



Personnel Rules and Regulations

Resolution
No. 2016-06

Effective March 2, 2016

CITY OF DIAMOND BAR
PERSONNEL RULES AND REGULATIONS
Effective March 2, 2016

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RULE I
PURPOSE AND APPLICATION

Section 1. Purpose: The purpose of the Rules and Regulations (hereafter, "Rules") is to facilitate efficient and economical services to the public and to establish lawful procedures for dealing with personnel matters.

Unless amended by a subsequent Resolution of the City Council the Rules set forth herein and the Personnel Ordinance shall govern the Personnel System for the City of Diamond Bar ("City").

Section 2. Application: These Rules apply to all employees of the City unless a specific rule or procedure indicates otherwise.

Section 3. No Contract Created: These Rules do not create any contract of employment, express or implied, or any right in the nature of a contract.

RULE II DEFINITION OF TERMS

DEFINITION OF TERMS

Unless the context indicates otherwise, the following terms, whenever used in these Rules, shall be defined as follows:

- Section 1. Advancement: A salary increase within the limits of the pay range established for the class.
- Section 2. Allocation: The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
- Section 3. Appointing Authority: The person having the authority to appoint or remove a person from City employment. This is the City Manager unless delegated to another employee or officer.
- Section 4. At-Will: All employment positions outside of the competitive service. Employees in at-will positions may be terminated at any time at the will of the Appointing Authority, without cause, and without the right of appeal. At-will positions are set forth in Chapter 2.20 of the City's Municipal Code: City Manager, Assistant City Manager, Deputy City Manager, Community Development Director, Community Services Director, City Engineer/Public Works Director, Finance Director, Information Systems Director, all Department Directors, , seasonal part-time employees, intermittent part-time employees, part-time employees hired after October 18, 2005, emergency employees and any employee scheduled to work less than 1,000 hours per year.
- Section 5. Bilingual Premium Pay Differential: A percentage of pay which will compensate the qualified employee for providing non-English language services as an essential part of his or her job.
- Section 6. City Manager: The City Manager and/or his or her designee..
- Section 7. Class: All positions sufficiently similar in duties, authority, responsibility and working conditions to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion, and salary.
- Section 8. Competitive Service: All positions of employment in the service of the City except those excluded by Section 4 above.
- Section 9. Demotion: The movement of an employee from one class to another class having a lower maximum rate of pay. A demotion may be voluntary or involuntary.

- Section 10. Domestic Partner: A domestic partnership is legally established in California when all of the following requirements are met: both persons file a Declaration of Domestic Partnership with the Secretary of State; both persons have a common residence; neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity; both persons are not related by blood in a way that would prevent them from being married to each other in another state; both persons are at least 18 years of age; both persons are capable of consenting to the domestic partnership; and either of the following apply: (a) both persons are members of the same sex; or (b) one or both of the persons are over the age of 62, and meet certain eligibility criteria pursuant to the Social Security Act.
- Section 11. Eligible: When used as a noun, means a person whose name is on an employment eligibility list.
- Section 12. Employment Eligibility List: A list of names of persons who have taken an open-competitive examination for a class in the competitive service and have qualified.
- Section 13. Examinations:
- (a) Open-competitive examination: An examination for a particular class which is open to all persons meeting the qualifications for the class.
 - (b) Promotional examination: An examination for a particular class which is only open to current City employees meeting the qualifications for the class.
 - (c) Continuous examination: An open competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores, for a period of not more than one (1) year.
- Section 14. Exempt: An employee not entitled to overtime compensation under the Fair Labor Standards Act.
- Section 15. Job Classifications: For the purposes of the City's Personnel System, each position title shall correspond in the City's Classification Plan to a number as reflected in the salary resolution.
- (a) Executive Management: Executive Management positions are classified as exempt employees that are at-will and are assigned as Department Directors and/or Deputy or Assistant City Managers.

- (b) Exempt Management: Management positions that are classified as exempt and are assigned as Division Managers.
- (c) Full-time Exempt: Various exempt supervisory, administrative, and professional positions.
- (d) Full-time Non-Exempt: Positions subject to overtime requirements and working 40 hours per week.
- (e) Hourly Benefited: Positions known as regular part-time or part-time working twelve (12) months per year and an average of twenty (20) or more hours per week on a year-round basis. Benefits are provided to regular part-time employees on a pro-rated basis.
- (f) Hourly Non-benefited: At-will positions also known as either seasonal or intermittent part-time. These employees are sometimes referred to as "Temporary". An hourly non-benefitted position is utilized no more than 999 hours per fiscal year and may be employed on a seasonal or intermittent basis. If an employee identified as intermittent or seasonal part-time works 1,000 hours or more in a fiscal year, he or she does not acquire regular employee status.

Section 16. Layoff: The involuntary separation of a regular status employee or reduction to a position in a lower classification because the position is no longer needed or due to fiscal and/or operational reasons.

Section 17. Personnel Ordinance: Chapter 2.20 of the City's Municipal Code.

Section 18. Probationary Period: A working test period during which an employee is required to demonstrate his or her fitness for the duties to which he or she is appointed by actual performance of the duties of the position. The probationary period or initial period of employment is considered a part of the examination process and shall be utilized for closely observing the employee's work to determine the employee's fitness for the position.

Section 19. Promotion: The movement of an employee from one class to another class having a higher maximum rate of pay and different job duties from the previous class.

Section 20. Provisional Appointment: A temporary appointment of a person who possesses the minimum qualifications established for a particular class, and who has been appointed to a position in that class in the absence of available eligibles. This is sometimes referred to as an "Interim Appointment".

- Section 21. Reclassification: The change of a position from one class to another as a result of the gradual accretion or reduction of duties and/or responsibilities over time.
- Section 22. Regular Employee: An employee in the competitive service who has successfully completed his or her probationary period and has been retained as an employee.
- Section 23. Regular Part-Time Employee: An employee in the competitive service who has successfully completed his or her probationary period and is eligible for pro-rated benefits. Sometimes referred to as "Hourly Benefited".
- Section 24. Rejection: The separation of an employee from employment during the probationary period or examination process.
- Section 25. Reinstatement: The re-employment, without examination, of a former regular employee.
- Section 26. Temporary Employee: An at-will employee who has been appointed to a full-time or part-time position for a limited duration.
- Section 27. Transfer: A change of an employee from one position to another position in the same class or another class having the same maximum salary limits, involving the performance of similar duties and responsibilities and requiring the same qualifications.
- Section 28. Y Rate: Where an employee is moved to a different class with a lower salary range, and the employee retains his/her current salary until the salary of the new class has a maximum salary rate which is equal to or higher than the current salary.

RULE III GENERAL PROVISIONS

Section 1. Discrimination Prohibited: No City employee or applicant for employment, volunteers, interns, City elected and appointed officials, members of City Commissions, Boards and Task Forces, contractors, consultants, and/or other non-employees doing business with or for the City shall be discriminated against in recruitment, examination, appointment, selection, training, promotion, retention, wages, benefits, discipline, or any other aspect of employment because of race, color, religion, national origin, ancestry, marital status, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), age, physical or mental disability, sexual orientation (including homosexuality, bisexuality, or heterosexuality), genetic characteristics or information, political or religious opinions or affiliations, union activities or affiliations, taking of FMLA or pregnancy disability leave, religious creed, medical condition, citizenship status, military and veteran status or any other characteristic protected by law. Individuals are protected from discrimination because of familial status or association with, an individual in any of the protected classifications listed above. Other forms of discrimination prohibited by this policy include retaliating against someone for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices.

Employees who believe they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedure provided in Rule XXII, Section 5 of these Rules.

Section 2. Nepotism Prohibited:

(a) Relatives of those listed below may not be employed anywhere in the City organization:

1. City Council members;
2. Standing Board and Commission members;
3. Executive or Exempt Management Team Members of the City;
4. Employees of the City Manager's Department;
5. Employees of the Human Resources Division;
6. Employees of the Finance Department; or
7. Employees of the Information Systems Department.

(b) The employment of a relative within the same department is prohibited when they:

1. Perform joint duties;
2. Share responsibility or authority;
3. Function in the same chain of command; and
4. Work on the same shift at the same work site.

- (c) For business reasons of supervision, safety, security or morale, a relative may not directly supervise a relative.
- (d) For business reasons of supervision, safety, security or morale, the City may refuse to place relatives in the same department, division, or facility.
- (e) "Relative" means child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law, sister-in-law, domestic partner, or other individual related by blood or marriage.
- (f) "Employee" means any person who receives a City paycheck and W-2 for services rendered to the City.
- (g) For business reasons of supervision, safety, security or morale, the City may enforce this Section 2 to address the post-City employment marriage of or establishment of a Domestic Partnership.
- (h) Exceptions to this section may be made by the City Manager. Any appeal of the enforcement of this section shall be to the City Manager.

Section 3.

Political Activity Prohibited: City employees shall not engage in political activities in violation of Government Code section 3201 et seq. The City prohibits: (1). Employees and officers from engaging in political activities during work hours; (2.) Political campaigning in City buildings or on premises adjacent to City buildings or while in City uniform; and (3.) An employee or officer from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

EXAMPLES OF PROHIBITED CONDUCT: City Employees shall not:

1. Participate in political activities of any kind while in uniform;
2. Participate in political activities during working hours;
3. Use city equipment to make political communications;
4. Solicit a political contribution, either directly or indirectly, from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee or job applicant;
5. Favor or otherwise discriminate against any employee because of political opinions or affiliations;
6. Interfere with any election; or
7. Attempt to trade job benefits for votes.

EXAMPLES OF PERMITTED CONDUCT: City Employees may:

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

- Section 4. Outside Employment: No employee may hold outside employment that is incompatible with his/her City employment. Each employee who holds any other position, in addition to City employment, shall complete a Request for Approval of Additional Employment form and return it to the Department Director for signature and then to the City Manager or designee for approval prior to accepting or commencing outside employment. New employees that already have outside employment, prior to starting a position with the City shall submit the form at the time of their pre-employment paperwork appointment with Human Resources staff.
- Section 5. Employee Duties: Employees are required to carry out the primary duties and responsibilities of their City employment.
- Section 6. Violation of Rules: Violation of any of these Rules shall be grounds for disciplinary action up to and including termination.
- Section 7. Amendment and Revision of Rules: Amendments and revisions to these Rules must be approved by the City Council.
- Section 8. Reasonable Accommodations: The City will strive to provide employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act except where it cause the City undue hardship.
- (a) Request for Accommodation: An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Human Resources Division. The request must identify: a) the job-related functions at issue; and b) the desired accommodation(s).

- (b) Reasonable Documentation of Disability: Following receipt of the request, the Human Resources Department may require additional information, such as reasonable documentation of the existence of a disability from the employee's treating health care professional.
- (c) Fitness for Duty Examination: The City may require an employee to undergo a fitness for duty examination at the City's expense to determine whether the employee can perform the essential functions of the job with or without reasonable accommodation. The City may also require that a City-approved physician conduct the examination. (See Fitness for Duty policy in Rule VII, Section 9 of these Rules.)
- (d) Interactive Process Discussion: After receipt of reasonable documentation of disability and/or a fitness for duty report, the City's Human Resource Manager will arrange for a discussion, in person or via telephone conference call, with the applicant or employee, and his or her representative(s), if any. The purpose of the discussion is to work in good faith to consider fully all feasible potential reasonable accommodations.
- (e) Case-by-Case Determination: The City shall conduct an individualized assessment in accordance with applicable law, whether reasonable accommodation(s) can be made, and if so, the type of accommodation(s) to provide. The City does not need to provide accommodation(s) that would pose an undue hardship upon City, meaning it would cause the City to incur significant expense, impair City operations, or would endanger the health or safety of the employee or others. The City will inform the employee in writing of its decision as to reasonable accommodation(s).

Section 9.

Eligibility for Benefits: All full-time employees and designated regular part-time employees are eligible to receive group health, dental, vision, life, deferred compensation, disability insurance and unemployment insurance within the City's group insurance carrier(s). The administrative cost thereof and a portion of the cost of the premiums will be paid by the City after 30 days of employment. The City's cost share of the monthly premium contribution (benefit allotment) may be amended from time to time as reflected in the annual budget adopted by the City Council. Members of the City Council, management employees (Executive and Exempt), and employees defined as full-time exempt, will receive an additional \$30 to be applied to premium costs. Dependents of employees are eligible to be covered under the employee's health, dental and vision insurance.

In accordance with its contract with CalPERS, the City will contribute the minimum amount required pursuant to Government Code Section 22892 (c) for qualifying retirees enrolled in a CalPERS health plan.

RULE IV CLASSIFICATION

- Section 1. Classification Plan: The City has established a classification plan. The plan consists of classes of positions in the City service defined by class specifications, including title, definition of the position, supervision received and exercised, a description of the duties and responsibilities of positions in each class, and the training, experience, and other qualifications to be required of applicants for positions in each class. The classification plan is maintained so that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class and allocated to the same schedules of compensation.
- Section 2. Adoption, Amendment, and Revision of Plan: The classification plan may be amended from time to time by resolution of the City Council.
- Section 3. New Positions: When a new position is created, the classification plan must be amended and an employment eligibility list established, unless the position is filled by a promotional appointment or position reclassification.
- Section 4. Classification Studies: Classification study requests shall be submitted by the Department Director to the Human Resources Division for review in order to determine if the duties and responsibilities of the position have substantively changed, have become inequitably aligned in relation to other classifications within the City service, and/or are otherwise incorrectly designated. Upon receiving approval from the City Manager, a classification study shall be conducted and the position may be reclassified to a more appropriate class, whether new or already created, at a higher or lower maximum salary level.
- After conducting a classification analysis of the position(s) authorized for study, the City Manager will recommend classification changes, if any, to the City Council for approval.
- Section 5. Qualifying Examination: A reclassification with a title change that results in a salary increase above the old classification may require of the incumbent a qualifying examination to determine whether the incumbent possesses the minimum qualifications for the new class. The method for the qualifying examination shall be determined by the appointing authority. An incumbent proposed for a reclassification who does not pass the qualifying examination shall retain his or her original title and class until such time as he or she does pass the qualifying examination.
- An employee whose position is being reclassified upward and who has previously passed the examination for the position within the last two years, and whose name appears on an employment eligibility list for such a position, need not take a qualifying examination.

Section 6.

Upward Reclassification - In any case where a position is reclassified to a class with a salary range having a higher maximum salary rate, and the incumbent meets the qualification(s) requirement for the new class, and is in fact performing the full range of duties and responsibilities of that position, the effect of this action shall be as follows:

- (a) Effective Date: The effective date of a reclassification action shall normally coincide with the first working day of the first pay period following the date of City Manager approval.
- (b) Salary: The incumbent shall be entitled to the closest higher step within the new salary range that would provide a minimum of a 5% increase, but not to exceed the maximum of the range.
- (c) Merit Increase Eligibility Date: The incumbent's eligibility date for the next merit increase shall be one year from the effective date of the reclassification.
- (d) Employee Status/Performance Review Date: A new probationary period is not required. The incumbent's date for the next performance review shall be set one year from the effective date of the upward reclassification.

Section 7.

Downward Reclassification: In any case where a position is reclassified to a class with a salary range having a lower maximum salary rate, the effect of this action shall be as follows:

- (a) Effective Date: The effective date of a reclassification action shall normally coincide with the first working day of the first pay period following the date of City Manager approval.
- (b) Salary: The incumbent shall either:
 - (1) Retain current salary if current salary is the same as a step within the salary range of the new class; or
 - (2) Be placed on the closest step within the salary range of the new class that approximates the current salary if the current salary is between steps within the new salary range; or
 - (3) Be reduced to the maximum step of the salary range of the new class if current salary is greater than the maximum of the new salary range; or
 - (4) Be assigned a "Y" rate designation that holds the incumbent at a current salary which is above the new range until such time as the salary rate of the new class is the same as or exceeds the

amount of the "Y" rate. Establishment of a "Y" rate is an administrative determination and requires approval of the Human Resources Manager and City Manager.

- (c) Employee Status/Performance Review Date: A new probationary period is not required. The incumbent's date for the next performance review shall be set one year from the effective date of the downward reclassification.

RULE V COMPENSATION

- Section 1. Compensation Plan: The City has established a pay plan covering all classes of positions in the City service, showing the minimum and maximum rates of pay.
- Section 2. Amendment of Plan: The compensation plan may be amended from time to time by action of the City Council.
- Section 2a. Comprehensive Compensation Survey: A Comprehensive Compensation Survey will be conducted, as needed, but not less than every three (3) years to assure that the City's jobs are paid equitably against the labor market equal to the median of the survey. The Survey will utilize benchmark job classifications and include labor market comparisons of the established survey cities.
- Section 3. Salary upon Initial Hire: Department Directors shall have the discretion to place the employee at the A, B, or C step of the salary range of the classification into which the employee is hired. An employee may be placed at any step beyond the C step of the salary range of the classification into which the employee is hired subject to the approval of the City Manager.
- Section 4. Merit Step Advancement: After six (6) months employment as a probationer an employee is eligible to advance to the next salary step if his or her performance evaluation shows performance of satisfactory or above and advancement is approved by the Department Director. Upon successful completion of twelve (12) months probationary employment and a satisfactory or above performance evaluation as approved by the Department Director, the employee will be eligible for advancement to the next salary step. Each year thereafter and with a satisfactory or above performance evaluation as approved by the Department Director, the employee will be eligible for advancement to the next salary step.
- Section 5. Merit Step Advancement for Intermittent Part-time Employees: A Part-time Intermittent Employee is eligible for a merit increase upon receipt of a satisfactory performance evaluation, provided that the employee has completed a minimum of one (1) full year of employment and five hundred (500) hours of work during the annual evaluation period. An employee that works less than five hundred (500) hours during an evaluation period shall be eligible for a step increase only upon reaching the second anniversary of hire date or last step increase, subject to a satisfactory performance evaluation.
- Section 6. Merit Step Increase if Evaluation is Untimely: If the employee is eligible for a step increase and an evaluation has not been completed, when the evaluation is completed, if it is satisfactory or above, the employee will receive the annual increase retroactively. Performance evaluation due dates will be tracked by

the Human Resources Division. A merit increase pending a performance evaluation may be given at the discretion of the City Manager provided that the overall rating of the employee's annual performance is satisfactory or above.

- Section 7. Merit Step Denial: When an employee has not demonstrated the minimum required satisfactory rating for performance on the job during the review period, the Department Director shall defer the salary step (merit) increase for a specified period of time that may extend to the next review date. During such deferment period, formal performance reviews shall be made at intervals determined by the Department Director with the concurrence of the Human Resources Manager. An employee whose salary step (merit) increase is withheld on his/her review date, but approved at a later date, shall have the effective date of the subsequent approval become the new review date for eligibility unless the Department Director and Human Resources Manager mutually agree on an earlier date. Part-time intermittent employees who have not worked the requisite number of hours on an annual basis shall have their merit increase deferred until they work the minimum number of hours to meet the eligibility requirement.
- Section 8. Amount of Merit Step Adjustments: Merit step adjustments are in approximately five percent (5%) increments to the maximum of the salary range. An employee may be given multiple step increases, not to exceed two (2) at any one time, at the recommendation of the Department Director or Division Manager and upon approval of the City Manager.
- Section 9. Merit Step for Employees on Leave: Eligibility for the merit step advancement may be extended for an employee on an approved leave of absence until the employee has returned to work and has thereafter completed the appropriate period of service.
- Section 10. Effective Date of Increase: Merit increases shall be effective the first day of the pay period following the performance evaluation due date.
- Section 11. Salary on Promotion: An employee promoted to a classification having a greater maximum salary will be placed on the lowest step of the new range that results in not less than a five percent (5%) increase above the employee's current regular salary. Upon recommendation of the Department Director and approval of the City Manager, the employee may be placed at a higher step.
- Section 12. Salary on Demotion: An employee who is demoted will be placed within the salary range for the class into which demoted. The salary will be set at the step which is lower and closest to the salary the employee was receiving before the demotion.
- Section 13. Salary on Reclassification: An employee who is reclassified will receive the salary set forth below.

- (a) If reclassified to a classification with the same salary range, the salary will not change.
- (b) If reclassified to a classification with a higher salary range, the salary will be determined in the same manner as a promotion.
- (c) If reclassified to a classification with a lower salary range, the employee may be Y-rated with Human Resources Manager and City Manager approval; retain current salary if current salary is the same as a step within the salary range of the new class; be placed on the closest step within the salary range of the new class that approximates the current salary if the current salary is between steps within the new salary range; or be reduced to the maximum step of the salary range of the new class if current salary is greater than the maximum of the new salary range.

Section 14. Pay Periods: The compensation to all officers and employees of the City shall be paid biweekly. Checks or electronic transfers in payment for compensation will be made available by the City to employees and officers of the City on the Friday succeeding the close of the pay period. In the event that pay day falls on a holiday, payment will be made on the last work day preceding the holiday.

Section 15. Bilingual Pay: Employees who are requested by the City to use bilingual skills during their scheduled work hours on a recurring basis to further the business interests of the City shall receive a bilingual premium pay differential in addition to their regular pay. Any full-time or part-time employee who is required, as an essential part of his or her job, to provide non-English language services, including Braille and sign language, routinely and consistently as part of his or her regular job assignment as determined by the City, will receive a Heavy Usage Bilingual Premium Pay Differential of 5% or Moderate Usage Bilingual Premium Pay Differential of 2%. Differential pay for bilingual skills shall be restricted to that which serves the actual needs of the job and the business functions of the City. Bilingual ability alone or incidental use of the skill when not related to the essential requirements of the job will not warrant bilingual pay.

Department Directors shall recommend employees that are requested to use bilingual skills during work hours and eligible for Bilingual Pay. The City Manager shall consider the request. If approved by the City Manager, the recommended employee will be subject to a language skills examination which will be coordinated by the Human Resources Division. Upon successfully passing the language skills test, the bilingual pay differential will be effective the following pay period.

Section 16.

Overtime:

- (a) As a matter of general policy, the City does not permit employees to work overtime and will provide adequate staff to handle normal operations. However, non-exempt employees may be required to work overtime at the discretion of the Department Director or Division Manager.
- (b) Overtime for non-exempt employees is defined as hours assigned to be worked and actually worked in excess of forty (40) hours actually worked in the designated work week. Paid leave hours (e.g. sick, vacation, compensatory time, floating holidays, bereavement leave, jury duty leave, administrative leave) do not count towards the calculation of overtime.
- (c) Non-exempt employees working overtime when not expressly authorized to do so, may be subject to discipline.
- (d) Overtime authorized and worked by non-exempt employees shall be compensated at time and one half their regular rate of pay. The employee may submit a request to the Department Director or Division Manager to work overtime, which Department Director or Division Manager shall have the unrestricted discretion to approve or not approve, compensation in the form of accrued compensatory time at time and one-half pay. However, an employee may not accrue more than forty (40) hours compensatory time at any time. All compensatory time earned but not taken shall be paid out at the time of employment separation.
- (e) If a non-exempt employee is required to work on an observed holiday beyond the regular forty (40) hour work week, he or she shall be entitled to pay at the rate of two (2) times the regular rate of pay.
- (f) Employees who are exempt from the Fair Labor Standards Act (FLSA) are compensated on a salary basis and are not eligible for overtime.

Section 17.

Call-Out Pay: Non-exempt full-time and part-time employees will be paid a minimum of two (2) hours pay if called out to respond to a City emergency. Call-out occurs when an employee is ordered to return to duty on a non-regularly scheduled work shift after his or her regular work shift has ended and the employee has departed from City premises. Call-out does not occur when an employee is held over from his or her prior shift or is working prior to his/her regularly scheduled shift.

Section 18.

Acting Pay: An employee who is provisionally appointed to an acting or interim position that is in a higher salary range than that of the class in which the employee is normally assigned shall receive acting compensation.

- (a) Acting pay shall be provided only for appointments with duration greater than twenty-one (21) consecutive calendar days and shall be retroactive to the effective date of the acting appointment and continue until completion of the assignment.
- (b) Such acting appointments shall be made in writing by the City Manager with a copy to the Human Resources Division.
- (c) Compensation shall be at the entrance salary step of the higher range or the step within the higher salary range, which would provide a minimum of five percent (5%) higher than the employee's current salary step, whichever is greater.

Section 19. Temporary Upgrade/Special Assignment Pay: A temporary 5% increase in pay shall be given to employees during periods when they temporarily assume additional job duties or are assigned to a special project/program that are outside their normal and customary job duties for more than one consecutive pay period and not to exceed 180 days. The Department Director must secure approval from the City Manager prior to assigning a temporary upgrade or special assignment pay to an employee.

Section 20. Cost of Living Adjustment (COLA): At the adoption of the City's annual budget, a request by the City Manager may be made to the City Council to provide a cost of living adjustment to the City's employees' compensation. The COLA is the annual Consumer Price Index (CPI) percentage as issued by the Department of Labor, Bureau of Labor Consumer Price Index for Urban Wage Earners and Clerical Workers Los Angeles-Riverside-Orange Counties, California for year ending March of the current year. The City Council has the sole discretion to adopt or modify the request at any time.

Section 21. Safety Footwear: It is the policy of the City to require the use of safety shoes where foot hazards exist as a significant part of the job. The City will provide a new pair of safety shoes to full-time field employees based upon "fair wear and tear" of existing safety shoes to a maximum cost of \$350 for each employee determined to have job duties that involve a high degree of potential foot hazards such as working on uneven and slippery surfaces, handling heavy objects, equipment, or tools potentially causing injuries from crushing or penetrating actions. A steel toe safety shoe is required.

Section 22. Technology Stipend: Executive Management and Exempt Management are eligible to receive a monthly stipend of \$100 as a reimbursement for the purchase and maintenance of personal cell phones, tablets, laptops, printers, and/or phone/internet service in order to conduct City business and to respond in emergency situations. Designated key full-time staff, as approved by the City Manager, that are required to respond in emergency situations will be eligible for a \$50 stipend on a monthly basis.

Section 23. Performance Pay: Non-probationary full-time employees that have demonstrated exceptional job performance, as defined and approved by the City Manager, may be eligible to receive performance pay up to 10 percent of the their annual salary once per fiscal year. In order to be eligible, employees must have been at the top step of their salary range for at least one year. Funding for the Performance Pay program is subject to approval by the City Council during the budget adoption process.

Section 24. Severance pay: The City Manager may authorize up to 90 days of severance pay and continued health insurance as a result of a lay-off or an employment separation for a benefitted employee.

RULE VI HOURS OF WORK

City employees may be assigned to work eight (8) hours per day, five (5) days per week or assigned to the 9/80 flex plan under which they will work eighty (80) hours in a nine (9) day period.

- Section 1. The 9/80 Plan: Generally employees work nine (9) hours Monday through Thursday and eight (8) hours every other Friday, exclusive of meal period or nine (9) hours Tuesday through Friday and eight (8) hours every other Monday. In some cases, the flex day may be a day other than Friday. If the operational and service needs of the City dictate that an alternate flex day is required, then the employee will work nine (9) hours on eight (8) of the nine (9) work days, exclusive of meal period, and eight (8) hours every other alternate flex day.
- Section 2. Five Day Work Week: Generally employees work eight (8) hours per day Monday through Friday, exclusive of meal period.
- Section 3. Alternate Work Schedule: Employees may be assigned to work days or hours other than those set forth in Section 1 or Section 2.
- Section 4. Work Week Defined: For all employees working a 9/80 schedule their workweek shall begin exactly four hours into their eight hour shift on the day of the week which constitutes their alternating regular day off.
- For employees working five (5) days per week, the work week or work period means a consecutive seven (7) day period that begins at 12:00 a.m. on Sunday and ends at 11:59 p.m. on the following Saturday.
- Section 5. Work Week Schedule Change: The City may change the work week when public necessity or convenience so requires.
- Section 6. Request to Change Schedule: Employees for whom personal necessity requires a different schedule than above, may make a request for the alternate schedule to the Department Director or Division Manager. If the Department Director or Division Manager agrees with the request, the request will be submitted to the City Manager for final approval. Alternate schedules must begin no earlier than 7:00 a.m. and end no later than 6:00 p.m. and will not include a shorter meal period than below. All schedules are based on the operational and service needs of the City and requests to change schedule will only be approved if such requests support City operations and service requirements and may be rescinded at any time.
- Section 7. Meal Period: The City shall provide for regular and appropriate meal periods for City employees. Department Directors and Division Managers shall assign and schedule meal periods to meet the operational needs of work crews or work units. City employees shall be expected to use good judgment during

meal periods while serving as representatives of the City and in all cases presenting a favorable image to the public. Meal periods are non-paid and nonworking time and shall be one hour for all full-time employees. Every effort will be made to schedule such meal period during the middle of the shift. Meal periods shall not be combined with rest breaks to provide an extended break.

The time allowed for meal periods includes any travel time to and from the place where the meal break is taken. For field employees, meal breaks may be taken at restaurants and food establishments within the City in close proximity to the work site only if they can return to the job site within the designated time limit. Supervisors should discourage employees who are eligible for overtime from eating lunch at their desks to ensure that the employee has a bona fide, uninterrupted meal period that shall not be counted as hours worked.

Section 8. Rest Periods: All non-exempt City employees shall be provided with a fifteen-minute rest break once during each four consecutive hour work period. The fifteen-minute breaks are not cumulative and may be taken only when prescribed. Compensatory time shall not be used to extend rest breaks. No break shall occur within one (1) hour of starting time, meal break, or quitting time unless special circumstances make this desirable, and in which case prior approval shall be obtained from the employee's immediate supervisor. Rest breaks shall not be combined with meal breaks to provide an extended break. Where adequate on-site facilities exist, employees are required to use the areas and facilities provided. In the case of field employees, rest breaks are to be taken at the job site or may be taken at restaurants and food establishments in the City in close proximity to the work site only if they can return to the job site within the designated time limit. If in transit between jobs, the break may be taken at a nearby City park or at the next job site.

RULE VII APPLICATIONS AND APPLICANTS

- Section 1. Announcement: All examinations for positions in the competitive service shall be publicized by posting announcements in City Hall, on the City's website, or by such other means as the City deems advisable. The announcements shall specify the title and pay of the position for which the examination is announced, the duties and responsibilities of the work to be performed, any minimum qualifications established, the manner of making application, and other pertinent information.
- Section 2. Application: Applications shall be made as prescribed on the examination announcement. Application forms shall require information covering training, experience, and other pertinent information. All applications must be signed by the applicant.
- Section 3. Disqualification: The City Manager's designee may reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position or for any material cause which, in the judgment of the City Manager's designee would render the applicant unsuitable for the position. Falsification of any information presented on the employment application shall be grounds for rejection/disqualification from the recruitment and/or termination from employment, if applicant is appointed to the position and the City subsequently learns that the employment application was falsified.

RULE VIII EXAMINATIONS

- Section 1. Types of Examinations: The selection techniques used in the examination process shall measure the knowledge and abilities of the applicants to execute the duties and responsibilities of the class to which they seek to be appointed.
- Examinations shall consist of selection techniques which will test fairly the qualifications of candidates. The City Manager or designee may select the appropriate examination(s) to be utilized in the selection process.
- Section 2. Promotional Examinations: All candidates for promotion must meet the minimum qualifications identified by the appointing authority.
- The appointing authority will determine whether the examination is open competitive or a promotional appointment.
- Section 3. Continuous Examinations: Open competitive examinations may be administered periodically for a single class as the needs of the service required. Names shall be placed on employment lists, in order of final scores, for a period of not more than one (1) year, unless extended by the City Manager's designee.
- Section 4. Conduct of Examinations: The City Manager's designee will determine the manner and methods and by whom examinations shall be prepared and administered.
- Section 5. Reasonable Accommodation in Testing: Should an otherwise qualified applicant who is disabled request a reasonable accommodation for any part of the testing process, the City may modify the process to reduce or eliminate the testing barrier.
- Section 6. Employment Reference Checks: The City is responsible for confirming information provided by applicants in their employment application. Information concerning an applicant's education and employment history should be verified by the hiring department before a formal employment offer is extended. This responsibility includes verification of an applicant's educational history, credentials, licenses, professional certifications and previous work experience. All newly appointed employees required to have a valid motor vehicle license shall provide a Department of Motor Vehicles (DMV) abstract to verify Driver's License validity and minimum past three (3) year's driving history. Any written information obtained in the reference check will be retained and destroyed in accordance with Government Code Sections 34090, et. seq. and the Records Retention Schedule of the Human Resources Division.

Section 7. Criminal Background Checks (Live Scans): To ensure that the interests of the City, its employees and members of the public are protected and to help minimize potential liability, the City obtains summary criminal background reports from the Department of Justice on applicants for employment and volunteer positions.

The City desires to identify those prospective qualified employees and volunteers who have a criminal history so that information about criminal history can be used in post-interview employment decisions. The City will evaluate the applicant's circumstances to determine if the conviction is sufficiently serious, recent and job-related to disqualify him or her from the job.

Once a person has been selected as an employee or volunteer the employee or volunteer shall report a conviction or arrest to his or her supervisor who shall forward the information to the Department Director and Human Resources Manager. Alternatively, the Human Resources Manager may be informed directly. Once employed, an employee's failure to report an arrest or conviction may result in disciplinary action up to and including termination.

Section 8. Post Job Offer Physical Examinations: As a condition of City employment, some candidates must successfully pass a post-offer physical, which may include a substance abuse examination. Candidates being considered for employment will be sent to a City authorized physician at the City's expense.

Section 9. Immigration Reform and Control Act of 1986: In compliance with the Immigration Reform and Control Act of 1986, all new employees must verify identity and entitlement to work in the United States by providing required documentation and must complete an I-9 form documenting ability to hold employment in the U.S..

Section 10. Notification of Selection Process Results: Each person competing in an employment selection process shall be given notice of placement or non-placement on the employment eligibility list.

Section 11. Fitness for Duty Exams:

(a) Conditional Offer of Employment Examinations: After a conditional offer of employment has been extended to an applicant, the City may, in compliance with all applicable laws, require the applicant to submit to a fitness for duty examination prior to conferring appointment.

(b) Current Employee Examinations: The City may require an employee to submit to a fitness for duty examination to determine if the employee is able to perform the essential functions of his or her job when there is significant evidence: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his or her

job; and 2) there is reason to question the employee's ability to complete work duties safely or efficiently.

- (c) Role of Health Care Provider: A City selected health care provider will examine the employee or applicant at City expense. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the employee's or applicant's job. The health care provider will examine the employee or applicant and provide the City with non-confidential information regarding whether: 1) the employee or applicant is fit to perform essential job functions; 2) there are any accommodations that would enable the employee or applicant to perform essential job functions; and 3) the employee's or applicant's employment poses a threat to the health and safety of the employee/applicant or others. Should the health care provider exceed the scope of the City's request and provide confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.
- (d) Medical Information: During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's or applicant's medical history, diagnoses, or course of treatment without an employee's or applicant's written authorization.
- (e) Medical Information from the Employee's or Applicant's Health Care Provider: An employee may submit confidential medical information to the City from his or her personal health care provider to consider in conducting the fitness for duty examination. If the employee or applicant provides written authorization, the Human Resources Manager will submit the information that the employee or applicant provides to the City paid health care provider who conducted the examination. The Human Resources Manager will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.
- (f) Interactive Process Discussion: After receipt of both the health care provider's fitness for duty report and the analysis of the employee's or applicant's personal health care information, if any, the Human Resources Manager will arrange for a discussion or discussions, in person or via conference telephone call, with the employee or applicant and his or her representatives, if any. The purpose of the discussions will be in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the Human Resources Manager will also discuss, if relevant, alternate available jobs for which the employee or applicant is qualified, or whether the employee qualifies for disability retirement or medical leave.

- (g) Determination: After the discussions, the Human Resources Manager will review the information received and determine if there is a reasonable accommodation that would enable the individual to perform essential job functions and if so, whether the accommodations would pose an undue hardship on City finances or operations. The Human Resources Manager will inform the individual of his or her determination.

RULE IX EMPLOYMENT ELIGIBILITY LISTS

- Section 1. Employment Eligibility Lists: As soon as possible after the completion of an examination, the City Manager's Designee will prepare and keep available an employment eligibility list consisting of the names of applicants who qualified in the examination, arranged alphabetically.
- Section 2. Duration of Lists: Employment eligibility lists, other than those from a continuous examination, shall remain in effect for one (1) year, unless exhausted sooner, and may be extended or abolished, prior to their expiration dates, by action of the City Manager's Designee, but in no event shall an employment eligibility list remain in effect for more than two (2) years.
- Section 3. Removal of Applicants from Lists: The name of any person appearing on an employment eligibility list shall be removed by the City Manager's Designee if the person eligible requests in writing that his or her name be removed, fails to respond to a notice, or has been certified for appointment and has not commenced employment.
- Section 4. Use of Employment Eligibility Lists: A vacant position may be filled by the appointment of a person whose name is on an employment eligibility list for the same position or a position in the same classification.

RULE X METHOD OF FILLING VACANCIES

- Section 1. Types of Appointment: Except as otherwise provided herein, all vacancies in the competitive service shall be filled by re-employment, transfer, voluntary demotion, promotion or from eligibles certified by the City Manager's designee from an appropriate employment eligibility list.
- Section 2. Notice to Human Resources: Whenever a vacancy occurs, the Department Director or Division Manager shall submit a request to the City Manager's Designee for authorization to fill the position. The City Manager's Designee shall advise the Department Director or Division Manager as to the availability of candidates from reemployment lists, requests for transfer, or demotion of eligible candidates on an employment or promotional list. The City Manager's Designee may hold a new examination and establish a new employment eligibility list, if requested.
- Section 3. Appointment: After completion of the interview and selection process, the Department Director or Division Manager shall recommend an employment offer to be made to an eligible person designated by the Department Director or Division Manager by the City Manager's Designee. The City Manager's Designee shall thereupon notify the person of the conditional offer of employment, subject to passing a physical examination and drug test (if required).
- Section 4. Veterans Preference: If candidates are identically qualified for appointment, the appointment will be offered to the candidate who is a U.S. Military veteran, honorably discharged.
- Section 5. Temporary Assignments: Employees may be temporarily assigned higher or lower duties without a change in pay for the purpose of filling a vacancy. Such action shall not be deemed as a transfer, demotion, promotion, or reclassification. In all cases where periodic or regular variations in assignments occur because of seasonal needs, the temporary change of duties or a change of the work schedule, of such variations shall be considered as incidental to the position.
- Section 6. Extended Assignment to Vacant Higher Position: Employees assigned to perform duties in a vacant higher level regular position in excess of twenty-one (21) consecutive calendar days shall be entitled to a salary rate increase to the higher level for the time actually worked in the assignment. (See Rule V, Section 18, Acting Pay.) The duration of such assignment to a vacant higher position shall not exceed one (1) year. It is the responsibility of the Department Director or Division Manager to request such salary rate increase to the City Manager's Designee for approval.

Section 7. Vacancies Outside the Competitive Service: Vacancies outside the competitive service (e.g., executive positions, seasonal part-time, intermittent part-time) will be filled by a process deemed appropriate by the City Manager.

RULE XI PROBATIONARY PERIOD

- Section 1. Probationary Period: Upon initial and promotional appointment to a position in the competitive service, an employee must serve a probationary period of one year of actual and continuous service. Periods of time on paid or unpaid leave in excess of five (5) working days (consecutive or not) automatically extend the probationary period by the number of days the employee is on leave. The City Council may, by resolution, establish a longer probation period for a specified class prior to the time of appointment.
- Section 2. Purpose of Probationary Period: During the probationary period, the supervisor shall review, examine and monitor the conduct, capacity, efficiency, skill, responsibility, integrity, and effectiveness of an employee to determine whether the employee is fully qualified for employment in the classification and position to which the employee has been appointed.
- Section 3. Extension of Probationary Period: The probationary period may be extended by the Department Director or Division Manager for a period up to six (6) months by written notice to the employee prior to the expiration of the original probationary period.
- Section 4. Reduction of Probationary Period: The probationary period may be shortened with the written approval of the City Manager.
- Section 5. Rejection During Probation: At any time during the probationary period an employee may be rejected from employment without cause and without right of appeal.
- Section 6. Rejection During Probation From a Promotional Position: A promoted employee who has attained regular status in another classification of City employment who does not successfully complete the probationary period in the promoted class may be returned to the former classification or a comparable classification without right to review or appeal unless terminated for cause.
- Section 7. Use of Leave During Probation: Authorized use of accrued sick leave, vacation leave, administrative leave and Floating Holiday hours may be granted during the probationary period upon approval of the Department Director, Deputy City Manager or City Manager.

RULE XII ATTENDANCE AND LEAVES

- Section 1. Attendance and Absence Control: Full-time employees shall be in attendance at their work in accordance with the rules regarding hours of work, except for City holidays, and other authorized leave. Absence of any employee without authorized leave may result in disciplinary action, up to and including termination. Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited. An employee is required to seek advance permission from his/her supervisor for any foreseeable absence or deviation from regular working hours.
- (a) Employee's Duty to Notify of Late Arrival or Absence: An employee who is unexpectedly unable to report for work as scheduled must notify his/her immediate supervisor no later than the beginning of the employee's work shift and report the absence or expected time of arrival and the reason for the absence or late arrival. If the employee's immediate supervisor is not available, the employee must notify the Department Director. An employee who fails to timely notify the supervisor of absences, or who is not present and ready to work during all scheduled work times, will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.
 - (b) Excessive Tardiness/Absenteeism: Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination. Abuse of, or misrepresentation of any form of accrued or unpaid leave time will be grounds for discipline, up to and including termination.
- Section 2. Vacation Leave: Vacation is a right, earned as a condition of employment. It is a leave of absence with pay for recreation and well-being of the employee. If an employee has exhausted sick leave, vacation may be used for sick leave upon request of the employee and with approval of the City Manager, Deputy City Manager, Department Director or Division Manager.
- (a) Employees shall accrue, on a pro-rata basis, vacation leave for completed pay periods. Such vacation allowance shall be available for use on the first day following the pay period in which it is earned.

Length of Service from Benefit Date	Annual Vacation Allowance	Accrual Rate
On employment through 59 months	80 hours	3.08 hours per pay period
60 months through 119 months	120 hours	4.62 hours per pay period
120 months and up	160 hours	6.15 hours per pay period

- (b) Maximum Accrual: Vacation leave may be accrued to a maximum of 360 hours. Once the 360 hour maximum accumulation is reached, no further vacation leave shall accrue until the employee reduces the accumulation below the maximum. However, at no time may an employee's amount of accrued vacation exceed 360 hours.
- (c) Waiver of Maximum Accrual: A waiver of the 360 hour cap must be requested by the Department Director or Division Manager and approved by the City Manager, for a period not to exceed thirteen (13) pay periods per fiscal year. If at the end of the waiver period the maximum accrual amount is exceeded, vacation accrual for the affected employee will stop. No further vacation time will be accrued until the employee's vacation leave balance is below the maximum accrual amount. In the event that the failure to utilize vacation past the thirteen pay period waiver is due to the City's inability to allow an employee to take vacation (as opposed to an employee's delay and/or failure to request vacation time off), the employee may, with City Manager authorization, continue to accrue vacation.
- (d) Vacation Leave Cash Out Option: Once 240 hours of vacation leave has been accrued, the employee is eligible to receive, at their request, a one-time per year "cash out" payment for up to 80 hours of the accrued vacation leave provided he or she has used 80 hours of his or her accrued vacation leave during the previous twelve months. The "cash out" value is at the employee's current rate of pay regardless of the rate at which the vacation leave hours were earned.
- (e) The minimum charge against accumulated vacation leave shall be fifteen (15) minutes or multiples thereof. Vacation leave shall be compensated at the employee's base rate of pay.
- (f) The time during a calendar year at which an employee may take his or her vacation shall be determined by the Department Director of Division

Manager with due regard for the wishes of the employee and particular regard for the operational and staffing needs of the City.

- (g) All requests to use vacation leave shall be made with as much advance notice as possible, and prior approval must be given by the employee's supervisor and Department Director or Division Manager. When circumstances warrant and advance notice is impractical, Department Directors or Division Managers may approve the use of vacation leave for emergency absences. If an employee does not request time off in advance and simply does not show up for work, the Department Director or Division Manager may deny the use of vacation time or any leave accruals, and said employee may be subject to disciplinary action.
- (h) When a fixed holiday falls within a vacation period, the holiday time shall not be charged against an employee's earned vacation benefits.
- (i) Employees who terminate or retire shall be paid for all accrued vacation leave earned at their base rate of pay at the time of their separation of employment.
- (j) For the purpose of determining their accrual rate, exempt employees shall be credited with up to five (5) years of full-time City service for equivalent public sector full-time service.
- (k) Employees on Unpaid Leave do not accrue Vacation Leave.
- (l) Temporary (working less than 1,000 hours per year), emergency, and seasonal and intermittent part-time employees do not accrue Vacation Leave.
- (m) Regular part-time employees receive prorated Vacation Leave.

Section 3.

Sick Leave: Sick Leave is defined as the authorized absence from duty of an employee because of physical or mental illness, injury, pregnancy, confirmed exposure to a serious contagious disease, or for a medical, optical, or dental appointment. Sick leave may also be taken for diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee, an employee's family member (includes parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandchild or grandparent); or for an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in Labor Code section 230(c) and Labor Code Section 230.1(a). Sick leave shall not be considered a privilege which an employee may use at his/her discretion, but shall be allowed only in case of necessity for the reasons provided in these Rules.

- (a) Accrual and Use of Sick Leave: The following sick leave amounts provided shall be available for use following 90 days of employment.

Full-Time Benefitted Employees: Full-time benefitted employees accrue sick leave for each payroll period completed, prorated on the basis of 80 hours per year, or 3.08 hours per pay period. Full-time benefitted employees can carry-over their accrued sick leave year to year up to a cap of 480 hours. Once the sick leave cap is reached, the employee will stop accruing additional sick leave hours.

Part-Time Benefitted Employees: Part-time benefitted employees accrue prorated sick leave based on the full-time benefitted employee amounts and terms as noted above. Part-time benefitted employees can carry-over their accrued sick leave year to year up to a cap of 240 hours. Once the sick leave cap is reached, the employee will stop accruing additional sick leave hours. For example, if a part-time benefitted employee is half-time (50%) and is scheduled to work 1,040 hours in a fiscal year, the employee would be entitled to 40 hours of accrued sick leave which is half the full-time benefitted employee accrual rate.

Seasonal and Intermittent Part-Time Employees: Beginning July 1, 2015, seasonal and intermittent part time employees are eligible for an allotment of 24 hours of paid sick leave on an annual basis. The full allotment of 24 hours of paid sick leave will be given on July 1st each year. Employees hired after July 1st will be given the full allotment of 24 hours of paid sick leave on the day the employee begins employment. Employees are eligible to take paid sick leave after 90 days of employment. Paid sick leave for seasonal and intermittent employees is not accrued, and cannot be carried over to the following year, nor is it paid out upon employment separation.

- (b) Minimum Use: The minimum charge against accumulated sick leave shall be 15 minutes or multiples thereof. Approved sick leave with pay shall be compensated at the employee's base rate of pay.
- (c) Proof of Qualifying Reason for Leave: If an employee is absent longer than three (3) days or 24 hours due to sick leave, the Department Director or Division Manager may require a physician's certificate and/or other medical evidence/certification verifying the need for leave before the City honors any sick leave requests.

An employee who is absent in order to obtain relief or services related to being a victim of domestic violence, sexual assault, or stalking must provide appropriate certification of the need for such services. The following types of certification shall be sufficient: (1) a police report indicating that the employee was a victim of domestic violence, sexual

assault, or stalking; (2) a court order protecting or separating the employee from the perpetrator of an act of domestic violence, sexual assault, or stalking, or other evidence from the court or prosecuting attorney that the employee has appeared in court; (3) documentation from a licensed medical professional, domestic violence counselor, a sexual assault counselor, licensed health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence, sexual assault, or stalking.

- (d) Notification: If the need to use accrued paid sick leave is foreseeable, then, in order to receive compensation while absent from duty on sick leave, the employee must notify his/her immediate supervisor or Department Director or Division Manager prior to or within two (2) hours after the time set for the beginning of his/her regular duties. If the need for paid sick leave is not foreseeable, the employee shall provide notice of the need for the leave to their supervisor as soon as practicable.
- (e) Violations: Violation of sick leave Rules may result in disciplinary action when in the opinion of the Department Director or Division Manager, the employee has been excessively absent, has abused the sick leave and/or has misrepresented its use.
- (f) Sick Leave Payout: Each benefitted employee may voluntarily be paid annually up to 80 hours of accrued sick leave in excess of 200 hours at a rate of one-half (1/2) the employee's current wage at the time of payment. Said payment is to be made during the month of December, or at such other time as the City Manager may determine, at his/her absolute discretion, as appropriate. After five (5) years of service, when an employee retires, resigns or terminates in good standing, that employee will be paid all accumulated sick leave at a rate of one-half (1/2) of the employee's current rate of pay at his or her date of separation.
- (g) Employees on Unpaid Leave: Employees on unpaid leave do not accrue sick leave.

Section 4.

Occupational Injury or Illness Leave: Whenever an employee is compelled to be absent from employment with the City on account of injury or illness arising out of or in the course of that employee's employment as determined under the Workers' Compensation Act, the employee may elect to apply pro-rated accrued sick leave, if any, to such absence to receive compensation of an amount of the difference between the compensation received under the Workers' Compensation Act and that of the employee's regular pay, not to exceed the amount of the employee's earned sick leave. An employee, in such instance, may also elect to use any earned vacation time in like manner after sick leave is exhausted. An employee, in such instance, may also elect

to use any earned Administrative Leave and Floating Holiday hours in like manner after sick leave and earned vacation time are exhausted. Employees shall receive full salary in lieu of Workers' Compensation benefits and paid sick leave for the first three days following an occupational injury or illness, if authorized absence is by order of an accepted physician under the Workers' Compensation sections of the California Labor Code.

Section 5. Bereavement Leave: When circumstances are such and the City Manager determines that conditions warrant, three days (twenty-seven 27 hours) of paid bereavement leave may be used per occurrence in the event of death of a spouse, domestic partner, child, brother, sister, parent, parents-in-laws, or grandparent of a full-time employee. With City Manager approval, up to an additional two days (eighteen 18 hours) of sick leave may be used to supplement bereavement leave.

In the event of the death of other relatives and with City Manager approval, three days (twenty-seven 27 hours) of sick leave may be used per occurrence for the death of aunts, uncles, or other individuals related by blood or marriage.

Section 6. Jury Duty and Witness Leave: If a regular full-time employee is required to serve as a trial juror, such employee shall receive regular pay while actually performing jury service. Amounts received by such employee from the Court as payment for service as a juror, except mileage paid to the employee, must be reimbursed to the City in order to remain on paid status. Part-time regular employees shall receive prorated pay based on the hours they were scheduled to work. Employees will be required to provide a Jury Duty Certification form to their supervisor, to be attached to their time sheet for that time period.

Employees shall be granted leave with pay when subpoenaed to testify in a matter arising out of the scope of their employment with the City.

Employees absent from work due to jury duty or witness leave must daily notify their immediate supervisor or Department Director or Division Manager of the status of their leave.

Section 7. Administrative Leave: Full-time exempt employees are allowed twenty-seven (27) hours of administrative leave per fiscal year, Department Directors are allowed forty-five (45) hours of Administrative Leave per fiscal year and designated Exempt Managers are allowed thirty-six (36) hours of Administrative Leave per fiscal year. Administrative leave hours are added to eligible employees' leave banks at the beginning of each fiscal year provided the employee has not reached the maximum accrual of hours.

Administrative Leave may be accumulated and carried over to the following year for a maximum accrual of up to two (2) years. Employees may not accrue more than two (2) years of administrative leave at any point and will cease to accrue administrative leave once the maximum is reached. Requests for

Administrative Leave must be approved by the immediate supervisor and the City Manager. Use of Administrative Leave will be authorized at the convenience of the City and the work schedule. Additional hours of leave may be authorized by the City Manager, based on the number of total hours the individual works over and above forty (40) hours per work week or for exceptional performance and must be taken or cashed out within one (1) year.

Section 8. Family and Medical Leave:

(a) Statement of Policy: 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 these Rules, "leave" under this Section 8 only shall mean leave pursuant to the FMLA and CFRA.

(b) Definitions:

- (1) "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- (2) "Single 12-month period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
- (3) "Child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child.
- (4) A child is "incapable of self care" if he/she requires active assistance or supervision to provide daily self care in three or more of the activities of daily living or instrumental activities of daily living — such as, 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.
- (5) "Parent" means the 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.

- (6) "Spouse" means a husband or wife as defined or recognized under California State law for purposes of marriage.
- (7) "Domestic Partner," as defined by Family Code §§ 297 and 299.2, shall have the same meaning as "Spouse" for purposes of CFRA Leave.
- (8) "Serious health condition" means an illness, injury impairment, or physical or mental condition that involves:
 - i) 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
 - ii) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - a. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three full consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i. Treatment two or more times within 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 (e.g., 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 days of the first day of incapacity; or
 - ii. Treatment by a health care provider on at least one occasion which must take place within seven 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.

- b. 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.)
- c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse;
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- d. 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.
- e. 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 consecutive calendar days in the absence of medical intervention or treatment.

(9) “Health Care Provider” means:

- i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
- ii) 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;
- iii) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
- iv) Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
- v) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
- vi) 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.

(10) “Covered active duty” means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with Armed Forces to a foreign country, or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of a member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

(11) “Covered Servicemember” means (1) 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; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a

serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

- (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 service member 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 or her nearest blood relative for purposes of military caregiver leave under the FMLA.
- (14) "Serious Injury or Illness" (1) in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

(c) Reasons 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 covered active duty or call to active duty status (under the FMLA only, not the CFRA); or
 - (6) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered servicemember of the United States Armed Forces who has a serious injury of illness incurred in the line of duty while on active military duty or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).
- (d) Employees Eligible for Leave: An employee is eligible for leave if the employee:
- (1) Has been employed for at least 12 months; and
 - (2) Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
- (e) Amount of Leave: Eligible employees are entitled to a total of 12 workweeks (or 26 weeks to care for a covered servicemember) of leave during any 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 year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an exception can be made to allow at least one day, but less than two weeks duration on any two 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 both spouses are employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 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 both spouses are employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered servicemember.

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

- (f) 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 the preceding non-health benefit 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. Your coverage on a particular plan may be dropped if you are more than 30 days late in making a premium payment. However, you will receive a notice at least 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 (e.g. unpaid wages, vacation pay, etc.).

(g) Substitution of Paid Accrued Leaves: While on leave under this policy, as set forth herein, an employee may elect to concurrently use paid accrued leaves. Similarly, the City may require an employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave, and may also require an employee to use family and medical care leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying.

(1) Employee's Right To Use Paid Accrued Leaves Concurrently With Family Leave: Where an employee has earned or accrued paid vacation, administrative leave, compensatory time, floating holidays or sick leave, that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

- a. The leave is for the employee's own serious health condition; or
- b. The leave is needed to care for a parent, spouse, child, or domestic partner with a serious health condition, and would be permitted as sick leave under the City's sick leave policy.

(2) City's Right To Require An Employee To Use Paid Leave When Using FMLA/CFRA Leave: Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave, with two exceptions:

- a. Employees are required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and
- b. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

(3) 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 12-week

FMLA/CFRA leave entitlement. The only exception is for peace officers and firefighters who are on leave pursuant to Labor Code § 4850.

(4) City's and Employee's Rights If An Employee Requests Accrued Leave, Other than Accrued Sick Leave, Without Mentioning Either the FMLA or CFRA: If an employee requests to utilize accrued vacation leave or other accrued paid time off, other than sick leave, 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.

(h) 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, an 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 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 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 timeframe 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.
- (i) 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 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 orally given. 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.

(j) 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 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 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

- (k) Required Forms: Employees must fill out the following applicable forms in connection with leave under this policy:
- (1) “Request For Family, Medical, Pregnancy Disability and/or Military Caregiver Leave Form” prepared by the City of Diamond Bar to be eligible for leave. Note: Employees will receive a City of Diamond Bar response to their request which will set forth certain conditions of the leave;
 - (2) Medical certification—either for the employee’s own serious health condition or for the serious health condition of a child, parent, spouse or domestic partner.
 - (3) Authorization for payroll deductions for benefit plan coverage continuation; and
 - (4) Fitness-for-duty to return from leave form.

Section 9. California Paid Family Leave: California Paid Family Leave is a component of State Disability Insurance (SDI) program. Unlike SDI, however, which partially covers employee wage loss due to a personal disability, injury, or pregnancy, Paid Family Leave Insurance partially covers employee wage loss for individuals who need to care for a seriously ill family member or bond with a new child. Benefits are available for a maximum of six (6) weeks in a twelve (12) month period. Paid Family Leave and SDI are both administered by the state Employment Development Department (EDD) and funded entirely by mandatory, payroll deductions.

Section 10. Pregnancy Disability Leave: An employee is eligible for four months of unpaid leave while disabled from working due to pregnancy, childbirth or related medical condition when there is certification by a physician that there is a disability due to the pregnancy, childbirth, or related medical condition.

- (a) During the pregnancy disability leave time, paid leave may be charged to accrued benefit time such as vacation, administrative leave and floating holidays, at the employee’s request. In addition, accrued sick leave may be used at the employee’s request, in accordance with Section 3.
- (b) Health insurance benefits shall continue for the duration of the pregnancy disability leave under the same conditions as if the employee had continued employment. If the employee fails to return to work after the period of leave to which the employee is entitled has expired, the City is entitled to recover the premiums paid on behalf of the employee for maintaining coverage, unless the employee does not return because the employee is taking leave under the CFRA or because of the continuation, recurrence, or onset of a health condition

that entitles the employee to leave under the CFRA or other circumstances beyond the employee's control.

- (b) The City Manager may require the employee to file a physician's certificate or personal affidavit and to provide reasonable notice of the date the leave will begin and the estimated duration of the leave.
- (c) Upon the expiration of pregnancy leave and the City's receipt of a written statement from the health care provider that the employee is fit to return to duty, the employee will be reinstated to her original or an equivalent position, unless it was eliminated for a legitimate business reason during the leave. If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and geographic location as the employee's original position.
- (d) If upon return from leave an employee is unable to perform the essential functions of the job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation. An employee who fails to return to work after the termination of her leave loses their reinstatement rights.

Section 11. Election Leave: If a full-time employee does not have sufficient time outside of working hours to vote at a statewide election, the employee may, without loss of pay, take off enough working time which will enable the voter to vote; provided that in no event shall an employee receive more than two (2) hours of paid election leave. Regular part-time employees are eligible for election leave based upon hours scheduled to work. The time off for voting shall be only at the beginning or end of the regular work shift, whichever results in the least time off from the regular working shift, unless otherwise mutually agreed upon. The employee shall give the supervisor at least two working days' notice that time off for voting is desired.

Section 12. School Visit Leave: Full-time and regular part-time employees are permitted to use up to forty (40) hours of leave for the purpose of participating in their children's school activities. Vacation or Floating Holiday Leave must be used for this purpose, and the request for time off cannot exceed eight (8) hours in any calendar month. In the event the employee has exhausted all accrued vacation leave and floating holiday hours, leave without pay may be taken for this purpose and all hour restrictions apply.

Section 13. Leave of Absence Without Pay: The City Manager may grant a regular employee a leave of absence without pay for a period not to exceed one (1) year. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request. Approval will be in writing.

Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the classification held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty may be cause for disciplinary action up to and including termination. Such leave of absence shall not be counted as a break in service for purposes of satisfying the continuous employment requirement for vacation allowance.

- (a) Department Directors may grant an employee leave of absence without pay for a period not to exceed one (1) calendar week. Such leaves shall be reported to the City Manager.
- (b) An employee on leave of absence without pay does not accrue sick leave, vacation time, or receive benefits while on leave. Such employee does not lose or forfeit any sick leave or unpaid vacation time that had been accumulated prior to the time being granted. The employee shall pay for his or her own health benefits during this leave period and will not receive the monthly benefit allotment contribution made by the City.

Section 14. Military Leave: Military leave shall be granted to City employees in accordance with the provisions of current federal and state law. An employee requesting leave for this purpose shall provide the Department Director with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the Department Director may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

Section 15. Political Leave: Political leave may be granted to any employee who is declared a candidate for public office subject to the provisions of Section 13: Leave of Absence Without Pay.

Section 16. Leave for Victims of Violence: An employee who has been a victim of a violent crime or domestic violence may take time off to: 1) appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding; 2) seek medical or psychological assistance; or 3) participate in safety planning to protect against further assaults.

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

RULE XIII HOLIDAYS

Section 1. Holidays Observed: The City's observed paid holidays are as follows:

1. New Year's Day (January 1)
2. President's Day (observed the third Monday in February)
3. Memorial Day (observed the last Monday in May)
4. Independence Day (July 4)
5. Labor Day (observed the first Monday in September)
6. Veteran's Day (November 11)
7. Thanksgiving Day
8. Day following Thanksgiving Day
9. Christmas Eve (December 24)
10. Christmas Day (December 25)
11. Eighteen (18) Floating Holiday Hours

Holidays which fall on Saturday shall be observed the preceding Friday and holidays which fall on Sunday shall be observed on the following Monday. Paid holidays are only for the observed days.

If an observed holiday falls on a nine (9) hour work day under the 9/80 work schedule, those employees on the 9/80 schedule shall receive nine (9) hours of holiday pay and those employees on a traditional work schedule shall receive eight (8) hours of holiday pay.

If an observed holiday falls on an eight (8) hour work day under the 9/80 work schedule, those employees on the 9/80 schedule shall receive eight (8) hours of holiday pay and those employees on the traditional work schedule shall receive eight (8) hours of holiday pay.

Section 2. Floating Holidays:

- (a) Each full-time employee is allowed eighteen (18) hours floating holiday per calendar year, January through December. Regular part-time employees are allowed prorated floating holiday hours per calendar year, January through December based upon hours scheduled to work.
- (b) Floating Holiday hours are not cumulative and must be used during the above period or said employee will lose the allocated hours.
- (c) Each employee must submit a request in advance, and approval must be given by the employee's supervisor and Department Director.
- (d) An employee is eligible to use floating holiday hours as they are allocated.

- (e) Floating Holiday hours may be used in lieu of sick leave only if all other benefit time has been exhausted.

Section 3. Eligibility for Holidays: All employees are eligible for holiday pay except the following:

- (a) Intermittent temporary part-time employees.
- (b) Temporary employees.

Section 4. Prorated Holiday Pay: Regular part-time employees shall receive prorated pay for any holiday on which they are scheduled to work.

**RULE XIV
CHANGES IN EMPLOYMENT STATUS**

Section 1. Transfer: An employee may be transferred by the City Manager at any time from one position to another position in the same or comparable class. A comparable class is one with essentially the same maximum salary limits, involves the performance of similar duties and requires substantially the same basic qualifications. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these Rules. No person shall be transferred to a position for which he/she does not possess the minimum qualifications.

Section 2. Promotion: When practicable and consistent with the best interests of the City, vacancies in the competitive service may be filled by promotion from within the competitive service. All candidates for promotion must meet the minimum qualifications identified by the appointing authority.

If, in the opinion of the City Manager, a vacancy in the position could be filled better by an open, competitive examination instead of a promotional appointment, he/she shall arrange for an open competitive examination and for the preparation and certification of an eligibility list.

Section 3. Demotion: The appointing authority may demote an employee whose performance of his/her required duties falls below standard or a regular employee for disciplinary cause. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications. Such action shall be subject to the City's personnel provision on discipline and to the right of appeal.

Section 4. Suspension: The appointing authority may suspend an at-will employee at any time or a regular employee for cause.

Section 5. Reclassification: The appointing authority may request a reclassification study of a position from one class to another if there has been a gradual accretion or reduction of duties and/or responsibilities.

**RULE XV
SEPARATION FROM EMPLOYMENT**

Section 1. Job Abandonment: An employee is deemed to have resigned if the employee is absent for three (3) consecutive workdays without prior authorization and without notification during the period of absence. On the second working day of unauthorized absence, the supervisor shall send an e-mail or overnight letter to the employee's last known address or call the home and personal cell phone number of the employee and leave a message informing the employee that if the employee fails to report to work within one (1) workday, or receive authorization for such absence, the employee will be subject to disciplinary action including and up to termination. 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, arrest, or mental or physical impairment which prevented notification.

Section 2. Discharge: An at-will employee may be discharged at any time without cause or right of appeal. An employee in the competitive service may be discharged for cause (as described in Rule XVIII, Section 2) at any time by the Department Director or City Manager. Any employee in the competitive service who has been discharged is entitled to rights provided in Rule XVII.

Section 3. Lay-off: The City Manager may lay off employees in the competitive service because of change in duties or organization or shortage of work or funds. The City Manager will designate classifications from which layoffs shall or will be made.

(a) Notification: Employees to be laid off shall be given, whenever possible, at least ten (10) calendar days prior notice.

(b) Order of Layoff: Employees shall be laid off in the inverse order of their seniority in their classification in the department. Seniority shall be determined based upon date of hire in the classification and higher classifications in the department. A lay off out of the inverse order of seniority may be made if, in the City's judgment, retention of special job skills is required. Within each class designated for layoff, employees shall be laid off in the following order, unless special skills are required: temporary, intermittent and seasonal part-time, part-time hired after October 18, 2005, probationary, part-time regular, full-time regular.

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

- (1) All employees having ratings of “Needs Improvement” or “Does Not Meet Expectations;”
 - (2) All employees having ratings of “Meets Expectations;”
 - (3) All employees having ratings of “Consistently Exceeds Expectations” or “Frequently Meets and Exceeds Expectations.”
- (c) Re-employment Rights for Laid-off Employees: Regular employees, who have received a satisfactory or better evaluation for the twelve (12) months prior to lay off, have completed their probationary period and who have been laid off shall be automatically placed on a re-employment list for one year for the classification from which they were laid off.

Section 4. Resignation: An employee wishing to leave City employment in good standing shall file with the Department Director or Division Manager at least ten (10) working days before leaving the service, a written resignation stating the effective date. Failure to give such notice shall mean the employee did not terminate in good standing, unless the City Manager has waived the two-week notice requirement. Failure to comply with this rule shall be entered on the service record of the employee and may be cause for denying future employment by the City. A resignation becomes final when accepted by the City Manager and cannot be withdrawn.

Section 5. Reinstatement: A regular employee who has resigned, or has otherwise been separated while in good standing, may for a period of two (2) years after resignation or separation be considered for reinstatement, upon recommendation of the Department Director and approval of the City Manager, to a position in the former employee’s same or comparable classification or a lesser classification provided such a position is vacant and available. The employee shall be reinstated to the salary range and step held at the time of resignation or separation and shall receive a new anniversary date which shall be the first date of employment upon reinstatement. The employee will serve a new probationary period.

**RULE XVI
REPORTS AND RECORDS**

- Section 1. General: The City maintains a personnel file on each employee. An employee's personnel file shall contain only material that is necessary and relevant to the administration of the City's personnel program. Personnel files are the property of the City, and access to the information they contain is restricted.
- Section 2. Notifying City of Changes in Personal Information: Each employee is responsible to promptly notify the employee's supervisor and the City Manager's designee of any changes in relevant personal information, including but not limited to:
- Mailing address
 - Telephone number
 - Persons to contact in emergency
 - Number and names of dependents
- Section 3. Location of Personnel Files: The personnel files will be kept secure and confidential by the Human Resources Manager.
- Section 4. Medical Information:
- (a) Separate Confidential Files. All medical information about an employee or applicant is kept separately and is treated as confidential, in accordance with federal and state law.
 - (b) Information in Medical Files. The City will not obtain medical information about an employee or applicant except in compliance with the California Confidentiality of Medical Information Act and Health Insurance Portability and Accountability Act. To enable the City to obtain certain medical information, the employee or applicant may need to sign an authorization for release of employee medical information.
 - (c) Access to Medical Information. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons. 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 5. References and Release of Information in Personnel Files:
- (a) Public Information: Upon request, the City will release to the public information about its employees as required by the Public Records Act.

The City will not disclose personnel information that it considers would constitute an unwarranted invasion of personal privacy.

- (b) Reference Checks: All requests from outside the City for reference checks or verification of employment concerning any current or former employee must be referred to the City Manager's designee. Information will be released only if the employee signs an authorization for release of employment information, except that without such authorization, the following limited information will be provided: dates of employment, job title and salary upon departure. Managers and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the City Manager on a case-by-case basis.

Section 6. Employee Access to Personnel File: An employee may inspect his or her own personnel file at reasonable times and at reasonable intervals. An employee who wishes to review his or her file should contact the Human Resources Manager to arrange an appointment. The review must be done in the presence of a Human Resources staff member.

Section 7. Destruction of Records: Personnel files, payroll records, records relating to personnel recruitment, including correspondence, applications, examinations, and reports may be destroyed in accordance with the City's Records Retention Schedule maintained by the City Clerk's Office.

**RULE XVII
GRIEVANCE PROCEDURES**

Section 1. Definition:

- (a) Grievance: Except as otherwise excluded, a grievance is a written allegation by an employee, submitted as herein specified, claiming violation(s) of the terms of these Rules and for which there is no other specific method of review provided by City law.

Disputes concerning the applicability of the Grievance Procedure that persist through the third level of review shall be submitted for determination by a court, unless the grievant and the City agree otherwise.

- (b) Grievant: A grievant is an employee or group of employees adversely affected by an alleged violation of these Rules.

- (c) Day: A day is any day the City is open to the public, i.e. any day except Saturdays, Sundays, and legal holidays recognized by the City.

- (d) Exclusions:

- (1) The procedure is not to be used for the purpose of resolving complaints, requests or changes in wages, hours and working conditions.
- (2) The procedure is not to be used to challenge the content of employee evaluations or performance reviews.
- (3) The procedure is not to be used to challenge the decision to reclassify, layoff, deny reinstatement, or deny a step or merit increase to an employee.
- (4) This procedure is not to be used in cases of oral reprimand, written reprimand, reduction in pay, demotion, suspension, or termination.
- (5) This procedure is not to be used to challenge violation of law or past practice.
- (6) This procedure is not to be used to challenge examinations or appointment to positions.

Section 2.

Procedure:

Step 1: Informal Discussion: The grievant shall discuss the grievance with his/her immediate supervisor on an informal basis in an effort to resolve the grievance. The grievance will be considered waived if not presented to the immediate supervisor within ten (10) working days following the day the event occurred upon which the grievance is based. The immediate supervisor shall respond within five (5) working days following the meeting with the grievant. Failure of the immediate supervisor to respond within such time limit shall entitle the grievant to process the grievance at the next step.

Step 2: First Level of Review: If the grievance is not settled at Step 1, the grievant may submit the grievance in writing to his/her supervisor within five (5) working days of the receipt of the grievance response at Step 1 or if no response, within five (5) working days of the time in which the supervisor was supposed to respond. Failure of the grievant to deliver the written grievance within this time period shall constitute a waiver of the grievance. The supervisor shall meet with the grievant and a written decision and statement of facts and issues shall be rendered to the grievant within ten (10) working days from the date of the written grievance. Failure of the supervisor to respond within such time limit shall entitle the grievant to process his/her grievance at the next level of review.

Step 3: Department Director or Division Manager Review (Second Level): If the grievance is not settled at Step 2, the grievant may submit the grievance to the Department Director or Division Manager within five (5) working days of receipt of the Step 2 grievance response or if no response, within five (5) working days of the time in which the supervisor was supposed to respond. Failure of the grievant to deliver such written notice within that time period shall constitute a waiver of the grievance. The Department Director shall meet with the grievant, and a written decision and statement of facts and issues shall be rendered to the grievant and representative, if any, within ten (10) working days from the date of service. Failure of the Department Director or Division Manager to respond within such time limit shall entitle the grievant to process the grievance at the next level of review.

Step 4: City Manager Review (Final Level): If the grievance is not settled at Step 3, the grievant may serve written notice of the grievance to the City Manager within five (5) working days following receipt of the grievance response at Step 3 or if no response, within five (5) working days of the time in which the Department Director was supposed to respond. Failure of the grievant to serve such notice within that time period shall constitute a waiver of the grievance. The City Manager shall meet with the grievant and a written decision and statement of facts and issues shall be rendered to the grievant and representative, if any, within fifteen (15) working days from the date of service. The City Manager's decision shall be final.

Section 3. Right of Grievant to Representation: The grievant has the right to be represented by any person or attorney he/she may select during the various stages of the grievance procedure.

Section 4. Retaliation: Employees shall be insured freedom from retaliation for using the grievance procedure.

RULE XVIII DISCIPLINE

- Section 1. Types of Disciplinary Action: Disciplinary actions range from informal counseling conversations to termination; provided, however, that counseling, oral warnings and written reprimands are not subject to the appeal procedures set forth in this Rule. Progressive discipline is the corrective process of applying penalties short of termination, or long-term demotion or suspension where conduct is of a less serious nature and the employee has not repeatedly engaged in such conduct. The nature of such discipline should be appropriate to the conduct and need not begin with the least serious disciplinary action. Acceptance of the principle of progressive discipline does not limit the City's authority to take appropriate action including termination, demotion or suspension for serious offenses which cannot and will not be condoned.
- (a) Counseling: An informal discussion with an employee to clarify standards, evaluate strengths and weaknesses, or assist in clarifying and remedying a performance or behavior problem. The employee's supervisor shall make written record of the counseling for the employee and for their own supervisor's file.
 - (b) Oral Warning: A formal discussion with an employee, usually by the employee's immediate supervisor, about performance or conduct problems, the need for the employee to improve and what specific improvement is expected. The employee's supervisor shall make a written record of the warning for the employee and the employee's personnel file. The employee may respond in writing to the oral warning within fourteen (14) days. The response will be placed in the personnel file with the oral warning.
 - (c) Written Reprimand: A formal written notice to the employee regarding performance or conduct problems, the need for the employee to improve and what specific improvement is expected. The written reprimand goes in the employee's personnel file with a copy to the employee. The employee may respond in writing to the written reprimand within fourteen (14) days. The response will be placed in the personnel file with the written reprimand.
 - (d) Suspension: Removal of an employee from duty without pay for a specified period.
 - (e) Reduction in Pay: A reduction in pay from the employee's current step within a pay range to a lower step within that same pay range.
 - (f) Demotion: A reduction in status and salary from one classification to another classification having a lower salary range.

- (g) Dismissal or Discharge: Separation from employment of an employee for cause.

Section 2.

Grounds for Disciplinary Action Involving Regular Employees: The following are examples of performance or behavior that may result in disciplinary action. This listing is representative and does not exhaust all possible situations in which disciplinary action may be required. Grounds for discipline include, but are not limited to, the following:

- (a) Fraud in securing employment or making a false statement on an application for employment.
- (b) Incompetence; i.e., the inability to comply with the minimum standard of an employee's position for a significant period of time.
- (c) Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his/her position.
- (d) Willful disobedience or insubordination, a willful failure to submit to or comply with duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position or insulting or demeaning a supervisor or manager.
- (e) Dishonesty or theft.
- (f) Possession, distribution, sale, use, or being under the influence of or impaired from performance of duty because of alcohol or "controlled substances" while on duty or while operating a City vehicle or impaired from or potentially dangerous equipment leased or owned by the City.
- (g) Excessive absenteeism.
- (h) Inexcusable absence without leave.
- (i) Abuse of sick leave, i.e., taking sick leave without a doctor's certificate when one is required, or misuse of sick leave.
- (j) The conviction of either a misdemeanor or a felony related to the position held, or commission of a crime of moral turpitude, may constitute grounds for disciplinary action up to and including termination. The record of conviction will be conclusive evidence of the fact that the conviction occurred. The City Manager may inquire into the circumstances surrounding the commission of the crime in order to support the degree of discipline. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere, is deemed to be a conviction within the meaning of this Section.

- (k) Discourteous treatment of the public or other employees.
- (l) Improper or unauthorized use of agency property or funds. City property includes, but is not limited to, physical property, tools, equipment, City communications systems or Information Technology systems, City vehicles or intellectual property.
- (m) Refusal to subscribe to any oath or affirmation which is required by law in connection with City employment.
- (n) Any willful act or conduct undertaken in bad faith, either during or outside of duty hours, which is of such a nature that it causes discredit to the City or to, the employee's department or division.
- (o) Inattention to duty or negligence in the care and handling of City property.
- (p) Violation of the rules and regulations of any department.
- (q) Mental or physical impairment which renders the employee unable to perform the essential functions of the job, with or without reasonable accommodation (if disabled), or without presenting a significant current risk of substantial harm/threat to the health and/or safety of self or others.
- (r) Outside employment not specifically authorized.
- (s) Acceptance from any source of a reward, gift, or other form of remuneration beyond the employee's regular compensation for the performance of his or her job duties in violation of the policy stated in Rule XXII, Section E.
- (t) The refusal of any officer or employee of the City to testify under oath before any Grand Jury having jurisdiction over any then pending cause of inquiry into the conduct of City affairs.
- (u) Willful violation of any of the provisions of an ordinance, resolution, rule, regulation or policy prescribed by the City.
- (v) Improper political activity as described in Rule III, Section 3.
- (w) Working overtime without express prior authorization from an authorized supervisor.
- (x) Unauthorized use, possession, conveyance or storage of weapons, firearms, or explosives on City property.

- (y) Making false or malicious statements concerning any employee, the City, or the City's policies or practices.
- (z) Altering, falsifying, or tampering with time records, or recording time on another employee's time record.
- (aa) Falsifying any City record.
- (bb) Disclosure of confidential information to any unauthorized person or entity.
- (cc) Stealing, sabotage, willful damage, abuse or destruction of City property, tools or equipment, or the property or equipment of a supplier, customer or another employee, or failure to report any of the above, including removal of City property or the property of others without proper authorization.
- (dd) The use of abusive or threatening language toward fellow employees, supervisors, suppliers, customers, or citizens.
- (ee) Fighting, coercing, interfering with, or threatening bodily injury to other employees, supervisors, suppliers, customers, or citizens.
- (ff) Unauthorized sleeping during assigned working hours.
- (gg) Failure to observe City working hour schedule(s), starting time(s), quitting time(s), rest and meal periods.
- (hh) Sexual or discriminatory harassment.
- (ii) Job abandonment (workdays absent from duty without supervisory notification).
- (jj) Violation of any law, statute or ordinance.
- (kk) Inappropriate use of the intranet, internet, or e-mail in accordance with the City's Information Systems Usage Policy.
- (ll) Inappropriate attire.
- (mm) Taking City vehicles/equipment home for personal use.
- (nn) A suspension, revocation, cancellation or disqualification of a driver's license when a driver's license is required for the position.
- (oo) Failure to report an industrial injury or vehicle accident while on City time.

Section 3.

Procedures for Taking Disciplinary Action: A Department Director may place an employee on administrative leave with pay pending a potential disciplinary action with the City Manager's approval: (1) when the Department Director believes that the employee's continued presence at the work site could have detrimental consequences for City operations, or (2) pending investigation into charges of misconduct. If the charges against the employee are substantiated by the investigation, appropriate disciplinary action including and up to termination may be taken in accordance with these procedures.

(a) Oral Warning: Following a formal discussion, a supervisor or manager will summarize the oral warning, provide the summary to the employee and place it in the employee's department and official personnel file. The employee may within fourteen (14) days of receipt of the oral warning file a written response for placement in the personnel file.

(b) Written Reprimand: A written reprimand will be prepared, discussed with and given to the employee. A copy will be given to the employee and placed in the employee's official personnel file. The employee may within fourteen (14) days of receipt of the written reprimand file a written response for placement in the personnel file.

(c) Suspension/Reduction in Pay/Demotion/Dismissal of Regular Employees:

(1) Notice of Proposed Discipline: Whenever the appropriate authority intends to suspend an employee, reduce the employee in pay, demote the employee or dismiss the employee, the appropriate authority will give the employee a written notice of proposed discipline which sets forth the following:

- a. The disciplinary action being proposed;
- b. The specific charges upon which the action is based;
- c. A summary of the facts upon which the charges are based;
- d. Identification of all rules, regulations, or policies allegedly violated;
- e. A copy of all documents upon which the discipline is based;
- f. Notice of the employee's right to respond to the charges either orally or in writing to the appropriate authority;

- g. The date, time and person before whom the employee may respond; orally, or the due date for any written response.
 - h. Notice that failure to respond at the time specified will constitute a waiver of the right to respond prior to final discipline being imposed;
 - i. The employee's right to representation.
- (2) Response by Employee: The employee will have the right to respond to the appropriate authority orally or in writing within five (5) working days. The employee will have a right to be represented at any meeting set by the appropriate authority to hear the employee's response. The employee's response will be considered before final action is taken.
- (3) Final Notice: After receipt and consideration of the employee's response or the expiration of the employee's time to respond, the appointing authority or designee will: (1) dismiss the proposed discipline and take no disciplinary action against the employee, (2) modify the recommended disciplinary action, or (3) uphold the recommended disciplinary action. The appointing authority shall therefore prepare and serve upon the employee a Final Notice of Disciplinary Action. The Final Notice of Disciplinary Action will include the following:
- a. The disciplinary action taken, if any;
 - b. The effective date of the disciplinary action;
 - c. Specific charges upon which the action is based;
 - d. A summary of the facts upon which the charges are based;
 - e. The written documents upon which the disciplinary action is based;
 - f. A response to whatever presentation was submitted by the employee;
 - g. The employee's right to appeal.

Section 4. Appeal Rights: A regular employee will have the right to appeal a suspension, reduction in pay, demotion, or dismissal.

- Section 5. Method of Appeal: Appeals shall be in writing, signed by the employee (appellant), and filed with the City Manager within five (5) working days after receipt of the Final Notice of Disciplinary Action. The appeal shall be a written statement, addressed to the City Manager admitting or denying each of the charges in the final notice and reasons why the final action should be reversed or modified. The formality of a legal pleading is not required.
- Section 6. Notice: Upon the filing of an appeal, the City Manager shall set a date for a hearing. The City shall notify all interested parties of the date, time and place of the hearing at such place as the City Manager shall prescribe.
- Section 7. Subpoenas: Subpoenas for witnesses to appear or for documents shall be issued only upon receipt by the City Manager of a written request thereof or, setting forth the names and addresses of the witnesses desired to be subpoenaed.
- Section 8. Subpoenas - Issuance: Subpoenas for witnesses or documents shall be issued only at direction of the City Manager.
- Section 9. Hearings: The appellant shall appear personally, unless physically unable to do so, before the City Manager, at the time and place of the hearing and may be represented by any person(s) or attorney(s) he/she may select and may, at the hearing, produce on his/her behalf, relevant oral and/or documentary evidence.

At the commencement of any such Hearing, or at any time prior to the commencement thereof, the City Manager may specify the order of procedure for any such hearing. Except as otherwise directed, the order of procedure for any such hearing shall be as follows:

- (a) The Department Director or officer having appointing power shall be designated the respondent for the purpose of the hearing. The respondent shall present testimony or evidence in support of the statement of charges against the employee. Such evidence may be presented in the form of oral testimony, documents or demonstrative evidence. The employee shall have the right of cross examination of witnesses.
- (b) The employee challenging the discipline shall be designated the appellant for the purpose of a hearing. Upon completion of the respondent's initial presentations the appellant shall be accorded an opportunity to present testimony documents or administrative evidence in answer to the statement of charges against him/her. Respondent shall have the right to cross-examine witnesses.
- (c) The respondent and appellant may then offer rebuttal evidence only, unless the City Manager permits additional evidence to be presented.

- (d) At the conclusion of the hearing, the City Manager may permit arguments to be made.
- (e) The conduct and decorum of the hearing shall be under the control of the City Manager, with due regard to the rights and privileges of the parties appearing. Hearings need not be conducted according to technical rules relating to evidence and witnesses but hearings shall be conducted in a manner most conducive to determination of the truth.
- (f) Oral evidence shall be taken only upon oath or affirmation of the witness.
- (g) Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules that might make improper the admission of such evidence over objection in civil actions.
- (h) The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
- (i) Irrelevant and unduly repetitious evidence may be excluded.
- (j) During examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.
- (k) In a disciplinary appeal the employer has the burden of proof by preponderance of the evidence.
- (l) Hearings and continuances thereof, shall be scheduled and granted to accommodate a fair hearing, but shall not result in undue delay and such scheduling shall remain within the reasonable discretion of the City Manager.
- (m) The City will provide either a court reporter or another means of recording the hearing.

Section 10.

Findings and Recommendations: The City Manager shall, within twenty (20) days after the conclusion of the hearing, certify his/her findings and decision in writing to the appellant and to the respondent. This shall be the final administrative decision.

RULE XIX
PERFORMANCE EVALUATIONS AND ANNUAL WORK PLANS

- Section 1. General: Performance evaluation is the process of evaluating and recording the performance of each employee. The performance evaluation is best used:
- (a) To maintain a high level of efficiency or assist in raising efficiency by commending the employee.
 - (b) To indicate to the employee those points in which he/she shows weak performance, and suggest the proper means of raising his/her working performance to the standard level.
 - (c) To inform the employee of good performance.
 - (d) To encourage better working relationships and mutual understanding by letting the employee know where he/she stands with relation to his/her supervisor's evaluation of his/her work.
 - (e) To establish an annual work plan consisting of goals and tasks to be accomplished.
- Section 2. Responsibility for Evaluation: The Department Director or Division Manager, together with other supervisors familiar with the employee's work, is responsible for proper preparation of the performance evaluation for each employee in that department. The supervisor should carefully review the complete class description, and the goals and objectives for the employee, if any, before beginning each evaluation, to remind himself/herself of what should be expected from the employee, consider each item on the evaluation sheet separately in the light of the column definition, and select the column which best describes the work of the employee in each category.
- Section 3. Discussion with Employee: The performance evaluation must be discussed with the employee. During the interview, as well as on the form, special attention should be given to discussing specific ways in which the employee can improve his/her performance. An opportunity should also be afforded the employee to comment and bring up any questions he or she may have.
- Section 4. Schedule: Performance evaluations for probationary employees are to be prepared at the end of the first five (5) months, and after the first eleven (11) months, immediately prior to the completion of the one year probationary period. After the probationary evaluation, an evaluation should be done on an annual basis on the employee's anniversary date. Performance evaluation for employees who are already at the top of their salary range shall continue to be prepared on the employee's anniversary date. This will provide a continuing opportunity for the employee and supervisor to review their annual work plan.

Section 5. Appeal Procedure: It is the intent of the City to offer fair and equitable appeals procedures for employees' performance evaluations. Below are the official guidelines.

- (a) Employee and supervisor meet to review and discuss the employee's performance evaluation.
- (b) The employee may respond in writing to the contents of the evaluation. The employee must submit this response to the Department Director or Division Manager within ten (10) working days immediately following receipt of the evaluation.
- (c) The employee may appeal the performance evaluation to the City Manager. The City Manager shall review the appeal with the employee and the Department Director or Division Manager. The decision shall be rendered in writing within fifteen (15) working days by the City Manager, and the decision of the City Manager shall be final.

**RULE XX
VEHICLE USE**

Section 1. Use of Private Vehicles: Private automobiles are not to be used for the City business except as authorized. The City Manager may authorize such use at the reimbursement rate equal to that set forth by the Internal Revenue Service. Payments shall be based upon the most direct route to and from the destination and garage and parking expenses shall be paid in addition to the current rate, upon submission of paid receipts.

Section 2. Auto Allowance: Executive and Management Employees and Members of the City Council will receive a monthly car allowance. This stipend will be in lieu of any mileage reimbursement. If additional garage and parking expenses are incurred, they are reimbursable.

Employees receiving a monthly auto allowance are eligible for mileage reimbursement in cases of exceptional travel. Exceptional travel is mileage which is in excess of sixty (60) miles beyond the employees' normal commute.

Section 3. Use of City Vehicles for Rest or Meal Breaks: The use of City vehicles shall be limited to official City business and employees are prohibited from using a City vehicle to travel to business establishments to conduct personal business (e.g. bank, post office, etc.), activities (e.g. use of a private gym, etc.) or errands (e.g. shopping, dry cleaner, etc.) or to travel to a private residence during rest or meal breaks. Employees may utilize a City vehicle to patronize restaurants and food establishments in the City while in transit or in close proximity to the work site for the purpose of purchasing food and beverages and for restroom facility use. Such use of a City vehicle shall constitute an official rest and/or meal break with travel time included.

RULE XXI
PROFESSIONAL DEVELOPMENT

- Section 1. Training: The City Manager and employees of the City are eligible to request specialized training in the form of a symposium, special course, forum, etc., at the City's expense. All training is subject to approval based on available funding.
- Section 2. Tuition Reimbursement: Subject to Council fiscal year budget authorization, each full-time and regular part-time (on a pro-rated basis) employee shall be entitled to reimbursement in the amount of up to maximum of \$1500 per fiscal year for college level or university level educational courses (including tuition and related books) which have been approved by the City Manager or designee as being job-related and of value to the City. Reimbursement under this Section is contingent upon verification of attainment of a letter grade of "C" or better, or in those cases where no letter grade is given, verification of completion of the course with a "Pass" or "Credit" grade and submittal of a receipt for registration bearing the name of the course for which reimbursement is requested. In the case of reimbursement for books for any approved course, a syllabus, course reading list or course outline showing the book as being required for the course, plus a receipt bearing the title of the book, must be submitted.
- Section 3. Computer Loan Program: Regular Full-time and part-time employees can receive interest-free loans between \$250 and \$2,500 for the purpose of financing a personal computer, a printer, and/or City-compatible software so employees can gain experience by working with a personal computer away from the office and outside of regular business hours.

An employee may purchase a more expensive system, but he/she must pay the balance over \$2,500. The loan covers 90% of the total price of the equipment/software being purchased. The employee pays the remaining 10% of the purchase price at the time of purchase. Loans are made on a first-come, first-served basis based on available funds. Once the money for the employee loans has been obligated, the fund will be replenished through payroll deductions from outstanding loans. New loans will then be made as funds become available. Loans will be for a maximum term of 24 months and will be repaid through payroll deductions on a biweekly basis.

**RULE XXII
EMPLOYEE STANDARDS OF CONDUCT**

Section 1. Code of Ethics:

- (a) Each City officer, official, and employee has an obligation to the citizens, to the people's elected representatives, and to fellow employees to meet the highest ethical and professional standards and to enhance the public's respect and trust for the City government and its operations.
- (b) Employees of the City have responsibilities unique from their counterparts in the private industry. Employment with the City carries an obligation of personal integrity and conduct that serves to establish public respect, confidence, and trust.
- (c) Each employee represents the City and the quality of City service is judged through job performance and conduct. The citizens of Diamond Bar have the right to expect that City employees will provide services in an efficient, thorough, and courteous manner.
- (d) The City, as a condition of employment, expects to receive from the employee:
 - (1) Initiative and a conscientious effort to perform productive work.
 - (2) Cooperative, positive, responsive, and courteous relations with fellow employees, supervisors, subordinates, and the public.
 - (3) A continuous effort to strive for greater knowledge and skill on the job in order to maintain performance at a high level.
 - (4) Compliance with all policies, regulations, rules of conduct, and ordinances established by the City.
 - (5) Public loyalty to and support of the official policies of the City.
 - (6) Responsible work habits demonstrated by:
 - a. Dependability, promptness, reliable attendance, and performing required duties competently,
 - b. Keeping informed of developments and matters affecting job performance,
 - c. Being flexible and adaptable to change,

- d. Accepting constructive suggestions and criticism.
- (7) Neat and clean grooming and attire appropriate to the job assignment. Prescribed uniforms and safety equipment must be worn where required.
- (e) No employee will accept a fee, compensation, gift, payment of expenses or any other thing of monetary value, outside of a City salary and benefits, in exchange for the performance of the employee's work duties or in any circumstances in which acceptance may result in or create the appearance of any one or more of the following:
 - (1) Use of public office and/or employment for personal or private gain.
 - (2) Preferential treatment of any person.
 - (3) Loss of complete independence or impartiality.
 - (4) Making a City decision outside of official channels.
 - (5) Reduction of public confidence in the integrity of City government and/or its employees.
 - (6) Impeding government efficiency or economy.

Section 2.

Harassment Policy:

- (a) Purpose: The City is committed to providing a work environment free of discriminatory harassment. The purpose of this policy is to define discriminatory harassment including sexual harassment, to prohibit the condoning or perpetuating of such conduct and to provide an efficient means for reporting and resolving complaints of harassment by or against any employee or applicant or from a person providing services pursuant to a contract. This policy also applies to elected and appointed officials.
- (b) General Policy: The City's policy strictly prohibits discriminatory harassment on the basis of any protected category listed in Rule III, Section 1. The City considers discriminatory harassment a serious offense and is firmly committed to the philosophy that every employee has the right to work in an environment free from discriminatory intimidation, ridicule and insult and to be treated with courtesy, dignity and respect. Every employee is expected to adhere to a standard of conduct that is respectful to all persons within the work environment.

This Policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation. Employees who violate this Policy may be subject to disciplinary action up to and including termination.

The sexual harasser may be found personally liable to the victim of the harassment. Sexual harassment is outside the course and scope of employment, meaning that an employee found liable for sexual harassment is not entitled to a defense or indemnity from the City in any action brought by the victim.

(c) Prohibited Conduct: The City's policy prohibits the following types of conduct:

(1) Harassment: Harassment is any type of verbal or physical conduct based on an employee's membership in a protected category as defined in Rule III, Section 1 that affects an employee's work performance negatively and/or alter the conditions of employment and create an intimidating, hostile or otherwise offensive working environment. It need not be explicit, or even specifically directed at the victim. Sexually harassing conduct can occur between people of the same or different genders.

(2) Sexual Harassment: Sexual harassment is defined as follows: any action that constitutes an unwelcome sexual advance or request for sexual favors, or any verbal, visual or physical conduct of a sexual nature that is (i) related to or a condition to the receipt of employee benefits, including, but not limited to, hiring and advancement, (ii) related to or forms the basis for employment decisions affecting the employee, (iii) affects an employee's work performance negatively and/or alter the conditions of employment and create an intimidating, hostile or otherwise offensive working environment.

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

Examples of the type of conduct that can constitute unlawful harassment or sexual harassment include, but are not limited to, the following:

Verbal: Inappropriate or offensive remarks, slurs, jokes or innuendoes based on protected categories as defined in Rule III, Section 1. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, pregnancy or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation of a sexual nature; or sexist, patronizing or ridiculing statements that convey derogatory attitudes about a particular gender.

Physical: Inappropriate or offensive touching, assault, or physical interference with free movement when directed at an individual on the basis of actual or perceived protected categories as defined in Rule III, Section 1. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, massaging, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.

Visual or Written: The display or circulation of offensive or derogatory visual or written material related to protected categories as defined in Rule III, Section 1. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.

Environmental: A work environment that is permeated with sexually-oriented talk, innuendo, insults or abuse not relevant to the subject matter of the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements. An environment may be hostile if unwelcome sexual behavior is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his or her immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's work.

(d) Provisions:

- (1) Prohibited Supervisory or Managerial Behavior: No supervisor, manager, or other authority figure shall condition any employment, employee benefit, or continued employment with the City on an applicant's or employee's acquiescence to any of the behavior described in Section 3 above.

No supervisor, manager, or other authority figure shall retaliate against any applicant, or employee, because that person has

opposed a practice prohibited by this policy or has filed a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

- (2) Behavior Prohibited by all Persons: No person in City Hall or any other City workplace shall create a hostile or offensive work environment for any other person by engaging in any discriminatory harassment or by tolerating it on the part of any employee.

No person in City Hall or any other City workplace shall assist any individual in doing any act that constitutes discriminatory harassment against any City employee.

No person in City Hall or any other City workplace may retaliate against any employee because that person has opposed a practice prohibited by this policy or has filed a complaint, testified, assisted or participated in any manner in an investigation proceeding or hearing conducted by an authorized investigator.

No person shall destroy evidence relevant to an investigation of harassment discrimination.

- (3) Obligations of Supervisors/Managers: Any supervisory staff members receiving a complaint of harassment, whether formal or informal or whether oral or written, or observing or otherwise being made aware of an incident of harassment, must inform the Human Resources Manager, Assistant City Manager, or the City Manager of such complaint or incident. In accordance with California law, all supervisory or management employees will receive sexual harassment training every two years.

A copy of this policy shall be provided to all City employees.

The Human Resources office shall make available upon request information from the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission about filing claims of sexual harassment with these entities.

- (4) Obligations of All Employees: On an annual basis all employees will be required to review the harassment policy and sign a form which acknowledges that they have read and understand the City's harassment policy and complaint procedure.

All employees should report any conduct, which fits the definition of discriminatory harassment, to their immediate supervisor or

appropriate authority figure. This includes conduct of non-employees, such as sales representatives or service vendors or harassing conduct toward such contractors.

All persons should report to their supervisor, manager or the Human Resources Manager any instances of discriminatory harassment that they have directly observed, whether or not reported by the employee who is the object of the harassment.

All employees shall cooperate with any investigation of any alleged act of discriminatory harassment conducted by the City or its agents.

- (5) Investigative Action: The City Manager's designee shall authorize the investigation or conduct the investigation of any incident of alleged discriminatory harassment reported to them.

The investigation shall be conducted in a way that ensures, to the extent feasible, the privacy of the parties involved.

The person designated to investigate shall immediately report in writing the findings of fact to the City Manager's Designee. The designee will determine whether the Policy has been violated and communicate the conclusion to the complainant.

Disciplinary action shall be decided in accordance with these Rules and after consultation with the City Manager's designee.

Under no circumstances shall an employee of the City who believes that he or she has been the victim of discriminatory harassment be required to first report that harassment to a supervisor or other authority figure if that person or authority figure is the individual who has done the harassing.

Under no circumstances shall a supervisor, manager, or other authority figure retaliate in any way against an employee who has made a complaint or who has provided information as a witness to an incident of alleged harassment.

All supervisors and managers are required to maintain confidentiality to the extent possible in communicating or investigating any claims of alleged harassment.

- (e) Complaint Form: The more time that passes after an incident of harassment, the more difficult it is to investigate. Complaints should be made as soon as possible. The initial report may be oral or written, but

a written and signed statement will better assist in the investigation process.

Your notification to the City is essential. The City cannot respond to a harassment problem if the problem is not brought to our attention. You may be assured that you will not be penalized in any way for reporting discriminatory harassment or other harassment problems.

Complaint forms are available in Human Resources or a written statement can be submitted but must include the following information:

- (1) The employee's name, department and position title.
- (2) The name of the person or persons committing the harassment, including their title(s) if known.
- (3) The specific nature of the harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the victim as a result of the harassment (if applicable), or any other threats made against the victim as a result of the harassment.
- (4) Witnesses to the harassment.
- (5) Whether the victim previously has reported such harassment and, if so, when and to whom.



CITY OF DIAMOND BAR
Harassment Complaint Form

All complaints will be investigated in accordance with procedures detailed in the Harassment Policy. The City respects the employees/individuals right of confidentiality however, disclosures may be done on a need to know basis.

NAME: _____
TITLE: _____
DEPARTMENT: _____
TODAY'S DATE: _____
DATE OF OCCURRENCE(S): _____

Please identify the individual who is doing the harassing/discriminating. Include name(s) and job title(s):

Please detail the behavior which you are reporting - including all individuals involved, location, time, and any witnesses. If there are multiple occurrences, detail each. Describe the incident, the participants, the background to the incident and any attempts you have made to solve the problem. Be specific, i.e. detail actions, not attitudes or opinions – “he/she put their right hand on my left shoulder; not “he/she makes me feel uncomfortable”:

Please identify others who are aware of this behavior and how they are aware:

**City of Diamond Bar
Harassment Complaint Form
Page 2**

Please identify and provide any written documents relevant to this complaint, i.e. diaries, journals, letters, emails, etc.:

Are you aware of others who have similar complaints?

Is there a suggestion for resolution for this matter and/or a desired outcome?

Was this harassment previously reported? _____yes _____no

If checked "yes" above, state when and to whom:

Thank you for providing as detailed information as you are able. Please attach copies of relevant documentation. You may use additional paper if necessary. You will be informed in writing of the results of the investigation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Complainant

Date

Section 3.

Workplace Substance Abuse Prevention Policy:

- (a) Purpose: The purpose of this policy is to provide guidelines for all employees to deal effectively with substance abuse and its effects in the workplace. Employees are expected to be in suitable mental and physical condition, perform their jobs satisfactorily, and behave appropriately. Should the use of alcohol or drugs interfere with these expectations, employees may be offered rehabilitative assistance. Failure to meet these expectations could result in disciplinary action.

- (b) Policy: It is the City's policy that employees shall not be under the influence of or in unlawful possession of alcohol or other illegal drugs or controlled substances while on City property, at work locations, or while on duty either on City property or elsewhere; shall not utilize such substances when they are assigned to be on call for duty; shall not possess, provide or sell illegal drugs to any other employee or to any person while on duty; nor have their ability to work impaired as a result of the use of alcohol or illegal drugs.

While use of medically prescribed medications and drugs is not per se a violation of this policy, the employee must notify his/her supervisor, before beginning work, when taking medication or drugs (including the possible effects of taking such medication or drugs) which the employee believes may interfere with the safe and effective performance of duties or operation of equipment. In the event there are questions regarding an employee's ability to safely and effectively perform assigned duties while using such medication or drugs, clearance from their physician may be required.

City employees are prohibited from drinking alcoholic beverages during working hours (including lunch hours and breaks), while on City premises at any time, while driving a City vehicle during regular working hours, while on official City business. The consumption of alcohol by City employees may be allowed only at designated City facilities during certain special City functions and with prior authorization by the City Manager.

In order to promote a safe, productive and efficient workplace, the City has the right to search and inspect all City property, including but not limited to lockers, storage areas, furniture, City vehicles, and other places under the common control of the City. No employee has any expectation of privacy in any City building, property, or vehicle or in using any City communications systems.

Employees with drug or alcohol problems are encouraged to seek assistance. Seeking assistance for such a problem before a positive drug and alcohol test will not jeopardize an employee's job.

(c) Employee Responsibilities: An employee must:

- (1) Not report to work while impaired, or under the influence of drugs or alcohol or controlled substance;

NOTE: "Under the influence of drugs or alcohol" means: the use of any alcoholic beverage or any illegal drug or substance, or the misuse of any prescribed drug, in a manner and to a degree that impairs the employee's work performance or ability to use City property or equipment safely.

- (2) Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or nonprescription, which may interfere with the safe and effective performance of duties or operation of City equipment.
- (3) Not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours, rest periods, or at any time while on City property;
- (4) Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty;
- (5) Immediately complete and sign a consent form (see drug testing prerequisite) and submit to an alcohol and drug test when requested to do so by the employee's supervisor or manager.
- (6) Provide within 24 hours of request bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name.
- (7) Report any conviction under a criminal drug statute to the City Manager within five (5) days of such conviction.

(d) Procedure: When an employee's supervisor and a second employee or supervisor observe an employee's actions that lead them to reasonable individualized suspicion to believe that an employee may be under the influence of alcohol or drugs, and/or is exhibiting signs of impairment, that employee may be directed to a City designated medical evaluation. This medical evaluation will be conducted in order to determine if in fact that employee has evidence of alcohol and/or drugs in his/her system.

"Reasonable individualized suspicion" is based on objective factors, such as behavior, speech, body odor, appearance, or other evidence

of recent drug or alcohol use which would lead a reasonable person to believe that the employee is under the influence of drugs or alcohol at work. In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion and discuss the matter with the Human Resources Manager and Department Director. If there is a reasonable suspicion of drug or alcohol abuse at work, the employee will be relieved from duty and placed on sick leave until the test results are received. Reasonable suspicion may be justified by among other things, one or a combination of any of the following indicators:

- Bloodshot or watery eyes
- Slurred speech
- Alcohol on breath
- Physical and/or verbal altercation
- Inability to walk a straight line
- An accident involving City property or vehicle
- Possession of drugs or alcohol
- Frequent absenteeism
- Confusion/difficulty in concentration
- Noticeable change in behavior
- Drowsiness/Lethargy

If reasonable individualized suspicion pertaining to the use of drugs and/or alcohol by an employee is determined during normal working hours, the following steps shall be followed to facilitate the medical evaluation process:

Step 1: The supervisor shall contact the Human Resources Office at the earliest available opportunity to discuss the event(s) which led to a belief that an employee acted intoxicated or impaired under the influence of drugs. At that time, it will be determined whether or not sufficient facts exist to indicate that drug or alcohol testing may be appropriate. If the evidence exists for an immediate test, an appointment with a medical facility shall be made to conduct the test. The supervisor shall inform his/her Department Director of this situation. Refusal by an employee to submit immediately to an alcohol and/or drug analysis when directed to do so may constitute insubordination and may be grounds for discipline up to and including termination. The actual type of testing including possible urine or blood screens, will be determined by the Medical Review Officer (MRO.)

Step 2: The supervisor, or his/her designee, shall personally drive the employee to the medical facility and wait for the test to be completed.

Step 3: The employee will then be transported home or, in appropriate situations, to a hospital as deemed necessary by the MRO. The employee will continue receiving pay during this time and disciplinary action will not be administered unless the test results are positive and confirmed. Information obtained through this testing will be treated with strict confidentiality.

Step 4: If the employee is found to have alcohol or drugs in his/her system, the supervisor shall meet with the employee to give the employee an opportunity to explain. The supervisor shall encourage the employee to seek professional assistance in dealing with any drug or alcohol problem. The employee's medical group may provide the needed drug/alcohol counseling. Also, the City can provide a referral for an employee who is seeking professional assistance in the matter.

The City may require alcohol or drug screening following any work-related accident or any violation of safety precautions or standards, regardless of whether an injury resulted from the accident or violation, provided that the "reasonable suspicion" factors described above are present. Should an incident arise after normal work hours (i.e., overtime, official City business, etc.), the above procedures should be followed with the exception of contacting the Human Resources Office.

The City's Substance Abuse Prevention Policy is not intended to be, and shall not be, used as a tool for harassing any employee or group of employees. When employees are required to submit to testing for suspected substance abuse, it shall be only for reasons set forth in this policy.

- (e) Documentation: Records pertaining to job performance, attendance, and behavior shall be maintained in the employee's personnel file. Records related to a drug or alcohol test or any medical diagnosis will be kept in a separate medical file.
- (f) Disciplinary Action: The City views the use, possession, transfer, or sale of alcohol or drugs or controlled substance to be in violation of this policy and may subject the employee to disciplinary action up to termination in accordance with these Rules.

If an employee tests positive for alcohol and/or drugs, disciplinary action including and up to termination may result.

- (g) Follow Up: Should the results of an employee alcohol/drug test be positive, the following steps shall occur:

- (1) The Department Director will have a discussion with Human Resources to determine the type of disciplinary action, if any, which would be most suitable or to evaluate an alternative to discipline.

Should the results of the alcohol/drug testing be negative:

- (1) The employee is free to return to the workplace and assume his/her regular job duties.
- (2) No further action will be taken.

Section 7. Policy Against Retaliation:

- (a) Policy: It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report, oppose, or participate (as witnesses or accused) in investigations into complaints of alleged violations of City policy or state or Federal law in retaliation for that reporting, opposition, or participation. Disciplinary action, up to and including termination, will be taken against an employee or officer who is found to have violated this policy. Any elected official or contractor who violates this policy will be subject to appropriate sanctions.
- (b) Policy Coverage: This policy prohibits City officials, officers, employees, or contractors from retaliating against applicants, officers, officials, employees, or contractors because of any of the protected activity as defined herein.
- (c) Definitions:
 - (1) "Protected activity" includes any of the following:
 - Filing a complaint with a federal or state enforcement or administrative agency.
 - Participating in or cooperating with a federal or state enforcement agency that is conducting an investigation of the City regarding alleged unlawful activity.
 - Testifying as a party, witness, or accused regarding alleged unlawful activity.
 - Associating with another employee who is engaged in any of the protected activities enumerated here.
 - Making or filing an internal complaint with the City regarding alleged unlawful activity.

- Providing informal notice to the City regarding alleged unlawful activity.

(2) “Adverse action” includes any of the following:

- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of protected activity.
- Refusing to hire an individual because of protected activity.
- Denying promotion to an individual because of protected activity.
- Taking any form of disciplinary action because of protected activity.
- Issuing a poor evaluation because of protected activity.
- Extending a probationary period because of protected activity.
- Altering work schedules or work assignments because of protected activity.

(d) Complaint Procedure: An applicant, employee, officer, official, or contractor who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct according to the City’s Harassment Complaint procedure so that the complaint can be resolved fairly and quickly.