance coverage.
- Realize that any damage to the car, needed service or repair occurring on the trip will be your responsibility, as these costs are included in the City’s per mile cost reimbursement.

D. Transportation at your destination

If you need local transportation at your destination, use of public transit, shuttle services or taxis is appropriate you may be reimbursed for these expenses if they cause your per diem allowance to be exceeded. Rental vehicles may be used when necessary, following the guidelines listed above.

E. Lodging

Generally, the City will pay for a single room (including taxes and parking) for as many nights as necessary. The accommodations you use should be economical but practical. For example, it is preferable to stay at the hotel where a conference is held, even if that hotel may be slightly more expensive than others in the area. Location is also important; a hotel close to where you will be conducting business may be slightly more expensive than outlying hotels, but it may be easier to achieve the City’s travel goals by staying at the closer location. In general, you should stay at the most reasonably priced accommodations available consistent with the purpose and goals of your travel.

F. Reservations

Whenever possible, you should make reservations well in advance of travel dates. They are often required for large conferences. Reservations can be held with the use of a credit or purchase card. Be sure to cancel any reservations you will not use. If the City is charged for an unused reservation, you will pay that charge unless circumstances requiring cancellation were reasonably beyond your control.

When making lodging reservations, be sure to ask about exemptions from the local transient

occupancy tax (“TOT”); some cities exempt travelers on City business, others do not. If there is an exemption, you can save up to twelve (12) percent on lodging costs depending on the local TOT rate. Almost all lodging operators will require an official, written claim for exemption.

G. Compensation for travel time

If you are eligible for overtime, compensation for time traveling to and from your travel destination on official City business shall be in accordance with applicable State and Federal laws and City policy.

H. Covered costs

The City will pay all legitimate expenses of your trip up to the maximum per diem rate. These include transportation, lodging, registration fees, meals, telephone and any other related expenses if they are for official business and follow this policy. Legitimate expenses in excess of the maximum per diem rate will be considered on a case-by-case basis and should be reported on page 2 of the TA form.

I. Alcoholic beverages

City funds should not be used to purchase alcohol or reimburse employees for alcohol related costs during travel. The City Council may approve exceptions to this policy on a case-by-case basis.

J. Spouses and guests

While spouses and guests may accompany you on City travel, any additional costs associated with the participation of your spouse or other guests are your responsibility and should not be included on the TA form.

K. Other issues

1. Travel less than one (1) day:

When your official travel does not require you to be absent overnight, you will be reimbursed for actual expenses incurred.

2. Bonus or mileage points:

Mileage points accruing on City airline travel are the property of the employee. However, accumulating bonus points should never influence total travel costs to the City, and should not be part of a decision to travel by air.

SUBMITTING TRAVEL AUTHORIZATIONS AND CASH ADVANCE REQUESTS

TAs are required for all overnight travel. For travel that does not require an overnight stay, the normal check request or purchase order procedures may be used to request vendor payments or employee expense reimbursements. City Manager or Department Head approval of TAs is required. Page 1 of the completed TA form and accompanying check requests should be submitted to your Department Head as far in advance as possible. Page 2 of the TA form will be used when you return to account for your expenses.

Department Heads approving TAs are responsible for determining that the cost is reasonable and justified by the trip’s purpose. They should be certain that:

- The purpose cannot be accomplished via mail, telephone, teleconference or the internet.

- The seminar, meeting or conference is mandatory, reimbursable or otherwise necessary to accomplish key City goals and objectives and is unavailable locally if overnight accommodations are required.
- The minimum number of City staff members is going.
- The itinerary ensures accomplishment of the purpose at the lowest reasonable cost.
- The traveler understands and follows these guidelines.
- There is enough money in the appropriate travel budget to cover the costs.

Direct vendor payments are made by the City to organizations to pay for specific costs related to a trip, which are usually registration fees, lodging and airfare. These payments can be initiated by purchase order, check request, and credit or purchase card. Cash advances are lump sum payments made to you before you leave to cover expenses as they arise on the trip.

If you request a cash advance, your Department Head must review the amount to be sure it is reasonable. When you return, you must account for all expenses incurred if you are requesting reimbursement of actual, authorized expenses in excess of the amount advanced.

To obtain either direct vendor payments or a cash advance, you must complete the appropriate sections of the TA form and attach check requests or purchase order requests for all payments (including cash advances). If you are using a purchase card, you must keep all documentation for reconciliation. When you travel, take along a copy of the TA form to be used for expense reconciliation upon your return.

A. Travel Requests and Cash Advances

TAs are required for all overnight travel. For travel that does not require an overnight stay, the normal check request or purchase order procedures may be used to request vendor payments or employee expense reimbursements. City Manager or Department Head approval of TAs is required. Page 1 of the completed TA and accompanying check requests should be submitted to your Department Head as far in advance as possible. Page 2 of the TA will be used when you return to account for your expenses.

TRAVELING

Meals and incidental expenses (“M&IE”) allowances are paid at the current Federal per diem rate for Los Angeles.

The term incidental allowance includes, but is not limited to, expenses for laundry, cleaning and pressing of clothes and fees and tips for services such as for waiters and baggage handlers.

In calculating meal allowances for partial days, the following guidelines should be used:

- Departure
 - If you depart after 8:00 a.m., deduct the breakfast allowance for that day.
 - If you depart after 2:00 p.m., deduct the breakfast and lunch allowances for that day.
 - If you depart after 8:00 p.m., deduct all meal allowances.
- Return
 - If you return after 6:00 p.m., you may claim the full per diem meal allowance for that day.
 - If you return between 2:00 p.m. and 6:00 p.m., you may claim the breakfast and lunch

allowances.

- If you return between 8:00 a.m. and 2:00 p.m., you may claim the breakfast allowance.

If meals are provided without charge at a meeting or while in transit (meals served on a plane, for example), appropriate deductions must be made from the per diem meal allowance.

The meal allowance is considered to be eighty-five (85) percent of the M&IE. Allowance for meals are a pro-rata amount of the calculated meal allowance as follows:

- Breakfast Twenty-five (25) percent
- Lunch Twenty-five (25) percent
- Dinner Fifty (50) percent

INCURRING NON-TRAVEL EXPENSES

The City will pay expenses incurred for such meetings and hospitality as may, from time to time, be determined by the Council to be appropriate. Costs for such special occasions will be determined by Council action, through the annual budget process.

The City will pay expenses you incur attending meetings or conferences held locally which do not include travel expenditures. The City will also reimburse you for training materials associated with the program available for sale at such an event.

ACCOUNTING FOR EXPENSES

When you return from your trip or official function and are requesting reimbursement a final accounting of all expenses must be approved by your Department Head and submitted to Finance within ten (10) working days.

The final accounting is made by completing the "Expense Report" portion of the TA. After completing the expense report, sign the report attesting to its accuracy, and submit it to your Department Head for review and approval.

Department Heads approving expense reports are responsible for ensuring that:

- All expenses are reasonable, necessary and consistent with these guidelines.
- Any amounts due to the City are reimbursed.
- Final accounting of all expenses is submitted to Finance.
- Phone costs charged to calling cards not available when the expense report is turned in may be submitted later via an expense reimbursement form, with the Department Head's approval.

Upon approval by your Department Head or the City Manager, the expense report should be forwarded to Finance for processing.

VIOLATIONS OF TRAVEL POLICY

Violations of this travel policy may subject employees to disciplinary action, up to and including termination.

CHAPTER 18: STANDARDS OF CONDUCT

Section 18.1 Employee Responsibilities and Standards of Conduct

The City recruits highly qualified staff and provides them with competitive compensation, very good health benefits and a good environment in which to work. In exchange for this, the City requires that employees be responsible and to meet high performance standards.

Also, as part of this responsibility and performance standard, employees are expected to abide by the following standards of conduct at all times and to always conduct themselves in a positive and professional manner in order to promote the best interests of the City.

Failure to adhere to these standards may subject an employee to disciplinary action, including separation from employment with the City.

Section 18.2 Appropriate Employee Conduct

The City expects employees to conduct themselves in the following manner:

- A. Treat all customers, visitors and coworkers and managers in a courteous manner;
- B. Refrain from behavior or conduct that is offensive or undesirable, or which is contrary to the City's best interests;
- C. Report to management suspicious, unethical or inappropriate conduct by employees, customers or suppliers;
- D. Report to management any threatening or potentially violent behavior by employees, customers or suppliers;
- E. Cooperate with City investigations by answering all questions fully and candidly;
- F. Comply with all City safety and security regulations;
- G. Wear clothing appropriate for the work being performed;
- H. Perform assigned tasks efficiently and in accord with established quality standards;
- I. Report to work at the proper work station, ready for work and at the assigned starting time;
- J. Smoke only at times and in places not prohibited by City rules or local ordinances;
- K. Eat meals only during meal periods and only in the designated employee lounge, unless an accommodation is approved;
- L. Maintain cleanliness and order in the workplace and work areas.

Section 18.3 Respectful Workplace

The City strives to maintain a workplace that fosters mutual respect and promotes harmonious, productive working relationships. In keeping with this, the City expects all employees to treat each other professionally and in a manner in which they would like to be treated and to give to others the respect that is due to every individual whether it is a fellow employee, member of management, customer, vendor or visitor to our premises.

To achieve a workplace that fosters mutual respect and promotes harmonious, productive working relationships, the City prohibits any behavior that is discourteous or demeaning to other employees.

Disrespectful behavior may include, but not be limited to, the following:

- Jokes that demean another individual or group of individuals;
- Name calling or nicknames that may be offensive;
- Taking credit for another individual's work or ideas;
- Refusing to communicate or speak with another individual;
- Offensive verbal, visual or physical conduct;
- Repeated negative comments about others either orally or in writing;
- Threatening another individual;
- Invading another's privacy;
- Knowingly blaming other individuals for a mistake they did not make;
- Purposely invading another's personal space;
- Gossiping about another individual; and
- Any type of bullying behavior.

A. Reporting

The City expects that everyone will act responsibly to establish a pleasant and friendly work environment. However, if an employee feels he/she has been subjected to any form of disrespectful behavior, the employee should report that conduct to his/her immediate supervisor, another member of management or Human Resources within three (3) calendar days of the offense.

Employees may but are not required to approach the person who was disrespectful to them and may bypass any offending member of management

All employees should notify a member of management regarding any disrespectful behavior that they witness or are told another person received.

B. Investigations

If a complaint is filed that involves the type of behavior or conduct listed in this policy, the City will conduct its investigation in as confidential a manner as possible. Interviews, allegations, statements and identities will be kept confidential to the extent possible. However, the City will not allow the goal of confidentiality to be a deterrent to an effective investigation.

C. Timely Resolution

A timely resolution of each complaint will be reached and communicated to the employee.

Appropriate corrective action, up to and including termination, will be taken promptly against any employee engaging in disrespectful behavior. The corrective action issued will be proportional to the severity of the conduct. The alleged perpetrator's employment history and any similar complaints of prior disrespectful behavior will be taken into consideration.

Section 18.4 Prohibited Employee Conduct

Employees who engage in proven misconduct of the following types shall be subject to corrective or disciplinary action, up to and including discharge.

Disciplinary action shall mean a personnel action that may result in a reduction in salary, suspension, demotion or dismissal for a violation or violations of prohibited behaviors or conduct.

Corrective actions shall mean a personnel action that may result in a counseling memorandum, verbal warning, a written warning or a reprimand for a violation or violations of prohibited behaviors or conduct.

A. Zero (0) Tolerance Conduct

The City has zero (0) tolerance for conduct in violation of any of the three (3) following areas and such violations, if proven, will more than likely result in the termination employment for employees that engage in this conduct:

1. Violation of the City's policy against violence in the workplace;
2. Violation of the City's policy against harassment, discrimination and retaliation; and
3. Violation of the City's policy against the use of drugs and alcohol in the workplace.

B. Other Prohibited Employee Conduct

In order to promote efficiency, effectiveness, productivity, safety, cooperation and respect among employees, the City may also pursue corrective or disciplinary action up to and including discharge from employment of employees who engage in misconduct that falls under the following listed prohibited conduct:

1. Disclosing, proprietary or confidential City information to anyone who is not authorized to receive such information;
2. Falsifying or altering any City record or report, including, but not limited to an employment application, medical reports, production records, time records, expense accounts, absentee reports or shipping and receiving records;
3. Stealing, destroying, defacing or misusing City property or another employee's or customer's property;
4. Misusing City property or systems, including but not limited to surplus property, scrap material or equipment, tools, vehicles, electronic mail, computers, internet access or telephones;
5. Insubordination or refusing to follow a supervisor's directive or lawful instruction concerning a job-related matter;
6. Failing to wear assigned safety equipment or failing to abide by safety rules and policies;
7. Soliciting or distributing products or services not approved by the City Manager;
8. Smoking where prohibited by local ordinance or City rules;
9. Using profane or abusive language;
10. Sleeping on the job without authorization;
11. Wearing improper attire in violation of the City's dress code;

12. Making an inappropriate or unapproved personal appearance or statements on behalf of the City;
13. Working or conspiring against the interests of the City;
14. Not performing job satisfactorily and timely;
15. Engaging in gossip and malicious rumor-mongering;
16. Violation of the City's anti-fraternization policy;
17. Violation of the City's attendance policy;
18. Making false claims or complaints;
19. Engaging in conduct unbecoming of a City employee, official or manager;
20. Insubordination, including refusal to follow a work order, insulting or demeaning the authority of a supervisor or manager or foul or abusive language directed at a supervisor or manager.
21. Intentional or negligent conduct that damages or results in the loss of City property or the property of another employee; property includes, but is not limited to, records, supplies, materials, uniforms, equipment or facilities.
22. Intentional or negligent misuse of City property or the property of another employee.
23. Removing the property of the City, a City employee or a visitor from the City premises without authorization.
24. Theft or dishonesty
25. Fighting or provoking a fight on City time or property
26. Engaging in pranks or horseplay or other action that endangers employees, residents or City property or disrupts work;
27. Harassing, threatening, intimidating or coercing any other employee or member of the community, including any violation of the City harassment policy;
28. Violation of the City's equal employment opportunity policy;
29. Abusive language or actions toward fellow employees or general public;
30. Failure to work cooperatively with others;
31. Bringing or possessing weapons or any other dangerous devices onto City property while on duty, unless required by the City job classification;
32. Unauthorized use, sale, transfer or possession of alcohol or any other non-prescribed drugs or controlled substances while on duty or while on City premises or reporting to work under the influence of the use of alcohol, drugs or controlled substances;
33. Gambling, conducting games of chance or possessing gambling devices on City time or property;
34. Disregarding any safety, fire prevention or security rule or practice, or engaging in activity that creates a safety, fire or security hazard;
35. Failing to report a work-related accident or injury within the prescribed time period;
36. Causing or attempting to cause dissension or disruption of the work of others;
37. Soliciting or accepting reimbursement or gratuities for services during working hours or while on City premises;

38. Unauthorized vending, solicitation or sales of goods or services during working hours or while on City premises and without City Manager approval;
39. Entering an unauthorized area at any time;
40. Unreported absence of three (3) consecutive work days;
41. Excessive tardiness or unscheduled absenteeism;
42. Absence without prior approval or failing to notify his/her supervisor of absence and the reason for absence prior to the start of a shift;
43. Leaving City premises or assigned work area during working hours without approval or permission;
44. Failure to abide by lunch or break periods or working unauthorized overtime;
45. Failing to meet acceptable performance standards or maintain satisfactory performance;
46. Recording another employee's time;
47. Submitting an employment application containing false or misleading information;
48. Falsifying or destroying any City record, including but not limited to any time keeping record or inspection record;
49. Refusal to perform work assignment;
50. Neglect of work;
51. Unauthorized use of City buildings, equipment or materials, including but not limited to unauthorized knowledge, discussion, reproduction or dissemination of employee records or files;
52. Not reporting contact with law enforcement that resulted in an arrest;
53. Conviction of a felony or conviction of a misdemeanor involving moral turpitude related to the employee's ability to perform the duties of his/her position, with a plea of nolo contendere or no contest plea constituting a conviction;
54. Engaging in political activities during assigned hours of work;
55. Refusing to take or subscribe to any oath or affirmation which is required by law in connection with employment;
56. Failing to obtain or maintain any required license, registration, permit or status required of position, including but not limited to insurability to operate any and all vehicles and equipment required of position;
57. Any other misconduct which affects the work environment or any other violation of established City or departmental or operational procedures; and
58. Failure to comply with established City or departmental or operational procedures.

The impermissible or prohibited behavior listed above is not intended to be all-inclusive. At management's discretion, any violation of the City's policies or any conduct considered inappropriate or unsatisfactory may subject a violating employee to separation from employment with the City, or other appropriate disciplinary action.

Section 18.5 Non-fraternization Policy

The City encourages amicable relationships between members of management and their subordinates, however it recognizes that involvement in a romantic relationship may compromise or create a perception that compromises a member of management's ability to perform his/her job.

Any involvement of a romantic nature between an officer, director, manager, supervisor or agent of the organization and anyone he/she supervises, either directly or indirectly, is prohibited.

Violation of this policy may lead to corrective action up to and including termination of the management individual involved in the relationship.

Section 18.6 Dress and Personal Appearance Policy

The City requires that each employee's dress, grooming and personal hygiene be appropriate to the work situation. Acceptable personal appearance, like proper maintenance of work areas, is an ongoing requirement of employment with the City.

- A. Employees are expected at all times to present a professional, businesslike image to the public, members of the City Council and coworkers.
- B. Employees who have regular contact with the public must comply with the following personal appearance standards:
 - 1. Employees are expected to dress in a manner that is normally acceptable for the type of work performed;
 - 2. Employees should not wear attire that is provocative and revealing, athletic clothing, shorts, flip flops or thong-type (beach footwear), T-shirts, symbols and emblems that are partisan or political, novelty buttons and similar items of casual attire that do not present a businesslike appearance.
 - 3. Examples of inappropriate dress are exposed undergarments, excessively short or tight garments, bare midriff shirts, strapless shirts, shirts with slogans or large emblems, sweat suits, denim that is worn, faded, frayed, ripped or bleached, sun dresses, halter tops, clothing with inappropriate advertising (e.g. cigarettes, beer or anything that portrays a negative image), tank tops, etc.;
 - 4. Hair should be clean, combed and neatly trimmed or arranged.
- C. Employees who do not regularly have contact with the public should follow basic requirements of safety and comfort, but should still be as neat and businesslike as working conditions permit.
- D. Depending on the nature of their jobs, employees may be required to meet special dress, grooming and hygiene standards, such as wearing uniforms or other appropriate clothing.
 - 1. Office Employees: Employees shall dress in a manner that allows them to attend and represent the City in a professional manner at meetings, commissions, boards and other professional or public events, as needs require.
 - 2. Field employees: Uniformed employees are required to use their issued uniforms. Uniform shorts are acceptable, except when working in hazardous areas. Non-uniform employees must wear acceptable shirts that are conservative and muted in color. T-shirts and shirts with no collar are excluded. Walking shorts are acceptable with pockets in a solid conservative color. Specifically excluded are beach and multi-color shorts, gym or other shorts that do not resemble the City standard uniform shorts.

3. All other employees are prohibited from wearing shorts during work hours, unless pre-approved by the Department Head for non-hazardous fieldwork.
- E. **Casual Dress Days (Casual Friday).** At its discretion, management may allow employees to dress in a more casual fashion than is normally required. On these occasions, employees are still expected to present a neat appearance and are not permitted to wear denim that is worn, faded, frayed, ripped or bleached, disheveled clothing, athletic wear or similarly inappropriate clothing or accessories as described in subsection (B)(2) of this section.

Any employee who does not meet the standards of this policy may be asked to take corrective action, which may include leaving the premises. Non-exempt employees will not be compensated for any work time missed because of failure to comply with this policy.

Violations of the policy may result in disciplinary action.

Section 18.7 Policy against Violence in the Workplace

The City has adopted a prohibiting workplace violence policy (zero (0) tolerance) for workplace violence. Consistent with this policy, acts or threats of physical violence, including intimidation, harassment and/or coercion which involve or affect the City, or which occur on City property, will not be tolerated.

POLICY STATEMENT

- A. Employee Questions: Employees shall refer any questions regarding his/her rights and obligations under this policy to the Human Resources Department.
- B. Acts or Threats of Violence Defined: Threats or acts of violence include conduct against persons or property that is sufficiently severe, offensive or intimidating to alter the employment conditions at the City or to create a hostile, abusive or intimidating work environment for one (1) or more City employees.
- C. Examples of Workplace Violence: General examples of prohibited workplace violence include but are not limited to the following:
 1. All threats or acts of violence occurring on the City's property regardless of the relationship between the City and the parties involved in the incident.
 2. All threats or acts of violence not occurring on City property but involving someone who is acting in the capacity of a representative of the City.
 3. All threats or acts of violence not occurring on City property involving an employee of the City if the threats or acts of violence affect the legitimate interests of the City.
 4. Any threats or acts resulting in the conviction of an employee or agent of the City, or of an individual performing services on the City's behalf on a contract or temporary basis, under any criminal code provision relating to threats or acts of violence that adversely affect the legitimate interests and goals of the City.
- D. Specific Examples of Prohibited Conduct: Specific examples of conduct that may be considered threats or acts of violence prohibited under this policy include but are not limited to the following:
 1. Hitting or shoving an individual.
 2. Threatening to harm an individual or his/her family, friends, associates or their property.

3. The intentional destruction or threat of destruction of property owned, operated or controlled by the City.
4. Making harassing or threatening telephone calls, letters or other forms of written or electronic communications.
5. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the City.
6. Harassing surveillance, also known as “stalking,” the willful, malicious and repeated following of another person and making a credible threat with intent to place the other person in reasonable fear of his/her safety.
7. Making a suggestion or otherwise intimating that an act to injure persons or property is “appropriate,” without regard to the location where such suggestion or intimation occurs.
8. Unauthorized possession or inappropriate use of firearms, weapons or any other dangerous devices on City property.

While employees of the City may be required as a condition of their work assignment to possess firearms, weapons or other dangerous devices or permitted to carry them as authorized by law, it is the City’s policy that employees are to use them only in accordance with departmental operating procedures and all applicable State and Federal laws.

E. Application of Prohibition

The City’s prohibition against threats and acts of violence applies to all persons involved in the City’s operation, including but not limited to City personnel, contract and temporary workers and anyone else on the City’s property. Violations of this policy by any individual on City property, by any individual acting as a representative of the City while not on City property or by any individual acting off of City property when his/her actions affect the public interest or the City’s business interests will be followed by legal action, as appropriate. Violation by an employee of any provision of this policy may lead to disciplinary action (up to and including termination as provided in these Personnel Rules or MOUs). This policy and any sanctions related thereto are to be deemed supplemental to these Personnel Rules and MOU provisions related thereto, and applicable State and Federal Laws.

F. Employee Obligations

Each employee of the City and every person on the City’s property is encouraged to report incidents of threats or acts of physical violence of which he/she is aware.

In cases where the reporting individual is not a City employee, the report should be made to the City’s police department.

In cases where the reporting individual is a City employee, the report should be made to the reporting individual’s immediate supervisor, a management level supervisory employee if the immediate supervisor is not available or to the City’s Human Resources Department. Each supervising employee shall promptly refer any such incident to the appropriate management level supervisor, who shall take corrective action in accordance with these Personnel Rules and any applicable MOUs. Concurrently with the initiation of any investigation leading to a proposed disciplinary action, the management level supervisor shall report the incidents of threats or acts of physical violence to the City’s police department, which shall make a follow-up report to the City’s Human Resources Department.

Nothing in this policy alters any other reporting obligation established in City policies or in State, Federal or other applicable law.

G. Training

The City will provide opportunities for employees to be trained in the risk factors associated with workplace violence and proper handling of emergency situations in order to minimize the risks of violent incidents occurring in the workplace.

H. Dissemination of Policy

All employees will be given copies of this policy. All new employees will be given a copy of this policy at orientation by the Human Resources Department.

CHAPTER 19: MANAGEMENT RIGHTS

Section 19.1 Transfers

After notice to the City Manager and the Director of Human Resources, an employee may be transferred by the appointing authority at any time from a position to another in the same or comparable class.

If the transfer involves a change from one department to another, both Department Heads must consent thereto unless the City Manager requests the transfer for purposes of economy or efficiency. A transfer from a department to another may be initiated at the request of the employee to the Human Resources Department.

A transfer shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in these Personnel Rules.

No person shall be transferred to a position for which he/she does not possess the minimum qualifications.

Section 19.2 Promotions

Insofar as practicable and consistent with the best interest of the City, vacancies may be filled by promotion from within the City's employee ranks.

Section 19.3 Demotions

The appointing authority may demote an employee whose ability to perform his/her required duties falls below standard or for disciplinary purposes. Such a personnel action will have to be done through the City's disciplinary processes and procedures.

No employee shall be demoted to a position for which he/she does not possess the minimum qualifications.

Voluntary Demotion: An employee may request a voluntary demotion for any reason. Such a voluntary demotion shall require the approval of the Department Head for whom the employee will serve and the City Manager.

An employee taking a voluntary demotion may be placed in any step in the range of the new classification that does not provide an increase in salary. Said employee shall be given a new anniversary date for the purpose of merit evaluation. An employee cannot ask for voluntary demotion into a position for which he/she does not possess the minimum qualification

Section 19.4 Reduction in Force

The City Council, with the City Manager's recommendation, may lay off an employee or employees who occupy positions which, due to a change in or reduction of service(s), lack of work, discontinuance of a program or service, for reasons of economy and efficiency or budgetary reasons, material change in duties or organization or for other reasons or circumstances as determined by the City Council are to be eliminated through layoff.

A. Scope

This policy and procedure applies to regular and probationary full-time employees. It does not apply to temporary, limited term contract or retired annuitant employees as defined in section 5.1.

Layoff of employees by classification may be by department or City-wide. When two (2) or more

departments are consolidated or reorganized or when a function of a department is transferred to another department or eliminated, employees in all involved departments shall be subject to layoff if necessary.

B. Order of Layoff

1. When a layoff is necessary, employees shall be laid off in a classification or classifications based on seniority. An employee's seniority date for the purposes of this policy shall be the first date of hire by the City in a regular full-time or probationary position from which date the employee has rendered continuous service. For the purposes of this policy, "continuous service" shall not include any break in service. Termination of employment, whether voluntary, involuntary or for cause, followed by reemployment shall be considered a break in service. Continuous service also does not include service as other than a full-time regular or probationary employee of the City. Prior layoff followed by subsequent reemployment within a thirty (30) day period pursuant to the provisions of this policy or absence on authorized paid or unpaid leave shall not be considered a break in service.
2. Layoff shall be made by classification(s) within a department(s) except where the City Manager authorizes a City-wide layoff of one (1) or more classifications.
3. Regular or probationary full-time employees with the least seniority in the City shall be laid off first. When two (2) or more employees are subject to layoff have the same first date of hire in the same classification in a full-time regular or probationary position in the City based on continuous service, the order of layoff as between these two (2) employees shall be determined by the City Manager by evaluating each employees special skills or specialized qualifications to perform in the job classification and consulting with the affected Department Head(s). Such determination shall also apply for the purposes of placement on a reemployment list and reemployment from such list.

C. Notification of Layoff

Notification to those employees to be laid off by the Human Resources Department shall be made in writing at least thirty (30) days before the effective date of layoff. The notice shall specify the date the action is to be effective, the reasons for the layoff and explain how the order of layoff of the employee was determined. Such notice shall inform the employee of the right to request a review of the action by the Human Resources Department. Such notice shall also inform the employee of any rights the employee may have to a voluntary reduction in lieu of layoff and reemployment rights. A copy of such notice shall be given to employee organizations affected, so the City and the employee organizations can fulfill their obligation under the Meyers-Milias-Brown Act to meet and confer over the effects of the layoffs.

D. Bumping Rights

1. A probationary or regular full-time employee who is subject to layoff may, no later than ten (10) calendar days after the date of service of the layoff notice, exercise bumping rights to a position in a lower classification that is authorized to be filled by requesting a demotion to a lower classification within the same occupational area in the layoff department, provided the employee possesses the minimum qualifications for the classification. The employee shall be placed in the lower position if there is a vacant position in the layoff department authorized to be filled or the incumbent in a lower classification in the layoff department has less seniority than the employee requesting the demotion.

E. Reemployment Lists

1. The names of employees laid off shall be placed on a department- or City-wide reemployment list, as appropriate, for each classification laid off in the order of seniority. Vacancies authorized to be filled and which occur in a classification following the effective date of layoff and within twenty-four (24) months of the effective date of layoff shall be offered first to employees on the reemployment list in the order of seniority in the classification. Employees on the reemployment list for a classification shall be reemployed in preference to all other applicants for employment in that classification. Entitlement to reinstatement from the reemployment list shall apply only to a former employee's same classification or a lower classification in the same occupational area for which the employee is qualified.
2. The names of employees laid off shall remain on the reemployment list and the City preferred eligible list for twenty-four (24) months, except that:
 - a. An employee employed or reemployed in a regular full-time position in the City shall be removed from the list(s).
 - b. An employee who on three (3) separate occasions rejects or declines a referral for interview or fails to respond within ten (10) calendar days to an offer of reemployment in the employee's prior classification or an employment interview for a position equivalent to the classification from which the employee was laid off shall be removed from the reemployment list. Rejection of an offer of reemployment in the class from which laid off or failure to respond or to timely respond to an offer of employment in the same class from which laid off or an equivalent classification for which qualified shall cause the employee to be placed at the bottom of the reemployment list.
 - c. An employee may be removed from a reemployment list for any of the following reasons: conviction of a crime which would be sufficient to support dismissal in accordance with these Personnel Rules, employment in or reinstatement to a regular full-time position in the City or pursuant to section 2.b above or sections 2.e, 2.f or 2.g below. Removal from the reemployment list terminates all job rights the employee may have.
 - d. Except when the reemployment list has expired, written notice of removal from the reemployment list and the reason(s) therefore shall be provided to persons on the reemployment list. Such notice shall inform the former employee of their right to review with the Human Resource Department.
 - e. Employees selected for reemployment shall be willing and able to report for duty on the effective date of the appointment or within ten (10) calendar days following service of an offer of reemployment. Employees offered reemployment that do not report for duty will be considered unavailable for the appointment and will be removed from the list.
 - f. In accordance with the City's recruitment policy, a person whose name appears on the reemployment list may be required to take and pass a medical examination and/or drug test prior to reemployment. Failure to meet the physical standards for the positions shall result in the employee being placed at the bottom of the reinstatement list. The standards applied in the medical examination shall be no more stringent than those which would be applied to a current employee to determine fitness for duty. A written notice of non-approval shall be provided to persons on reemployment lists who are not approved to meet the prescribed medical standards and such notice shall inform the person that they may request an

interactive meeting with the Human Resources Department to determine whether an accommodation may be needed and required and whether any such accommodation is reasonable in accordance with the American with Disabilities Act.

- g. Employees who do not keep a current home address and phone number on record with the Human Resources Department will lose their reemployment rights.

F. Status on Reemployment

An employee reinstated from the reemployment list, shall be reinstated as follows:

1. All sick leave credited to the employee's account when laid off shall be restored.
2. Seniority for purposes of layoff shall be restored.
3. Employee shall maintain original date of hire with the City prior to the layoff. Original date of hire will be used for the purposes of determining vacation accrual rates, salary advancements and sick leave conversion credits. Employee will not receive CalPERS service credit for period of layoff.
4. A laid off employee reinstated pursuant to this policy in the same classification shall receive the same base salary he/she received immediately preceding the layoff. A reinstated employee to a position in a different classification shall be placed in the salary range of the classification to which he/she is reinstated to which most closely corresponds to the base salary he/she received immediately preceding the layoff.
5. If reemployment is in a higher or different classification from the position in which employed as of the effective date of layoff, the reinstated employee shall be required to serve a six (6) month probationary period in the higher or different classification.
6. If a probationary employee is reinstated to the same classification from which laid off, said employee shall serve out the remainder of the probationary period following the employee's first date of paid service following reemployment in the same manner as if the probationary period had not been interrupted.

Section 19.5 Reinstatements

An employee who has been suspended, demoted, had a salary reduction or discharge, and such action is modified as the result of successful appeal through the City's disciplinary procedure, shall be entitled to the pay and benefits as contained in the modification order.

Section 19.6 Resignations

An employee wishing to leave the classified service in good standing should give reasonable notice to his/her Department Head, before the effective date of the last day worked. For the purpose of these Personnel Rules, reasonable notice is defined as two (2) weeks. The resignation shall be forwarded to the Human Resources Department. Employees leaving the municipal service will normally be paid within seventy-two (72) hours of termination and upon clearance from the department concerned that the employee returned all City-owned tools, clothing, keys, identification badges and equipment.

Section 19.7 Reorganizations

The City Manager retains the right to determine position classifications as seen fit for the best interest of the City.

Section 19.8 Job Abandonment

An employee is deemed to have resigned if the employee is absent for five (5) consecutive work days (or 4 consecutive shifts in the case of 56 hour employees) without prior authorization and without notification during that period of the reason for absence.

On the third (3rd) working day of unauthorized absence, the supervisor shall send notification to the employee's last known address informing the employee that if the employee fails to report to work within two (2) work days, or receive authorization for such absence, the employee will be deemed to have resigned.

Employees separated from employment for job abandonment will be reinstated with such charge removed from the employee's record upon presentation of justification for absence such as severe accident, severe illness, or false arrest.

A termination due to job abandonment will be effected after the employee is extended the City's Skelly processes and procedures.