



**CITY OF PLEASANT HILL**  
**PERSONNEL RULES AND REGULATIONS**  
**2015 UPDATE**

Resolution No. 11-15  
Adopted February 9, 2015

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**CITY OF PLEASANT HILL  
PERSONNEL RULES AND REGULATIONS**

**EMPLOYEE ACKNOWLEDGMENT**

I have received my copy of the City of Pleasant Hill Personnel Rules and Regulations. I understand that I am responsible for familiarizing myself with information in these Rules and Regulations and understand that they describe the general personnel policies of the City which govern my employment.

I understand the information, policies, and benefits described in these Rules and Regulations may be modified or amended pursuant to the processes set forth in Section 1.4.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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## RULE 1

### GENERAL PROVISIONS AND ADMINISTRATION

- 1.1 Purpose. It is the purpose of these rules and regulations to set forth policies and procedures that are to be followed by the City of Pleasant Hill in its personnel management. They are intended to establish a workable system of personnel administration based upon the merit principle.
- 1.2 Application. These rules shall apply to situations involving the relationship of the City administration to the employees and other members of the City as specified, except where the topic or subject matter is provided for in the City Code, any Memorandum of Understanding (MOU) with a recognized employee organization, or the City's Management Pay Plan. These rules shall also apply to situations involving officers, officials, applicants, and/or contractors of the City, where provided for in these rules. In the event of a conflict with the Code, the Rules will be read in a manner consistent with the Code and if a conflict still exists, the Code will prevail. The Rules supersede any past practice not expressly permitted by these Rules. For Public Safety Officers as that term is determined by law, in the event of a conflict between the Public Safety Officers Procedural Bill of Rights (POBR) and these rules, the POBR shall control.
- 1.3 Adoption of Rules and Regulations. These rules and regulations shall only become effective when they are adopted by the City Council. Upon adoption, these Rules supersede any prior versions of these Rules and supersede conflicting provisions in Department policies and procedures previously adopted by the City, except to the extent the conflicting provisions specific to a Department are required by law (e.g., application of POBR to Police Department).
- 1.4 Amendment of Rules and Regulations. The City Council may adopt additional personnel rules and regulations as developed by the Council or as recommended by the City Manager. Amendments to such rules and regulations shall be proposed from time to time by the City Council, City Manager, Personnel Officer or City Attorney. When these rules and regulations affect the salaries, benefits and working conditions of the employees, they shall be subject to the meet and confer process as established by State law and the City's enabling labor relations resolution.
- 1.5 Personnel. The City Manager shall be the Personnel Administrator. The City Manager may delegate any of the powers and duties conferred upon him/her as Personnel Administrator under these rules to any other officer or employee of the City. The officer or employee to whom the City Manager delegates these duties shall be known as the Personnel Officer. In the event no one is designated as the Personnel Officer, the City Manager carries out the duties of the Personnel Officer and shall be synonymous with the term Personnel Officer in these Rules. In addition, the City Manager, as the Personnel Administrator, shall remain responsible for all undelegated powers and duties.
- 1.6 Exclusion From Coverage. Unless otherwise specified in these Rules, the provisions shall apply to all employees, offices, positions and employments in the service of the City except:
  - 1.6a The City Manager.
  - 1.6b Elective officers.
  - 1.6c Members of appointive boards, commissions and committees.

- 1.6d All Department Heads.
  - 1.6e All contractors with the City (see Definitions, § 2.16).
  - 1.6f All volunteer personnel, including those who receive monetary remuneration.
  - 1.6g City Attorney.
  - 1.6h Emergency employees who are hired to meet the immediate requirement of an emergency condition, as determined by the City.
  - 1.6i Employees who are not employed in regular positions, including those employees who are probationary, temporary or emergency.
  - 1.6j City Franchisee management or other employees or staff, or related commission or corporation members, including but not limited to, the CATV Franchise, the CATV Commission, and the Community Access Corporation.
- 1.7 Availability of Rules. Copies of these Rules shall be made available to each Department Head, each employee organization, and to employees by email upon adoption, posted at each designated work site, included in the New Hire Orientation Packet, and upon request to the Personnel Officer.
- 1.8 Department Policies and Procedures. Each Department Head may issue procedures and policies as he/she deems necessary for the efficient administration of his/her Department. The policies shall not conflict with or supersede these Rules, except to the extent additional policies or rules specific to the Department are required by law (e.g., application of POBR to Police Department). All Department policies and procedures shall, whenever feasible, be subject to prior written approval of the City Manager.
- 1.9 Rules of Construction.
- 1.9a Service of Notice. When these rules and regulations require a notice to be given, unless a different provision is specifically made for giving notice, the notice may be given by personal delivery or by deposit in the United States mail in a sealed envelope with postage prepaid, addressed to the person at his/her last known business or residence address as the address appears in the public records of the City. Notice by mail is complete when the notice is deposited in the United States mail.
  - 1.9b Construction of Words and Phrases. Words and phrases shall be construed according to the context and the approved usage of the language. Technical words and phrases and words and phrases which have acquired a peculiar and appropriate meaning at law, or words and phrases which are defined elsewhere in these Rules, shall be construed according to that peculiar and appropriate meaning or definition.
  - 1.9c "Shall" and "May". "Shall" is mandatory and "May" is permissive.
  - 1.9d Severability. The Council declares that it is its intention that each section, paragraph, sentence, clause and phrase of these Rules is severable, and if a phrase, clause, sentence, paragraph or section of these Rules is declared legally invalid by a court of competent



jurisdiction, the illegality does not affect the remaining phrases, clauses, sentences, paragraphs and sections.

- 1.10 Violation of Rules. Violation of these rules is grounds for rejection, written reprimand, suspension without pay, disciplinary demotion, reduction in pay, dismissal, or any combination of these, as appropriate under the circumstances and consistent with the Disciplinary Action rule (Rule 13) herein.

## **RULE 2**

### **DEFINITIONS**

- 2.1 Advancement. For non-management employees, a salary step increase within the limits of a pay range established for a class. For management employees, an increase in salary and/or level of responsibilities based upon merit.
- 2.2 Allocation. The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
- 2.3 Applicant. A person who has filed an application for an examination that is in process.
- 2.4 Appointing Authority. The City Manager and any other individual with appointing authority under the City Municipal Code or other applicable law.
- 2.5 Appointment. The official act of an appointing authority that places an eligible candidate in a City position in accordance with the provisions of these rules and regulations.
- 2.6 Blacklisting. Placing the name of a person on a list (either literally or figuratively) for the purpose of denying the person a particular privilege, service, term, or condition of employment to which the person is entitled.
- 2.7 California Confidentiality of Medical Information Act (CMIA). A California state law that governs the use of medical information.
- 2.8 California Family Rights Act (CFRA). Unpaid leave and maintenance of health benefits provided to eligible employees: (a) for the serious health condition of an employee or the employee's child, parent or spouse (including a registered domestic partner); (b) for birth of a child for the purposes of bonding; and (c) for placement of a child in the employee's family for adoption or foster care (see Section 10.4).
- 2.9 Candidate. An applicant who has participated in an examination.
- 2.10 City. The City of Pleasant Hill.
- 2.11 City Council. The City Council of the City of Pleasant Hill.
- 2.12 City Medical Examiners/Designated Physicians. Medical doctors designated by the City Manager to give and evaluate medical examinations required of employees or prospective employees.
- 2.13 City Service. All positions and employments in the service of the City (to include voluntary, elected, temporary, regular, and at-will appointments), except those specifically exempted in these Rules.
- 2.14 Class. All positions sufficiently similar in duties, authority and responsibility to permit grouping under a common title with equity of common standards of selection, transfer, promotion, demotion, salary and qualifications.

- 2.15 Classification Plan. The classes of positions in the competitive service defined by class specifications, which include a written description including title, definition, examples of work and specification of qualifications desired for the satisfactory performance of work required.
- 2.16 Compensation. The salary, wage, allowances, and all other forms of valuable consideration earned by or paid to any employee in remuneration for service in any position, but excluding allowances authorized as incidents to employment.
- 2.17 Compensatory Time Off (CTO). Paid time off that an employee may opt to accrue in lieu of cash payment for overtime worked, following the rules set forth in Section 9.5.
- 2.18 Competitive Service. All positions of regular employment in the service of the City in which employment is based upon competitive examination or participation in the competitive examination process.
- 2.19 Complaint. A dissatisfaction or misunderstanding on the part of a City employee which arises from the application process and/or working conditions, or personal conflict.
- 2.20 Contractor. A person engaged under contract to supply expert, professional, technical or any other services to the City, and meets the definition of an independent contractor under state and/or federal law.
- 2.21 County-Funded Position. A position funded by a county or one or more departments or divisions of the county.
- 2.22 Day. Means calendar day unless otherwise stated, covering a period of time between any midnight and the following midnight.
- 2.23 Demotion. A change in status of an employee from a position in one class to a position in a lower class, having lesser duties and responsibilities, lower qualifications, and a lower range of compensation. Also may mean a reduction in salary range or within a salary range when accompanied with a disciplinary action.
- 2.24 Department Head. An employed professional who administers the operation of a City Department and who is directly responsible to the City Manager or City Council. Department Heads include the Chief of Police, the Director of Public Works and Community Development, the Director of Finance, and the Director of Human Resources (referred to herein as “Personnel Officer”).
- 2.25 Department Policies and Procedures. The written policies and procedures promulgated by the Department Head designed to promote order and efficiency in the administration or execution of specific types of activities and Department operations.
- 2.26 Discharge. The non-disciplinary termination of employment, such as the termination of an at will employee without cause.
- 2.27 Disciplinary Action. An action taken against an employee for cause, and shall include without limitation any of the following, either alone or in combination: counseling and oral reprimand, written reprimand, suspension without pay, disciplinary demotion, dismissal, and reduction in step within range.

- 2.28 Dismissal. Disciplinary termination of employment.
- 2.29 Division. A major unit of the municipal organization within a Department.
- 2.30 Division Head. An employee of the City who is a non-Department Head Manager and who administers the operation of a City Division. Division Heads are subject to the City's Personnel Rules.
- 2.31 Domestic Partner. A person who has a current registration with the State of California as a domestic partner with a City employee. Unless otherwise specified in these Rules, a reference to "spouse" in these Rules will be interpreted to also include "domestic partner."
- 2.32 Elective Service. All positions held by elected officials.
- 2.33 Eligible Candidate. A candidate who successfully qualifies by examination and whose name is recorded on an active employment list, and who may, under these rules, be certified for appointment.
- 2.34 Employee or Incumbent. A person legally occupying a position in the City service, including but not limited to the following:
- 2.34a Regular Employee. A person employed by the City in a full-time capacity who has successfully completed his/her probationary period and who has been retained as a regular employee according to the provisions of these rules. Full-time means regularly scheduled to work at least 40-hours per week (PACE = 37.5 hours per week) or its equivalent in an alternative work schedule as designated by the City or applicable MOU. Regular employee status is maintained if management implements a reduction in work hours.
- 2.34b Part-Time Employee. A person employed by the City whose normal schedule is less than full time. Part-time employees shall be paid at the rate that is the hourly equivalent of the range for the position for which they are appointed. This rate shall be at a step within this range and shall be determined at appointment.
- 2.34b(1) Part-Time Regular Employees. A Part-Time Regular Employee has the same conditions of employment as a Regular Employee with two exceptions: (1) Variable hours within a minimum of twenty-four and one half (24 1/2) hours per week up to full-time. Exceptions to this minimum may be granted by the City Manager and Personnel Officer only. (2) Accrues all benefits as Regular Employee on a "pro-rata" basis unless otherwise required to receive full benefits under federal or state law.
- 2.34b(2) Employees working less than twenty-four and one half (24 1/2) hours per week are not entitled to benefits unless otherwise required by federal or state law.
- 2.34b(3) As an exception to the above requirements, Part-Time Regular Employees hired prior to August 5, 1996, shall maintain all benefits received as of that date unless more benefits are provided for under federal or state law.
- 2.34c Temporary Employee. Any person appointed to a temporary position or temporarily

appointed to a regular position for a maximum of one (1) year. Temporary position means an authorized position budgeted or established for a designated period of time or on an hourly, daily, weekly, or seasonal basis. Temporary employees do not acquire regular status and are not entitled to benefits, except as provided in Sections 10.1e and 10.2b and when otherwise required by federal or state law.

- 2.34d Positions Exempt from these Rules-Officials. All appointed officials, Department Heads, and elected officials of the City whose appointment, election, tenure or removal are governed by the Municipal Code and/or other applicable law, but not by these Personnel Rules.
  - 2.34e Positions Exempt from these Rules-Other Employees. All other persons who are not officials under Section 2.26d and are appointed to positions which are designated as exempt from these Rules
  - 2.34f Emergency Employee. A person employed by the City in a position not specifically authorized or funded in the budget, for a temporary period of time to meet emergencies as determined by the City.
- 2.35 Employment List.
- 2.35a Open Employment List. A list of names of persons who have taken an open-competitive examination for a class in the competitive service and have qualified, except for pre-employment medical and psychological exams, and who have not yet been hired.
  - 2.35b Promotional Employment List. A list of names of current employees who have taken a promotional examination for a class in the competitive service and have qualified.
- 2.36 Examination. The process by which the City determines the qualifications of applicants for employment in a class.
- 2.36a Open-Competitive Examination. An examination that is specifically designed to relate to job duties, in which one or more applicants are in competition, either with each other or against a standard established by the Personnel Officer as minimum requirements, which an applicant must possess in order to competently perform the duties of the position.
  - 2.36b Promotional Examination. An examination for a particular class which is open only to current employees meeting the qualifications for the class.
  - 2.36c Continuous Examination. An open competitive examination which is administered periodically over a continuous and indefinite period, and from which names of eligible candidates are placed on an employment list in order of final scores, though not more than one (1) year for each name.
  - 2.36d Qualifying in lieu of Examination. A process within which work performance, years of work experience or acquired knowledge, skills, and abilities are considered, any or all of which may be used as the basis of qualifications to substitute for a formal examination in the appointment or promotion of an employee.
- 2.37 Examination Panel. An interviewing board composed of a person or persons experienced in the field of work being examined for, or in personnel selection techniques.

- 2.38 Executive Team. All Department Heads and those management employees who have been designated by the City Manager as part of the Executive Team.
- 2.39 Family and Medical Leave Act (FMLA). Unpaid leave and maintenance of health benefits provided to eligible employees: (a) for the serious health condition of an employee or family member; (b) for prenatal care, bonding with a newborn, and birth or placement for adoption or foster care of a child; and (c) to attend to a “qualifying exigency” or to care for a covered servicemember with a serious injury or illness (see Section 10.4).
- 2.40 Federal-Funded Position. A position funded by the federal government, or one or more departments or divisions of the federal government.
- 2.41 FLSA Overtime Pay. Overtime pay that is required to be paid pursuant to the requirements of the federal Fair Labor Standards Act (FLSA). For most employees, the FLSA requires overtime to be paid for actual hours worked over 40 hours in a work week. Different rules apply for safety employees working a FLSA 29 USC § 207(k) schedule.
- 2.42 Harassment. See definitions under Section 22.3 of these Rules.
- 2.43 Immediate Family. The immediate family of an employee including his/her spouse (including domestic partner), son or daughter (including biological, adopted, foster, step, legal ward child, or child or a person standing in loco parentis), children of a spouse, parent, grandparent, brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law.
- 2.44 Key Employee. For the purpose of FMLA and/or CFRA leave, an employee who is among the highest paid 10 percent of all employees employed by the City within 75 miles of the work site where the employee is employed.
- 2.45 Lay-Off. The separation of employees from City service due to lack of work or funds, or due to the abolition of certain positions by the City Council for lack of work or funds, or due to organizational changes.
- 2.46 Manager. Any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to, Department Heads; and any employee having authority to: (a) exercise independent judgment to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees, or having the responsibility to direct them, or to adjust their grievances, or (b) to effectively recommend any such employment actions, provided the exercise of such authority to recommend an employment action is not of a merely routine or clerical nature, but requires the use of independent judgment.
- 2.47 Marital Status. An individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state.
- 2.48 Merit Principle. The requirement that only a person’s ability to do the job be considered when making employment decisions.
- 2.49 Occupational Safety and Health Administration (OSHA). A federal organization that is part of the U.S. Department of Labor and sets and enforces protective workplace safety and health standards.
- 2.50 Officer. The appointed holder of an office provided by the City’s Municipal Code.

- 2.51 Official. The elected holder of an office provided by the City's Municipal Code.
- 2.52 Official Record. The official copy or original record that is legally recognized and enforceable for the purpose of establishing a fact.
- 2.53 Personnel. All persons employed within the operation of the City.
- 2.54 Personnel Officer. The Director of Human Resources serves as the Personnel Officer pursuant to Section 2.35.020 of the City's Municipal Code.
- 2.55 Position. A group of duties and responsibilities in the competitive service requiring the full-time or part-time employment of one person.
- 2.56 Pregnancy Disability Leave (PDL). Unpaid leave and maintenance of health benefits provided to employees who are disabled because of pregnancy, childbirth, or a related medical condition (see Section 10.12).
- 2.57 Probation. The period of the competitive selection process during which an appointed employee has not obtained regular status for the position. Probationary employees can be rejected for any reason during the probationary period.
- 2.58 Promotion. A change in employment status to a position in a higher class with a higher rate of pay and more responsible duties.
- 2.59 Reclassification. A change in allocation of an individual position by moving it to a higher or lower class, or moving it to another class at the same level of responsibility and rate of pay. Such move may or may not require a change in actual salary received by the incumbent employee.
- 2.60 Recognized Employee Organization. Any employee organization that has been recognized by the City Council in accordance with the City employer-employee relations ordinance.
- 2.61 Re-employment List. A list of names of persons arranged in order as provided by these rules, who have been separated from the City service, and who are entitled to have their names certified to an appointing authority under the provisions of these Rules (see Section 6.3d and Section 12.2) .
- 2.62 Reinstatement. The re-employment without examination of a former regular or probationary status employee.
- 2.63 Rejection. The separation of an employee from employment during the probationary period.
- 2.64 Resignation. The separation of an employee from City service which is voluntary and in which an employee formally states his/her desire to leave his/her position with the City.
- 2.65 Salary and Wage Plan. A set of basic salary rates assigned to specific classes in the City service and the rules for relating each individual to his/her proper rate of pay according to the length and quality of service and other factors.
- 2.66 Salary Range. A schedule of salaries within specified minimum and maximum amounts, usually with defined salary increases (i.e., steps) to be administered in accordance with these Rules.

- 2.67 Spouse. A partner in marriage as defined in California Family Code Section 300 or, unless otherwise specified in these Rules, a domestic partner who is currently registered as such with the State of California.
- 2.68 State-Funded Position. A position funded by the State of California or one or more Departments or Divisions of the State of California.
- 2.69 Substance Abuse Professional. A licensed physician, psychologist, social worker, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol, drug, and controlled substance abuse disorders (see Section 27.3d (3)).
- 2.70 Supervisor. An employee designated by his/her superior to oversee work performed by other persons.
- 2.71 Suspension. The temporary status of no duties with or without pay, for reason of pending disciplinary action, disciplinary action, or other just cause, and for a definite period specified in writing.
- 2.72 Sworn Police Employees or Sworn Personnel. Those employees of the Police Department who are classified as Police Officers or equal or higher rank and who are legally empowered to enforce the laws of the City and the State through the exercise of police powers.
- 2.73 Termination. The separation of an employee from the City service. Termination may be discharge, dismissal, lay-off, resignation, retirement, and/or work completion.
- 2.74 Title, Class Title, or Title of Class. The official payroll name applied to a class and to each position allocated to the class and to the incumbent of each such position.
- 2.75 Transfer. A change of an employee within or between Departments from one position to another position in the same class or another class having the same minimum and maximum salary limits.
- 2.76 Vacancy. A duly created position which is not occupied but for which monies have been appropriated.
- 2.77 Weight in Examination for Employee Selection. The fixed numerical value given to each part of an examination designating the relative worth and used in computing a general average.
- 2.78 Work Day. An employee's scheduled hours of employment.
- 2.79 Work Week. Unless otherwise stated in the payroll records, or as otherwise designated by an applicable MOU, or as designated in FLSA 29 USC § 207(k) schedule for safety employees, the City's work week for purposes of the FLSA is 12 a.m. on Sunday to 11:59 p.m. on Saturday.
- 2.80 Written Reprimand. A written notice to an employee, with a copy for their personnel file, notifying him/her of this disciplinary action, including notice of the reason for the action.
- 2.81 Y-Rate. A salary rate for an employee which is greater than the established range for the position which the employee occupies. A Y-Rated position is not eligible for merit or cost of living increases.



## **RULE 3**

### **CLASSIFICATION OF POSITIONS**

- 3.1 Classification Plan. The Classification Plan shall establish titles for each class and specifically detail the training, experience, and other qualifications necessary and desirable for successful performance of the duties of the positions. The plan should include which positions belong to each class. The classification plan may be amended and revised at any time by the City Manager.
- 3.2 New Positions. Except for emergency or temporary positions, a person shall not be appointed to fill a new position until the classification plan and/or budget, as needed, is amended to provide for the position and the City Manager authorizes employment for it.
- 3.3 Reclassification. When a need for a change in the duties and responsibilities of a position occurs (i.e., essential duties and responsibilities of a position have grown or lessened (not performance related) over time to meet Department or Division needs) and a matter of classification may be involved, the Department Head shall notify the Personnel Officer of that fact. The Personnel Officer shall recommend to the City Manager the abolition, consolidation, continuance, or reclassification of that position. The final decision concerning a possible reclassification of a position lies within the sole discretion of the City Manager. A reclassification may not be used for the purpose of circumventing the provisions of these Rules. In cases where the essential duties and responsibilities of a position have grown over time to meet Department or Division needs, the change shall be known as a promotional reclassification.
- 3.4 Class Specifications. Class specifications shall include a general description of the qualifications and kind of work involved in the position in the class as well as, when appropriate, examples of the type of work that someone in the position might do. It need not prescribe the complete duties of a position and does not limit the authority of the City to prescribe or alter the duties of the position.

## RULE 4

### COMPENSATION

- 4.1 Meeting and Conferring for Salary and Wage Plan. As a policy of the City Council, the City Manager, as management representative, shall cause the meeting and conferring with representatives of all officially recognized employee groups as prescribed by the City's employee relations resolution, state laws and unit determination procedures.
- 4.2 Adoption and Application of the Salary and Wage Plan. All memoranda of understanding developed as a result of meet and confer sessions will be presented to the City Council for consideration of adoption. No MOU will take effect until final approval by the City Council.
- 4.3 Basic Salary System.
- 4.3a New Employees. A new employee shall be appointed at the first step of the salary range to which class he/she is assigned. The City Manager may authorize hiring at a higher step when, in his/her sole discretion, exceptional circumstances warrant appointment to a higher step.
- 4.3b Calculation of Anniversary Dates. The employee's anniversary date is the first day of the pay period following successful completion of probation. If successful completion of probation occurs six (6) or more days into a pay period, then the anniversary date begins the first day of the subsequent pay period. An employee's anniversary date remains the same each subsequent year unless otherwise adjusted as provided in these Rules. If an employee is on leave without pay for a period totaling thirty (30) calendar days or longer, the anniversary date is extended by the period of leave, and the employee's anniversary date shall be adjusted by the period of extension.
- 4.4 Advancement Within Salary Range. Employees are eligible for salary increases on their anniversary dates. However, advancement within salary range is not automatic. An increase is made on the basis of merit as established by the employee's work performance and after written recommendation of the Department Head and Personnel Officer and the approval of the City Manager. An employee who fails to receive an in-grade salary advancement shall be notified in writing as to the reason. A potential salary increase may be given at any time during the first three quarters of the employee's year. Any original recommendation for no increase and any subsequent recommendation for a salary increase shall be documented in the employment personnel file.
- 4.5 Special Salary Adjustments. In order to correct gross salary inequities or to reward outstanding achievement and performance, upon recommendation of the Department Head and Personnel Officer, the City Manager may, within his/her sole discretion, adjust the salary rate of an employee upward to any step within the existing range.
- 4.6 Applicable Pay Rates.
- 4.6a Following Promotion. When promoted an employee shall begin at Step A or one (1) step higher than their current salary, whichever is higher. The new anniversary date for the employee's new position is calculated as outlined in 4.3b. Upon the recommendation of the Department Head and Personnel Officer and approval of the City Manager, an employee may be considered for a higher step upon promotion if the City Manager, in

his/her sole discretion, concludes that the employee's experience, longevity and value to the City would merit such an increase.

- 4.6b Following Demotion to a Different Position. In the case of a demotion to a position with a lower maximum salary, an employee shall be assigned to a pay step that is the same as, or less than, the step the employee held in the higher position. Placement within the range shall be recommended by the Department Head and the Personnel Officer and approved by the City Manager. All demoted employees shall retain the anniversary dates from their previous position for purposes of computing eligibility for salary step increases.
- 4.6c Following Transfer. Where an employee is transferred from one position to another in the same class or to another class to which the same pay range is applicable, the employee retains the same pay step and anniversary date.
- 4.6d Following Salary Range Increases and Decreases. Where a pay range is revised upward or downward, the incumbent of a position in the affected class will return to the same relative step in the new pay range. The anniversary date does not change.
- 4.7 Premium Pay for Employees in "Acting Capacity. An employee who temporarily assumes the duties of a superior position may, upon approval of the City Manager, receive premium pay of no more than five percent (5%) above his/her present salary. See individual MOUs for waiting period for commencement of premium pay.
- 4.8 Pay Upon Severance.
  - 4.8a General. An employee who is terminated is entitled to severance pay for:
    - 4.8a(1) Final Pay Period. Employees will be paid for the portion of the final pay period from the first day of the final pay period through the effective date of separation. The day of separation is either the day designated as the employee's last working day or the last day of the pay period if no date is specified.
    - 4.8a(2) Vacation. Employees will be paid for accrued vacation actually earned, but not taken, subject to any accrual caps provided in these Rules or in the applicable MOU.
    - 4.8a(3) Overtime. Employees will be paid for any accrued overtime as provided by federal law, these Rules and the applicable MOU.
    - 4.8a 4) Payment for Accumulated Sick Leave. See Section 10.2j.
- 4.9 Pay Upon Death. In case of employee's death, the City shall pay the employee's beneficiary any monies due if he/she has so designated a beneficiary on forms provided by the Personnel Officer; otherwise, terminal pay is paid as required by law.
- 4.10 Required Return of City Property. All monies due and owing upon termination of employment shall be paid upon receipt of all assigned City property in the employee's possession.

## RULE 5

### RECRUITMENT AND APPLICATIONS

- 5.1 Recruitment Announcements. Whenever an open or promotional selection process is to take place for a vacant position, the Personnel Officer or designee shall, at least seven (7) calendar days prior to the final date for filing applications, issue an appropriate advertisement regarding the position. Appropriate advertisement may include posting vacancies on the City's website.
- 5.2 Freedom from Bias. Consistent with State and federal law, no employee or applicant for a position in the City service shall be in any way favored or discriminated against, including in examination, appointment, promotion, demotion, suspension, or removal, because of sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), sexual orientation, race, color, religion, national origin, ancestry, marital status, age, disability, medical condition, genetic characteristics or information, political or religious opinions, affiliations of the affected person with a lawfully recognized political party or organization, or the lack thereof, or on any other basis protected by law.
- 5.3 Content of Recruitment Announcements. Recruitment announcements will specify, among other things determined by the Personnel Officer to be pertinent, the title and salary range of the class for which the selection process is announced; the nature of the work to be performed; the training and experience required; the time, place and manner of making application; any necessary special qualifications established for admission to the selection process; and any other pertinent information consistent with these rules. All competitive examinations may consist of one or more parts carrying a specific or numerical percentage weight as announced at the time of the examination.
- 5.4 Postponement or Cancellation of Selection Processes. Notice of postponement or cancellation of a selection process shall be given, to a reasonable extent as determined by the Personnel Officer, in similar scope to the announcement of the vacancy.
- 5.5 Administration. Selection processes shall be prepared and administered by the Personnel Officer in accordance with the provisions of this Rule.
- 5.6 Applications. All applications and employment interest cards must be submitted on a form provided for that purpose by the City and, once submitted, shall become an official record of the City and shall not be returned. Blank application forms and interest cards shall be available to all interested persons upon request in person. Application forms are also available on the City's website. No person shall be considered for a selection process until he/she has filed an official employment application on or before the filing deadline stated in the recruitment announcements, unless the Personnel Officer shall, within his/her sole discretion, permit a letter, resume or other indication of interest to be accepted pending receipt of a properly completed application. Whenever an application is rejected, notice of such rejection, will be given to the applicant. The time for filing applications may be extended or re-opened by the Personnel Officer, as needed and within his/her discretion.
- 5.7 Qualifications of Applicants. To qualify for competition in a selection process, an applicant must meet the minimum requirements stated on the appropriate recruitment announcement.

- 5.8 Admission to Selection Process. Persons who submit applications on or before the last date for filing and whose applications clearly show that the applicants meet the minimum requirements for admission to the selection process in the official announcement, shall be permitted to compete in the process for which they are applying. Where doubt exists as to whether an applicant meets requirements for said admission, the Personnel Officer may authorize conditional admission, but such action shall not be construed as entitling the applicant to become eligible for certification or appointment until the circumstances leading to the conditional acceptance are clarified to the satisfaction of the Personnel Officer. Each applicant whose application has been accepted for any selection process shall be notified of the date, time and place of the specific selection process. No person shall be permitted to compete in any part of the selection process without an authorization or other satisfactory evidence of acceptance or conditional acceptance of their application.
- 5.9 Disqualification of Applicants. The Personnel Officer may reject the application of any person for admission to a selection process, or decline to examine any applicant, or may withhold a person from the employment list for certification, or bar the individual's appointment from an employment list, for any of the following reasons:
- 5.9a Failure to possess the necessary qualifications stated in the recruitment announcement.
  - 5.9b Failure to pass satisfactorily any physical agility test that is directly related to job performance.
  - 5.9c Conviction of any felony, or of any misdemeanor, excluding certain marijuana convictions as identified in California Labor Code Section 432.8, when required by law, or after consideration of the nature of the crime, the time elapsed, and the nature of the job, the exclusion is sufficiently job-related and consistent with business necessity.
  - 5.9d Conviction of a misdemeanor or felony violation of the California Vehicle Code, or past suspension or revocation of driver's license, when required by law, or after consideration of the nature of the crime, the time elapsed, and the nature of the job, the exclusion is sufficiently job-related and consistent with business necessity.
  - 5.9e Request by applicant to have his/her name withdrawn from consideration.
  - 5.9f Discharge or forced resignation from public or private employment for cause, including but not limited to inefficiency, delinquency, or misconduct.
  - 5.9g Discharge from the armed forces of the United States under conditions other than honorable.
  - 5.9h Making false or misleading statements in, or willfully omitting any material fact in their oral or written application, or in any resume or other documentation submitted, or in any oral interviews, or in the examination process, or any other fraud or deceit in attempting to secure employment.
  - 5.9i Refusal to execute an oath required by law.
  - 5.9j Failure to sign/authorize the City to contact former employers, or to present himself/herself for fingerprinting, or to participate in any post-employment-offer psychological, psychiatric or medical testing or examination, as required.

- 5.9k In a promotional selection process, the unsuitability of an employee's work record as determined by a Department Head.
- 5.9l Any attempt to use political pressure or bribery to secure an advantage in the examination or appointment.
- 5.9m Failure to submit the employment application correctly or within the prescribed time limits.
- 5.9n Any material cause which in the judgment of the Personnel Officer would render the applicant unsuitable for the position.

Whenever an applicant is refused admission to a selection process under any provision of these rules, he/she shall be notified of the refusal in writing.

## RULE 6

### EXAMINATIONS AND ELIGIBLE TESTS

- 6.1 Conduct of Examinations. The Personnel Officer is responsible for examinations except when the City Manager determines that an exam for a particular class should be conducted by the Department concerned. The Personnel Officer may contract with a consulting firm for examining services as needed.
- 6.2 Employment Selection Process.
- 6.2a Competitive Selection Process. Except as provided in these Rules, all selection processes shall be competitive and, when relevant, related to class specifications. Competitive selection process means that applicants are tested as to their relative qualifications and abilities, or when a single applicant is scored against a fixed standard. Competitive selection processes may, in the sole discretion of the Personnel Officer or the Department Head, consist of measurements of a variety of knowledge and skills through written and/or oral examination, work history, present job performance, and agility tests, or any combination thereof. In addition, present and past work experience, education and training may be given appropriate weight. Upon recommendation of the Department Head, the Personnel Officer shall determine whether the competitive selection process will be open or promotional.
- 6.2b Open Competitive Selection Process. An open selection process shall be held for positions in all beginning level classes in class series, and where there is no lower position from which advancement can be made by a promotional selection process. Additionally, the Personnel Officer can designate a competitive selection process as open when, in the Personnel Officer's sole discretion, such procedure is in the best interests of the City, or there are insufficient potentially qualified candidates within the competitive service to be advanced by promotional selection process.
- 6.2c Promotional Competitive Selection Process. Vacancies within the classified service may be filled by promotion of regular employees. Such promotion shall be based on competitive selection processes, performance evaluations, merit, character, and such other objective and subjective tests and measures of fitness as may be determined by the Personnel Officer and Department Head in their sole discretion.
- 6.2d Open Continuous Selection Process. When the Personnel Officer determines that it is necessary to continuously recruit for a class or position due to non-availability of a sufficient number of applications, or a high turnover rate, the closing date for any selection process may be indefinite and applicants may be examined continuously in such manner and at such times and places as may be provided by the Personnel Officer. No applicant who fails to achieve a passing score in such an open continuous examination may compete again until the lapse of ninety (90) days for the second testing and one hundred and twenty (120) days for the third such testing, unless stipulated to the contrary on the recruitment announcement.
- 6.2e Simplified Selection Process. For positions involving unskilled labor, domestic, attendant, or custodial work, or for positions where it is impractical to supply the needs of the service by appointments made in accordance with the procedures prescribed herein above, the City Manager, or the Personnel Officer with the approval of the City Manager,

has the discretion to authorize the use of such other procedures as he/she determines to be appropriate to meet the needs of the service.

6.2f Reclassification. If a regular employee is performing duties that are classified to be performed in a higher position, the Personnel Officer may change such employee's classification in accordance with these Rules and regulations. This reclassification shall be made with the approval of the City Manager without examination; provided, however, that they conclude in their discretion that all the following conditions are met:

6.2f(1) The employee has been performing such higher duties for a period of not less than six (6) months prior to the date position was studied for consideration of reclassification.

6.2f(2) The higher duties have been assigned to the employee as part of a natural growth of the position within the Department involved and that there appeared to be no evasion of the Personnel Rules relating to promotions.

6.2f(3) The employee so promoted shall serve as a probationary employee in the higher position for the time provided for probationary employees generally, beginning at the date of reclassification. In the event the appointing authority rejects the employee at the higher classification during probation, he/she shall revert to the former regular position unless grounds for discharge from the former position are filed and sustained. In the event the employee remains in the former position, the reclassification of the position shall be null and void.

6.2f(4) Said employee shall receive the salary assigned to the new classification in accordance with these rules and regulations.

6.2g Y-Rate. If a regular employee is performing duties that are classified to be performed at a lower position, the appointing authority may change such employee's classification in accordance with the approval of the Personnel Officer and the City Manager. Such downward classification of the position may be accomplished with a "Y" rating so that the incumbent in the position retains his/her current salary, or the salary may be lowered to the appropriate step within the range as deemed necessary or appropriate in the sole discretion of the Personnel Officer.

### 6.3 Eligible Lists for Consideration for Position.

6.3a Shall mean a record of the names of persons who have qualified for one of the following lists:

6.3a(1) Open Employment List. A list of names of persons who have taken an open-competitive examination for a class in the competitive service and have qualified.

6.3a(2) Promotional Employment List. A list of names of persons who have taken a promotional examination for a class in the competitive service and have qualified.



- 6.3a(3) Re-employment List. A list of names of probationary and regular employees who have been laid off or demoted in lieu of lay-off.
- 6.3b Certification of Eligible List. As soon as possible after the completion of an examination, the Personnel Officer shall score the examination and prepare an eligible list consisting of the names of successful candidates who qualified. Appointment may be made of any candidate on the eligible list, except for re-employment lists, which have list positions and priorities as determined by these Rules.
- 6.3c Duration of List. An eligible list other than one resulting from a continuous examination remains in effect for one (1) year, unless sooner exhausted, abolished, or extended by the City Manager upon recommendation of the Personnel Officer. An eligibility list may be extended by the City Manager for a maximum of six (6) months.
- 6.3d Re-employment Lists. See Section 12.2g.
- 6.3e Removal of Names from Lists. The Personnel Officer may remove a name from an eligible list for one of the following reasons:
- 6.3e(1) One of the reasons set forth elsewhere in these Rules.
  - 6.3e(2) Notice from an eligible candidate that they wish for their name to be removed.
  - 6.3e(3) Evidence that the eligible candidate cannot be located.
  - 6.3e(4) Failure of the eligible candidate to respond to written offer of employment within five (5) working days following the mailing of the offer to the applicant's last known address.
  - 6.3e(5) Report of an unsatisfactory background investigation.
  - 6.3e(6) A person on a promotional eligible list who leaves City employment for any reason is automatically dropped from the list.

## RULE 7

### APPOINTMENTS

- 7.1 Types of Appointments. A vacancy is filled by original appointment, reinstatement, re-employment, transfer, promotion, or demotion.
- 7.2 Request to Fill Vacancy. The Personnel Officer shall be notified by the appointing authority when a vacancy is to be filled.
- 7.3 Method of Appointment. The Personnel Officer may provide the appointing authority with an employment list for the position to be filled. The appointing authority may make a recommendation to the Personnel Officer, but no appointment is valid until approved by the City Manager. If the person appointed does not present himself/herself for duty as prescribed, the appointment is considered rejected.
- 7.4 Reinstatement. If a vacancy exists, a regular employee who resigned in good standing may, within one (1) year of resignation, be reinstated in a position in the class in which he/she previously had served or in a comparable class. The Department Head may, in his/her discretion, recommend reinstatement for the City Manager's approval. An employee reinstated must serve a full probationary period and is considered a new employee for purposes of vacation, sick leave, initial salary and salary increases.
- 7.5 Re-employment after Lay-Off. A person on a re-employment list is entitled to preference in filling a vacancy in the classification previously held by that person for a period of twelve (12) months. An employee so re-employed retains his/her seniority accrued in prior service with the City. During the lay-off, no benefits accrue and the anniversary date shall be adjusted to the date of re-employment if the lay-off time exceeds thirty (30) consecutive days.
- 7.6 Transfer. Except as provided by any applicable MOU, the City Manager and/or the Personnel Officer may transfer an employee from a position in one Department to a position of the same class in another Department. Such transfer does not result in a loss to the employee of accumulated vacation, sick leave or overtime. An employee transferred in this manner retains the same anniversary.
- 7.7 Demotion. A position may be filled by demotion of an employee in accordance with these Rules. An employee may be demoted in lieu of being laid off in accordance with these Rules.
- 7.8 Marital Status or Domestic Partnership. It is the policy of the City of Pleasant Hill not to discriminate in its employment and personnel actions with respect to its employees, prospective employees and applicants on the basis of marital status or domestic partnership, including but not limited to the selection of employment, the provision of benefits, and the selection for a training program leading to employment. Notwithstanding the above, the City of Pleasant Hill retains the right:
- 7.8a To refuse to place one spouse or domestic partner under the direct supervision of the other spouse or domestic partner if, in the sole discretion of the appointing authority, such placement has the potential for creating adverse impacts on supervision, safety, security or morale, or involves potential conflicts of interest.
- 7.8b To refuse to place both spouses or domestic partners in the same Department, Division,

or facility if, in the sole discretion of the appointing authority, such placement has the potential for creating adverse impacts on supervision, safety, security, or morale, or involves potential conflicts of interest.

- 7.9 Temporary or Part-Time Temporary Appointments. Time spent in a temporary or part-time temporary position is neither credited to the probationary period nor counted toward eligibility for advancement. Time spent in a temporary or part-time temporary position is not credited to vacation nor sick leave benefit except as provided elsewhere in these Rules.
- 7.10 Proof of Right to Work in the United States. The Personnel Officer will require a person appointed to a position to submit documentation as defined by Federal law of the right to work in the United States.
- 7.11 Fingerprints. The City shall require a person appointed to a position to be fingerprinted as required by law. All records regarding employee fingerprints are to be used by the Personnel Officer for evaluation of suitability for appointment or promotion and shall be kept confidential.
- 7.12 Pre-employment Review. Prior to employment, a candidate must receive satisfactory results from a background investigation and (if required for the position) physical examination. In some cases, the City may also require a psychological examination for a position. The physical and/or psychological examinations will be administered only after the City extends the candidate a conditional offer of employment.
- 7.13 Emergency Appointments. The City Manager may employ on a temporary basis persons needed without regard to these Rules to meet the requirements of an emergency condition which threatens life, property or the general welfare of the City.

## **RULE 8**

### **PROBATIONARY PERIOD**

- 8.1 Objective of Probationary Period. Except as otherwise provided by these Rules, each original, promotional, and reinstatement appointment is subject to a probationary period. This probationary period is part of the evaluation and selection process and is used to carefully observe and evaluate the employee's work and suitability for regular employment.
- 8.2 Length of Probationary Period. The probationary period dates from the time of appointment to a regular, full-time or part-time position, as calculated in accordance with these Rules. Except as otherwise provided in these Rules, the probationary period is normally twelve (12) months for original appointments and six (6) months for all other appointments. In the case of non-sworn personnel assigned to the Police Department, the probationary period is not less than twelve (12) months. The probation for sworn personnel will be not less than 18 months. The probationary period does not include time served under a temporary appointment. A period of time on leave without pay for more than thirty (30) consecutive calendar days for any reason is not counted toward completion of the probationary period.
- 8.3 Rejection of Probationary Employee. During the probationary period, an appointing authority may reject an employee for any reason. The rejected employee is not eligible for reappointment or for benefits provided by these Rules, including but not limited to the benefits of grievance and appeal.
- 8.4 Rejection Following Promotion. An employee does not acquire regular status in the promotional position until the successful completion of the probationary period. If a regular employee is promoted and then rejected during the probationary period following a promotional appointment, the employee shall be reinstated to the position from which the employee was promoted unless grounds for dismissal from the former position are filed and sustained. The employee is not entitled to notice or a hearing for the decision to reject the employee from the promotional position during probation.
- 8.5 Extension of Probationary Period. The Personnel Officer, upon written request by a Department Head and approval of the City Manager, may grant an extension of the probationary period up to a maximum of a ninety (90) day period beyond the normal end of the probationary period.
- 8.6 Regular Appointment Following Probationary Period. In order to be valid, a regular appointment must be approved by the City Manager. If the appointment is not approved, the probationary employee will be notified prior to the expiration of probationary period that he/she has been rejected for regular appointment.

## RULE 9

### HOURS OF WORK, WORK SCHEDULES, OVERTIME, HOLIDAYS

- 9.1 Hours of Work. Except as otherwise provided herein, the Department Heads shall designate the work schedules for the respective officers and employees over which they have jurisdiction. Persons employed in any Department shall observe such working schedules or periods of service as the Department Head may designate. Permanent changes require notification being sent to the appropriate recognized employee representative and the Personnel Officer prior to implementation. The City Council, by resolution, or the City Manager, by administrative order, may authorize departure from the working schedule provided herein for such period or periods of time as necessary based on the operational needs of the City.
- 9.2 Attendance. Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All Departments shall keep daily attendance records of employees in the format requested by the Personnel Officer, which shall be available to the Personnel Officer when requested. Failure on the part of the employee, absent without authorized leave, to return to duty within twenty-four (24) hours may be cause for immediate discharge.
- 9.3 Holidays.
- 9.3a Unless otherwise provided by MOU, holidays observed by the City but falling on a weekend are observed as follows for employees whose normal work week is Monday through Friday. When an observed holiday falls on a Saturday, the preceding Friday is a holiday. When an observed holiday falls on a Sunday, the following Monday is a holiday.
- 9.3b Religious Observance. A City employee who wishes time off to observe holidays particular to their race, national origin, culture or religion may do so with the approval of his/her Department Head. This time off is charged to compensatory time or vacation.
- 9.3c Additional Compensation for Holidays Worked. Compensation for time worked on holidays shall be paid the rate of one and one-half (1-1/2) time the hourly rate based on the employee's monthly salary.
- 9.4 Overtime.
- 9.4a Unless otherwise stated in a MOU or as otherwise required by law, "overtime" is all hours an overtime-eligible employee actually works over 40 in his/her work week.
- 9.4b While the City attempts to avoid the necessity for overtime work whenever possible, management retains the right to require overtime when there are no volunteers. The City prohibits employees who are eligible to receive overtime pay from working overtime without recording their accurate work time on official City records. Employees may never choose to work and not request compensation. No employee who is eligible to receive overtime pay may work over his/her schedule without first obtaining prior approval of the Department Head or Supervisor.
- 9.4c Employees have the duty to perform emergency work upon request of the authority declaring the emergency.

- 9.4d Overtime compensation for all eligible City employees shall be paid at the salary at the time he/she worked overtime. Overtime compensation for all eligible employees will be at the rate of one and one-half (1-1/2) times the hourly rate based upon the employee's regular rate of pay as calculated in accordance with the Fair Labor Standards Act. Only actual hours worked, and not time taken for paid leave, will be counted in calculating FLSA overtime pay.
- 9.4e No overtime pay is authorized for those positions enumerated in the "Management Pay Plan". However, management personnel may request administrative leave and such leave may be granted by the City Manager in his/her discretion. Administrative leave may be taken as time off only and will not be paid as additional compensation.
- 9.5 Compensatory Time Off. Unless otherwise provided in an MOU, compensatory time off is administered as follows:
- 9.5a Supervisor Approval Required Before Work. A non-exempt employee may opt to accrue compensatory time-off ("CTO") in lieu of cash payment for overtime worked if his/her Supervisor agrees prior to overtime work being performed.
- 9.5b Accrual Rate. CTO accrues at the rate of 1.5 hours for each hour worked over 40 hours of actual work in the employee's work week. CTO cannot be accumulated in excess of 60 hours at any given time. Once the cap is reached, CTO can no longer accrue and overtime worked thereafter must be paid for in cash until the accumulated CTO is cashed out or used and falls below the cap.
- 9.5c Employee Requests to Use CTO. The City will grant an employee's request to use accumulated CTO provided that: (1) the Department can accommodate the use of CTO on the day requested without undue disruption; and (2) the employee makes the request in writing to the Supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the Department cannot accommodate the time off, the City will provide the employee the opportunity to cash out the CTO requested at the end of the current pay period.
- 9.5d City Cash Out. The City reserves the right to cash out accumulated CTO at any time in accordance with the applicable MOU.
- 9.5e Employee Cash Out. During employment, CTO is cashed out at the employee's current FLSA regular rate of pay.

## RULE 10

### LEAVES OF ABSENCE

- 10.1 Vacation Leave. Unless otherwise provided in an MOU, vacation leave is administered as follows:
- 10.1a Administrative Procedures. Except as provided by the applicable MOU, beginning with the first day of employment, a full-time employee earns vacation leave with pay at the rate of one (1) day for each calendar month of service. Management employees shall be governed by the "Management Pay Plan" with regard to vacations.
  - 10.1b Approval Guideline. Vacation time may only be taken with prior approval by Supervisor or Department Head.
  - 10.1c When Vacation Leave May be Taken. No employee may be granted paid vacation leave until the satisfactory completion of six (6) months' service, unless approved by the City Manager on request of the Department Head. An employee must have sufficient accrued vacation leave to cover a requested vacation prior to taking the vacation. However, vacation leave may be combined with compensatory time in determining whether sufficient leave exists for a requested vacation.
  - 10.1d Maximum Accrual of Vacation. At no time may an employee have a total balance of vacation in excess of 40 working days. When the employee reaches the maximum accrual, he/she shall cease earning vacation until the balance falls below the maximum accrual unless otherwise granted on a temporary basis by the City Manager.
  - 10.1e When Vacation Leave is Earned. In addition to earning vacation for regular service, full vacation leave is earned by regular employees on paid status.
  - 10.1f Accrual for Temporary Employees. Upon request of a Department Head and approval of the City Manager, an employee who is a temporary employee may earn vacation leave. To qualify under this section, an employee must work a minimum of one thousand (1,000) hours per calendar year.
  - 10.1g Accrual for Part-Time Regular Employees. Part-time Regular employees accrue vacation leave on a pro-rata basis, based on the specific percentage of fulltime hours worked each pay period. Employees working less than twenty-four and one half (24 1/2) hours per week are not entitled to accrue vacation leave. Part-time regular employees that were hired prior to August 5, 1996 shall maintain existing vacation leave benefits.
  - 10.1h Effect of Holiday on Vacation Leave. An employee is not charged vacation leave for a holiday occurring during his/her vacation leave.
  - 10.1i Changing Vacation Leave Usage to Sick Leave. Vacation leave usage may be changed to sick leave upon employee's submission of a doctor's certificate stating that the employee was ill and unable to work.
  - 10.1j Effect of Termination on Vacation Leave. An employee whose employment is terminated, either voluntarily or involuntarily, is entitled to be paid for vacation leave earned as of the effective date of termination.

- 10.1k Vacation Leave in Case of Death. When separation is caused by death, payment equivalent to accrued vacation shall be made according to law.
- 10.2 Sick Leave. Sick leave under this Rule is available to an employee to use in the case of illness, bodily injury, exposure to a contagious disease, medical or dental appointments, or attendance to ill members of employee's immediate family as defined by these rules. To be paid for sick leave, an employee must notify his/her Supervisor either before or within one (1) hour after the time for beginning his/her daily duties. A Department Head may, in his/her discretion, waive this requirement upon presentation of a reasonable excuse by employee; otherwise the employee may be subject to disciplinary action for failure to provide the required notification. The Personnel Officer shall maintain sick leave records for all City employees. Leaves relating to pregnancy and childbirth shall be guided by state and federal statutes where applicable. Leaves of absence caused by on-the-job injuries are covered elsewhere in these Rules.
- 10.2a Accrual of Sick Leave for Regular Employees. Unless otherwise provided for in an applicable MOU, beginning the first day of employment, an employee earns sick leave with pay at the rate of one (1) day for each calendar month of service. Full sick leave is earned by each regular employee on paid leave of absence, including sick leave, jury leave, and paid disability accident (Worker's Comp.) leave. It is not earned by an employee on unpaid leave of absence or by an employee on leave covered by City's private disability plan (for long-term disability).
- 10.2b Accrual for Temporary Employees. Upon request of a Department Head and approval of the City Manager, an employee who is a temporary employee may earn sick leave. To qualify under this section, an employee must work a minimum of one thousand (1,000) hours per calendar year.
- 10.2c Accrual for Part-Time Regular Employees. Part-Time regular employees accrue sick leave on a pro-rata basis, based on the specific percentage of fulltime hours worked each pay period. Employees working less than twenty-four and one-half (24-1/2) hours per week are not entitled to sick leave benefits. Part-time regular employees that were hired prior to August 5, 1996 shall maintain existing benefits.
- 10.2d When Right to Take Sick Leave Begins. An employee may take paid sick leave after completing the first full month of employment.
- 10.2e Use of Sick Leave. An employee with approval of the Department Head may use accumulated sick leave for dental or medical appointments during working hours not exceeding four (4) hours at one (1) time. An employee is not charged sick leave for an appointment if time absent is less than one (1) hour.
- 10.2f Family and Medical Leave. Family medical leave will be granted in accordance with state and federal law, as provided in the City's Family Care Leave Policy.
- 10.2g Return to Employment After Sick Leave. The appointing authority, Personnel Officer, or Supervisor, at his/her discretion, may require evidence in the form of a physician's or dentist's certificate, or other evidence, of the adequacy of the reason for an employee's absence during the time for which sick leave is requested. If the certificate is not filed, the employee is not entitled to be paid for sick leave, unless the City Manager grants a waiver. In case of frequent use of sick leave, an employee may be requested to file a physician's statement for each illness regardless of duration.



- 10.2h Fitness-for-Duty Examination. The City may send an employee to be examined by a physician designated by the City in order to assess the employee's ability to perform essential job functions with or without reasonable accommodation. The employee may provide the City with information from his/her own physician concerning his/her fitness-for-duty. On the basis of competent medical advice, the City Manager shall determine whether an employee is physically capable of performing the duties of his/her position, with or without reasonable accommodation, and may take action he/she considers appropriate after completing any interactive process with the employee, as required by law. The City will require a fitness-for-duty certification from a health care provider that the employee is able to resume to work when an employee has been absent from work due to his/ her own serious health condition that made the employee unable to perform his/her job.
- 10.2i When Sick Leave is Not Permitted. No employee is entitled to sick leave with pay while absent from duty on account of any of the following causes:
- 10.2i(1) Unless otherwise required by law, disability arising from sickness or injury sustained while on unpaid leave of absence or on any unauthorized leave of absence.
  - 10.2i(2) Disability arising from sickness or injury related to compensated employment other than with the City.
  - 10.2i(3) For leave when the employee is receiving disability payments from the City's private disability insurance carrier.
  - 10.2i(4) For reasons other than those defined as qualifying for sick leave in these Rules.
- 10.2j Payment for Accumulated Sick Leave. Employees will receive pay for accumulated sick leave as set forth in the applicable MOU. If the MOU does not provide for the payment of accumulated sick leave, then the employee will receive pay for accumulated sick leave as follows: Upon separation, employees who have accumulated five (5) years of service from the date of employment are entitled to be paid for accumulated sick leave at the rate of one (1) day for each four (4) days of unused sick leave to a maximum of twenty-five (25) days. Such payment shall be made at the employee's base salary rate at the time of termination and will reduce the employee's total accrued sick leave to zero.
- 10.2k Abuse of Sick Leave. An employee is subject to disciplinary action for abuse of sick leave which is defined as a claim of entitlement to sick leave when the employee does not meet the requirements of sick leave as defined in Section 1.
- 10.2l Excessive Use of Sick Leave. Excessive use of unprotected sick leave may be considered in establishing a job performance rating. Unprotected sick leave is leave which is not used in connection with FMLA/CFRA leave, leave due to a reasonable accommodation for a disability, or any other leave that is protected under the law. Excessive use of sick leave, tardiness, and failing to use the call-in procedures when absent or tardy, can negatively impact job performance or affect others in the performance of their job. Factors that will be considered in determining whether use of sick leave is excessive include, but are not limited to, whether the employee has exhausted his/her sick leave, whether the leave taken is protected under the law, whether they employee has a

disability, whether absenteeism is limited to a finite time period or whether it continues over time, the basis for the absenteeism and the significance of the impact on the performance of your job or of others.

10.3 Medical Leave. All employees will be entitled to unpaid medical leave in accordance with state and federal law. All reinstatements following Medical Leave must be on the certification of a physician recognized by the City and with approval of the City Manager.

10.4 Family Care Leave Policy. This Policy applies to all employees of the City who meet the requirements of the Policy.

10.4a 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 this Policy, “leave” under this Policy shall mean leave pursuant to the FMLA and CFRA.

10.4b Definitions.

10.4b(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.

10.4b(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.

10.4b(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.

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.

10.4b(4) “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. For the purpose of the City’s policy, “parent” includes parents-in-law.

10.4b(5) “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage.

- 10.4b(6) “Domestic Partner,” as defined by Family Code §§ 297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA Leave.
- 10.4b(7) “Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves:
- (a) Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom); or
  - (b) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
    - (1) 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.
    - (2) 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:
    - (1) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse;
    - (2) Continues over an extended period of time (including

recurring episodes of a single underlying condition); and

- (3) 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.

10.4b(8) “Health Care Provider” means:

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

10.4b(9) “Covered active duty” means: (a) 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 (b) 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.

- 10.4b(10) “Covered Servicemember” means:
- (a) 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
  - (b) 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.
- 10.4b(11) “Next of Kin of a Covered Servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his/her nearest blood relative for purposes of military caregiver leave under the FMLA.
- 10.4b(12) “Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (a) a military medical treatment facility as an outpatient; or (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- 10.4b(13) “Qualifying Exigency” means (a) short-notice deployment; (b) military events and related activities; (c) childcare and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post-deployment activities; (h) parental care; and (i) additional activities, all as defined by statute. Additional activities must arise out of the covered military member’s active duty or call to active duty status provided that the City and the employee agree that such leave qualifies as an exigency and agree to both the timing and the duration of the leave.
- 10.4b(14) “Serious Injury or Illness” (a) 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 (b) 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.

10.4c Reasons for Leave. Leave is only permitted for the following reasons:

- 10.4c(1) The birth of a child or to care for a newborn of an employee;
- 10.4c(2) The placement of a child with an employee in connection with the adoption or foster care of a child;
- 10.4c(3) Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
- 10.4c(4) Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
- 10.4c(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
- 10.4c(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 or 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).

10.4d Employees Eligible for Leave. An employee is eligible for leave if the employee:

- 10.4d(1) Has been employed for at least 12 months; and
- 10.4d(2) Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

10.4e Amount of Leave. Eligible employees are entitled to a total of 12 work weeks (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.

- 10.4e(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 employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If 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.

- 10.4e(2) Spouses Both Employed by the City. In any case in which a husband and wife both employed by the City are entitled to leave, the aggregate number of work weeks of leave to which both may be entitled may be limited to 12 work weeks 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 a husband and wife both employed by the City are entitled to leave, the aggregate number of work weeks of leave to which both may be entitled may be limited to 26 work weeks 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.

10.4f Employee Benefits While on Leave.

- 10.4f(1) Leave under this Policy is unpaid. While on FMLA leave, employees will continue to be covered by the City's group health insurance plan for up to 12 weeks each leave year. If the employee is disabled by pregnancy, coverage will continue to be provided for up to four months (17 1/3 weeks) each leave year.

- 10.4f(2) In the event an employee is disabled by pregnancy and also uses leave under the CFRA, the City will maintain the employee's health benefits while the employee is disabled by pregnancy (up to four months (17 1/3 weeks)) and during the employee's CFRA leave (up to 12 weeks). However, employees on unpaid leave (i.e., not taking sick leave or vacation leave concurrent with CFRA leave) will not be covered under the City's non-health benefit plans except to the extent the non-health benefits are provided to other employees on unpaid leave. Currently, the City does

not pay premiums for Life and Disability Insurance and Employee Assistance Programs while an employee is on unpaid leave.

- 10.4f(3) 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 the employee whether the premiums should be paid to the carrier or to the City. The employee's coverage on a particular plan may be dropped if the employee is more than 30 days late in making a premium payment. However, the employee will receive a

notice at least 15 days before coverage is to cease, advising the employee that he/she will be dropped if his/her 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.).

10.4g 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.

10.4g(1) Employee's Right To Use Paid Accrued Leaves Concurrently With Family Care Leave. Where an employee has earned or accrued paid vacation, administrative leave, compensatory time, or personal 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.

10.4g(2) City's Right To Require An Employee To Use Paid Leave When Using FMLA/CFRA Leave. Employees must exhaust their accrued leave concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA, with two exceptions:

- (a) Employees are required to use accrued compensatory time earned in lieu of overtime earned pursuant to the FLSA; 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.

10.4h 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 who are on leave pursuant to Labor Code § 4850.

- 10.4i 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.
- 10.4j 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 (see Section 10.4b), 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.

- 10.4j(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.

- 10.4j(2) Consequences for Failure to Provide an Adequate or Timely Certification. If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this Policy, the City may delay the taking of

FMLA/CFRA leave until the required certification is provided.

10.4j(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.

10.4j(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.

10.4k 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.

#### 10.4l Reinstatement upon Return from Leave.

10.4l(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 the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

- 10.4l(2) Employees' Obligation to Periodically Report on Their 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.
- 10.4l(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.
- 10.4l(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.

10.4m Required Forms. Employees must fill out the following applicable forms in connection with leave under this Policy:

- 10.4m(1) "Request For Family or Medical Leave Form" prepared by the City to be eligible for leave. Note: Employees will receive a response by the City to their request which will set forth certain conditions of the leave;
- 10.4m(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;
- 10.4m(3) Authorization for payroll deductions for benefit plan coverage continuation; and
- 10.4m(4) Fitness-for-duty to return from leave form.

10.5 Leave of Absence on Account of Injury Incurred While on Duty with the City.

- 10.5a An employee injured in the course of his/her employment must report the accident to his/her Supervisor immediately or as soon as practicable if the Supervisor is not available (as soon as practicable shall mean as soon as the employee can reasonably use a telephone or car radio to call or can appear in person, whichever is sooner). The Supervisor is responsible for promptly notifying the Personnel Officer and submitting a statement signed by the employee or Supervisor giving all details of the injury. An employee who fails to promptly report an accident to his/her Supervisor within the legal time limits may be ineligible for Worker's Compensation and may be subject to discipline.
- 10.5b When a full-time non-sworn employee is receiving Worker's Compensation disability benefits, as determined by the Claims Administrator, the City shall continue his/her pay in the amount of his/her monthly rate, less any payments from the City Workers'

Compensation Plan, up to whatever length of time is stated in their MOU. All sworn officers who are receiving Workers' Compensation disability benefits, as determined by the Claims Administrator, are paid in accordance with Labor Code 4850. Such pay shall be considered as on-the-job injury leave and shall not be charged as sick leave or vacation. If the employee is a probationary employee, he/she is ineligible for certification of permanency during his/her absence and his/her anniversary date for step increase and probationary period will be extended to reflect the amount of time absent due to injury incurred while on duty.

- 10.5c During the time that a regular, full-time employee is off work as the result of a valid on-the-job injury, he/she will be eligible to receive his/her normal merit increase, if recommended by his/her Supervisor and approved by the City Manager. Employees will also receive any cost-of-living increase applied to his/her position during his/her absence.
- 10.6 Bereavement Leave. Unless otherwise provided in the governing MOU, full-time regular employees are granted a bereavement leave of absence with pay in connection with the death of an immediate family member as defined in these Rules. With his/her Department Head's approval, he/she may have four (4) working days paid leave, which are charged to bereavement leave. If provided for in the MOU, additional time off may be granted with the Department Head's approval and will be charged to either vacation leave or sick leave as provided for in the MOU. False information given concerning the death or relationship shall be cause for dismissal.
- 10.7 Jury Leave. An employee who is summoned to serve on a jury must notify his/her Supervisor or Department Head as soon as possible after receiving notice of both possible and actual jury service in order to receive paid time off for the period of actual service required on such jury. When any employee, whether full-time or part-time, is called for jury duty, he/she shall be granted leave for this purpose upon presentation of the jury notice to his/her Department Head.
- 10.7a A regular full-time or regular part-time employee is entitled to receive jury leave with full pay less the amount of court pay received. Compensation for mileage is not considered compensation for jury duty. The time spent on jury duty is not work time for the purposes of calculating overtime compensation.
- 10.7b An employee other than regular full-time or regular part-time receives jury leave pay only upon permission of the City Manager.
- 10.7c If jury duty permits, the employee is expected to work a partial day.
- 10.8 Military Leave. Military leave is granted in accordance with applicable state and federal law. An employee taking military leave shall give his/her Department Head a copy of his/her orders calling him/her to military duty. The Department Head will notify the Personnel Officer and a copy of his/her military orders will be filed in his/her personnel folder. Military leave of absence is computed as part of City service, except that an employee who takes a military leave of absence before the completion of his/her probationary period shall complete the probationary period upon his/her return to City employment.
- 10.9 Reserve Duty. Any employee who has Reserve Duty will be paid by the City the difference between Military pay and Regular City Pay.
- 10.10 Leave In the Interest of City Service. A Department Head may grant an employee a leave of absence without pay for not more than ten (10) days when the Department Head determines in

his/her discretion that it is in the best interest of the City service. An example is leave for the purpose of additional job-related education or training. A leave of absence without pay that exceeds ten (10) days needs approval from the City Manager. A "Leave of Absence" as used in this section is a privilege which may be granted to a regular employee wishing to leave the City service without pay and in good standing for a limited period. The employee must make a written request to his/her Department Head for such leave, stating the date of the leave and the reason.

10.11 Maternity Leave. The City shall provide an employee maternity leave consistent with state and federal law.

10.12 Pregnancy Disability Leave. This Policy applies to all employees of the City who meet the requirements of this Policy.

10.12a An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for up to four months (17 1/3 weeks).

10.12b Notice & Certification Requirements. Requests for pregnancy disability leave must be submitted in writing and must be approved by the employee's Supervisor or the Department Head before the leave begins. The request must be supported by a written certification from the attending physician stating that the employee is unable to work as a result of a disability due to pregnancy, childbirth or a related medical condition. The certification must state the expected duration of the disability and the expected date of return to work.

All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Department Head prior to being taken. Requests for an extension of leave must be submitted in writing to the Department Head prior to the agreed date of return and must be supported by a written certification of the attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition.

10.12c Compensation During Leave. Pregnancy disability leaves are without pay. However, the employee may first use accrued sick leave, vacation leave, and then any other accrued paid time off during the leave.

10.12d Benefits During Leave. The City will continue to maintain and pay for health insurance coverage for up to four months (17 1/3 weeks) while the employee is out on pregnancy disability leave. If the employee does not return to work following pregnancy disability leave, the City may recover premiums it paid to maintain health insurance coverage during the leave unless:

10.12d(1) The employee is taking leave under the California Family Rights Act and the employee chooses not to return to work following the CFRA leave;

10.12d(2) The employee's inability to return to work is due to the continuation, recurrence, or onset of a health condition that entitles the employee to pregnancy disability leave, unless the employee chooses not to return to work following the leave;

- 10.12d(3) The employee has non-pregnancy related medical conditions requiring further leave, unless the employee chooses not to return to work following the leave; or
- 10.12d(4) There are other circumstances beyond the control of the employee, including, but not limited to, circumstances where the employer is responsible for the employee's failure to return to work (e.g., the employer does not return the employee to her same position or reinstate the employee to a comparable position), or circumstances where the employee must care for a family member (e.g., the employee gives birth to a child with a serious health condition).

10.12e Sick and Vacation Leave Accrual. Sick leave and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.

10.12f Reinstatement.

- 10.12f(1) 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, so long as it was not eliminated for a legitimate business reason during the leave.
- 10.12f(2) 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.
- 10.12f(3) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify potential reasonable accommodations.
- 10.12f(4) An employee who fails to return to work after the termination of her leave loses her reinstatement rights.

10.13 Return From Leave.

10.13a Failure of an employee to return to duty upon the expiration of authorized leave shall, except under extraordinary circumstances as determined by the Personnel Officer, be considered an automatic resignation from City service as of the last date on which the employee worked

10.13b Upon return from a Workers' Compensation or Long Term Disability leave, an employee at the City's discretion may be required to submit to a medical examination to determine whether or not he/she is capable of performing the duties of his/her position, with or without reasonable accommodation.

10.14 Unauthorized Leave of Absence. An unauthorized leave of absence shall be reported as time not worked when the employee is not at his/her work station during his/her regular working hours and work day or during any work time properly assigned by the Supervisor. An unauthorized

leave of absence is grounds for disciplinary action, up to and including dismissal. In addition, in certain circumstances, an unauthorized leave of absence may be treated as a resignation by job abandonment (see Section 10.14b below).

10.14a Unless otherwise required by law, employees shall not receive pay for an unauthorized leave of absence. The City will administer this provision as to FLSA-exempt employees consistent with the FLSA.

10.14b An employee is deemed to have resigned by job abandonment if the employee is absent for five consecutive work days without prior authorization and without notification during the period of the absence. A reasonable attempt will be made to give a regular employee an opportunity to explain the absence and failure to give notification before final action to accept the resignation by job abandonment is taken, or afterward if the employee could not be reached prior to acceptance of the resignation by job abandonment. An employee determined to have resigned by job abandonment may be reinstated upon satisfactory proof of justification for such absence, such as severe accident, severe illness, or mental or physical impairment which prevented notification, and provided the position or a substantially similar position is still available. No employee determined to have resigned by job abandonment has the right to a post-separation appeal, other than the opportunity provided to regular employees to furnish reasons satisfactory to the City for not having obtained an authorized leave of absence.

10.15 Temporary Relief of Employee From Duty. Notwithstanding the provisions of these Rules, upon the recommendation of the Department Head and notification of the Personnel Officer, the City Manager may approve the temporary assignment of an employee to a status of leave with pay.

10.16 Time Off for Victims of Violent Crimes or Domestic Abuse. This Policy applies to all employees of the City who meet the requirements of this Policy.

10.16a The City will not discriminate or retaliate against or discharge employees who are victims of felonies or domestic violence, or employees who are an immediate family member or domestic partner of one who is a victim of a felony or domestic violence, if they take time off to do any of the following related to the felony or domestic abuse: 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.

10.16b An affected employee must give the City reasonable notice that he/she is required to be absent for a purpose stated above. In cases of unscheduled or emergency court appearances, 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. To the extent allowed by law, the City will maintain the confidentiality of an employee requesting leave under this section. Leave under this section is unpaid unless the employee uses accrued time off. For FLSA-exempt employees, this leave will be interpreted in a manner to preserve exempt status.

10.17 Time Off For School Activities. This Policy applies to all employees of the City who meet the requirements of this Policy.

10.17a School Leave (Suspension). If a school directs an employee who is the parent or guardian of a child who has been suspended from school to attend the child's school, the

employee should alert his/her Supervisor as soon as possible. Such time off is unpaid, however an employee must utilize his/her existing accrued vacation or other non-sick paid leave time before moving into a leave without pay status.

10.17b School Activities. An employee having custody of one or more children in Kindergarten, grades 1-12, or attending a licensed day care facility, may take off up to eight hours each calendar month (up to a maximum of 40 hours each calendar year), to participate in the activities of the facility or school, provided that the employee gives reasonable notice to the City of his/her proposed absence. An employee must utilize his/her existing accrued vacation time or other accrued paid time off except sick leave, if any, before moving into an unpaid status. The City requires the employee to provide documentation from the school or licensed day care facility, within five days of the leave, as proof that the employee participated in the school or licensed day care activities on a specific date and time. For FLSA-exempt employees, this leave will be interpreted in a manner to preserve exempt status.

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



## **RULE 11**

### **TRANSFER, VOLUNTARY DEMOTION, AND SUSPENSION**

- 11.1 Transfer. Upon approval by the City Manager, a Department Head may transfer an employee from one position to another in the same class.
- 11.2 Voluntary Demotion. An employee may seek voluntary demotion for non-disciplinary reasons. Such demotion shall only be effective upon approval by the City Manager.
- 11.3 Suspension. The Department Head may suspend an employee from his/her position with or without pay at any time for the good of the service to the City, for a disciplinary purpose, or for other just cause as set forth in these Rules. Suspensions without pay are subject to the processes and procedures set forth in Rule 13.

## RULE 12

### SEPARATION FROM THE SERVICE

- 12.1 Dismissal. A Department Head may dismiss an employee in his/her Department at any time with the approval of the City Manager. If the employee is a regular employee, the dismissal must be for cause and follow the due process procedures set forth in Rule 13.
- 12.2 Lay-Off.
- 12.2a Generally. The City Manager may reduce the number of positions when necessary due to material change in duties or organization or shortage of work or funds. The City shall prepare a lay-off list by classification within a department. Within each job class, employees shall be laid off in the following order: temporary, emergency, probationary, regular. The order of layoff shall then be based on the City's needs, with particular regard for length of service within the City. The names of any probationary or regular employees laid off shall be placed on the appropriate re-employment list. All regular full-time employees are entitled to two (2) weeks' severance pay with the exception of those employees covered under individual MOUs that set severance provisions. Part-time regular employees shall be paid severance pay on a "pro-rata" basis. Severance pay is not accorded to probationary, part-time temporary, emergency, or federal-, state- or county-funded positions.
- 12.2b Abolishment of Position. Whenever it becomes necessary to abolish any position of employment, in accordance with these Rules, the employee holding such position of employment may be laid off or demoted without disciplinary action following the appropriate meet and confer process with the employee's bargaining unit regarding the effects of the decision to lay off.
- 12.2c Notification. Unless otherwise directed by an MOU, employees to be laid off shall be given at least fourteen (14) calendar days' notice. The notice shall state the effective date and time of demotion or layoff.
- 12.2d Vacancy and Demotion. Except as otherwise provided, whenever there is a reduction in the workforce, the appointing authority shall first demote to a vacancy, if any, in a lower class for which the employee who is the latest to be laid off is qualified. All persons so demoted shall have their names placed on the re-employment list.
- 12.2e Retreat Rights. An employee affected by lay-off shall have the right to displace an employee, in the same Department, in a lower class in the same class series, or in a lower classification in which the affected employee once had regular status, if the affected employee has more seniority and the affected employee has attained ratings of meets standard or better on all measures in their most recent employee evaluation. For the purpose of this section, seniority includes all full-time regular service with the City irrespective of class. In order to retreat to a former or lower class, an employee must request displacement action in writing to the Personnel Officer within five (5) working days of receipt of notice of layoff.
- 12.2f Employment Status. In each class, employees shall be laid off according to employment status in the following order: emergency, temporary, probationary, and regular. Employees within each category shall be laid off in inverse order of seniority in City

service. For the purpose of this section, seniority includes all full-time regular service with the City irrespective of class. In the event of a tie in City service seniority, determination of seniority will be based upon classification service. If a tie still exists, determination will then be based upon total exam score as used for placement onto the City's position eligibility list during recruitment. If a tie still exists, determination will then be based upon review of evaluation ratings until the tie is broken.

- 12.2g Re-employment List. The names of regular and probationary employees laid off or demoted in lieu of lay-off because of economic necessity, or abolishment of position, shall be placed upon a reemployment list for twelve (12) months for those classes which, in the judgment of the Personnel Officer and the City Manager require basically the same qualifications, duties, and responsibilities of the class from which lay off was made. An employee's position on the list shall be determined by the length of total cumulative time served, including time spent in both a probationary and regular status.

Lists from different Departments or at different times for the same class shall be combined into a single list. This list shall be used by every appointing authority when a vacancy arises in the same or lower class before selection is made from other employment lists.

- 12.2h Removal from List After Re-employment. Names of persons laid off shall be carried on a re-employment list for twelve (12) months, except that persons appointed to regular positions of the same level as that from which they were laid off, shall upon such appointment, be dropped from the list. Persons re-employed in a lower class, or on a temporary basis, shall be continued on the list for the higher position for the twelve (12) months.

- 12.2i Review. An employee who has any questions regarding the layoff decision or process should make an appointment with the Personnel Officer or designee for a pre-layoff review.

- 12.3 Resignation. An employee may resign from his/her employment with the City in good standing by filing with his/her Department Head a written resignation, stating the effective date and reasons for leaving, at least two (2) weeks before the effective date. The Department Head, in his/her discretion, may waive this time.

## RULE 13

### DISCIPLINARY ACTION

These provisions apply unless a later-negotiated and governing MOU or the law (e.g., POBR) provides a greater protection to the employee, in which case that greater protection shall control.

- 13.1 Application. All persons who have completed a probationary period and hold a regular position and who are not otherwise excluded from these Rules shall be subject to discipline as provided by these Rules.
- 13.2 Authority to Discipline. The appointing authority shall have the power and duty to take disciplinary actions pursuant to provisions of this Rule; provided, however, that when a Department Head is the appointing authority, approval of the City Manager must be obtained prior to taking the action.
- 13.3 Grounds for Disciplinary Action. The extent of the disciplinary action shall be commensurate with the offense, and the employee's prior employment history may be considered as pertinent in the determination. Just cause for disciplinary action may include, but is not limited to, any one or any combination of the following:
  - 13.3a Fraud or deceit in securing employment, including but not limited to making a false or misleading statement in an interview or on an application for employment or on any supporting documents furnished with or made a part of any application.
  - 13.3b Unsatisfactory job performance.
  - 13.3c Inexcusable neglect of duty, such as failure to perform duties required of an employee within his/her position.
  - 13.3d Insubordination; or insulting or demeaning the authority of a Supervisor or Manager.
  - 13.3e Dishonesty.
  - 13.3f Unless authorized to do so, consuming, possessing an open container of, or being under the influence of an alcoholic beverage while on duty and/or illegally using, consuming, injecting or otherwise ingesting, possessing, being under the influence of, selling or offering for sale, while on duty, any controlled substance as that term is defined in the California Health and Safety Code, and that is not prescribed to the employee.
  - 13.3g Addiction to the use of any "controlled substance" as that term is defined in the California Health and Safety Code or habitual use of narcotics, or any habit-forming drugs which negatively impact the employee's ability to perform his/her essential job functions. Any violation of the City's Drug Free Workplace Policy is a ground for disciplinary action. Being under the influence of alcohol while on duty also provides grounds for disciplinary action.
  - 13.3h Inexcusable absence without leave, including failure to return to work as scheduled upon expiration of an authorized leave of absence.

- 13.3i Conviction of a felony, or of a misdemeanor, except for marijuana convictions described in Labor Code Section 432.8, that negatively impacts the employee's ability to do his/her job.
- 13.3j Discourteous treatment to any member of the public or to any other employee or official of the City, including, but not limited to, the use of obscene or abusive language, through the use of visual, text, email, or other methods of communication.
- 13.3k Improper or unauthorized use or possession of City property, including, but not limited to, the use of City-provided equipment, including telephones, cell phones, laptops, computers, and internet access, in violation of the City's Electronic Communications Resources policy, and the misuse or abuse of City cell phones or computers (internet).
- 13.3l Violation of any of the rules, regulations, policies or procedures of any Department or the City.
- 13.3m Any conduct which either during or outside of duty hours is of such a nature that it impairs, disrupts, or causes discredit to the public service of the City, including any such effect on the employee's Department or Division, provided that in the case of off-duty conduct there exists a connection to the employee's job or fitness to serve. Failure to maintain proper decorum during working hours which impairs, disrupts, or causes discredit to the public service of the City, including any such effect on the employee's Department or Division.
- 13.3n Use of sick leave or medical leave or family leave in violation of these Rules, the provisions of an applicable MOU or any City policy.
- 13.3o Inattention to duty, excessive absenteeism (as defined by the Department Head) or tardiness, indolence, carelessness or negligence in the care and handling of City property.
- 13.3p Theft or any other misappropriation or mishandling of public funds.
- 13.3q Off-duty employment not specifically authorized by the appointing authority or the City Manager.
- 13.3r Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation by an employee for the performance of his/her official duties.
- 13.3s Falsification, alteration, or tampering of any City report or record, or of any report or record required to be filed by the employee.
- 13.3t Violation of any of the provisions of City Ordinances, Resolutions, or any rules, regulations, policies or procedures which may be prescribed by the City Council, or City Manager or Department Head.
- 13.3u Violation of the City's Policy Against Harassment, Discrimination, and Retaliation, its Workplace Security Policy, or its Policy against Incivility and Bullying in the Workplace.

- 13.3v The disclosure of information that may violate City, client, or employee rights, such as social security numbers, medical information, or financial information in a manner that violates that person's rights.
- 13.3w Failure to comply with Occupational Safety and Health Administration (OSHA) Safety Standards and City safety policies.
- 13.3x Carrying firearms or other dangerous weapons on City premises at any time, unless authorized to do so.
- 13.4 Kinds of Action. The disciplinary action may be written reprimand, suspension without pay, disciplinary demotion, reduction in pay, dismissal, or any appropriate combination of these.
- 13.4a Counseling and Oral Reprimand. Appointing Authorities and Supervisors shall discuss deficiencies in performance, conduct, and other matters with subordinates. The Supervisor or appointing authority should allow sufficient time for improvement before instituting formal disciplinary action. A confidential written record shall be made of any counseling or oral reprimands and shall be placed in the employee's personnel file (in the Personnel Office). Such notifications of deficiencies do not constitute disciplinary action under these Personnel Rules and Regulations and may not be appealed. They also are not subject to the pre-disciplinary (Skelly) process.
- 13.4b Written Reprimand. An appointing authority may reprimand a subordinate for cause as defined in this Rule by providing the employee a written statement explaining the specific reasons for the reprimand. Such reprimand shall be in writing and be addressed to the employee. The employee shall be given the opportunity to respond in writing to the reprimand. A signed copy of the reprimand and of any written response by the employee shall be placed in the employee's personnel file. A written reprimand may not be appealed and is not subject to the pre-disciplinary (Skelly) process except as otherwise permitted in an MOU governing the employee or as required by law such as the appeal rights under the Public Safety Officers Procedural Bill of Rights (POBR).
- 13.4c Suspension Without Pay. A City employee may be suspended without pay by the appointing authority for a period of up to but not exceeding thirty (30) calendar days within a fiscal year. An employee subject to suspension will receive prior written notice and appeal rights as provided herein. FLSA-exempt employees are subject to suspensions when and in a manner consistent with their FLSA-exempt status.
- 13.4d Reduction in Step Within Range. An appointing authority may withdraw increments granted for merit, efficiency and length of service for cause as defined in this Rule. Any reduction will be temporary for a specified period of time. An employee subject to a reduction in pay shall be entitled to prior written notice and appeal as provided herein
- 13.4e Disciplinary Demotion. An appointing authority may demote an employee in class and/or salary. An employee subject to demotion shall be entitled to the prior written notice and appeal rights as provided herein.
- 13.4f Dismissal. An appointing authority may terminate a regular employee for cause. A regular employee subject to dismissal shall be entitled to prior written notice and appeal as provided herein.

- 13.5 Effective Date of Disciplinary Action. The time designated by the person authorizing the action.
- 13.6 Pre-Disciplinary (Skelly) Process. Prior to the suspension without pay, reduction in step within range, demotion, or dismissal of any employee who is subject to this Rule for disciplinary purposes, the procedure set forth below shall be complied with. The only exceptions are if the law (such as the POBR) or a later-negotiated and governing MOU provides a greater protection to the employee, in which case the greater protection shall control.
- 13.6a Written Notice. Written notice of the proposed disciplinary action shall be given to the employee. Such notice shall include a description of the discipline to be imposed; a statement of the reason(s) for the action; the charge(s); the effective date(s); notice of the employee's right to respond either orally in a conference or in writing; the date, time, place and person to whom response may be made; notice of the employee's right to have a representative of his/her choice present at the conference, should he/she choose to respond orally; and notice that failure to respond within the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.
- 13.6b Employee Review. The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and, if practicable, the employee shall be supplied with a copy of the documents.
- 13.6c Employee Response. Within five (5) working days after the employee has had the review opportunity provided above, the employee shall have the right to respond, orally or in writing, or both, at the employee's option. If the employee elects to respond orally, the meeting to respond shall be known as the Skelly meeting.
- 13.6d Relief of Duty. Notwithstanding the provisions of this Rule, upon the recommendation of the Department Head, the City Manager may approve the temporary assignment of an employee to a status of leave with pay pending conduct or completion of such investigations or meetings as may be required to determine if disciplinary action is to be taken.
- 13.6e Representation. In the pre-disciplinary procedure (i.e., the Skelly meeting), the employee may be represented by an officer of the recognized employee group whose representation the employee's classification falls into, or by another representative of the employee's choice.
- An employee may also have representation during the investigation interview if he or she is interviewed as an accused and during fact-finding discussions at the point at which, during that discussion, facts come to light that place the employee in the position of being an accused. The right to representation attaches only when facts come to light that place the employee in the position of an accused.
- 13.7 Final Notice of Disciplinary Action. After the employee has had an opportunity to respond and the pre-disciplinary (*Skelly*) process is complete, the appointing authority shall notify the employee in writing of the final disciplinary action to be imposed upon the employee, the reasons for the disciplinary action, the charge(s), a copy of all written materials, reports, or documents upon which the discipline is based, and the effective date of the disciplinary action. The notice shall also advise the employee of his/her right to appeal. Public Safety Officers (as

the term is defined in the POBR) shall be notified in writing of the City's decision to impose discipline, including the date that the discipline will be imposed, within 30 days of the City's decision, except if the Public Safety Officer is unavailable for discipline.

- 13.8 Post-Disciplinary Evidentiary Appeal Procedure. An employee may appeal a dismissal, demotion, reduction in step within range, or suspension without pay by filing a written request with the Personnel Officer within five (5) working days of the date of the Final Notice of Disciplinary Action. An appeal of a demotion, reduction in step within range, or suspension shall be heard by the City Manager (see Section 13.8a). An appeal of a dismissal shall be heard by a Hearing Officer who will be selected by the process shown below (see Section 13.8b).

The appeal shall include the reasons for the appeal. The employee may withdraw the appeal at any time by notifying the City Manager in writing.

Employees subject to the POBR have rights to appeal punitive actions as required by law and through use of City processes whenever possible.

13.8a Evidentiary Appeal to City Manager (Demotion, Reduction in Step within Range, Suspension).

- 13.8a(1) Within ten (10) working days of the written request for appeal, the City Manager shall set a date for the appeal hearing and shall provide written notice of the date, time and location of the meeting to the employee.
- 13.8a(2) The employee may be represented by any person of his/her choosing at the appeal hearing.
- 13.8a(3) At the evidentiary appeal hearing, witnesses will testify under oath, the parties have the right to introduce relevant oral and written evidence on his/her behalf, and to confront and cross-examine adverse witnesses. A written record of the hearing may be prepared. The City and the employee shall each bear their own expenses, fees and costs.
- 13.8a(4) The City Manager shall render a written decision within twenty (20) working days from the date of the conclusion of the appeal hearing. If the parties decide to order a written transcript and/or to submit written briefs, the conclusion of the hearing shall be after the transcript is prepared and/or when the City Manager has received the written briefs, whichever applies and is later.
- 13.8a(5) With respect to demotion, reduction in step within range, or suspension of five (5) days or less, the decision of the City Manager shall be final. As provided by the California Code of Civil Procedure Sections 1094.5 and 1094.6, the parties have 90 days from the date of the proof of service of mailing the written findings and decision to appeal the decision to the Superior Court in and for the County of Contra Costa.
- 13.8a(6) With respect to termination or suspension without pay of more than five (5) days, the employee may elect binding arbitration pursuant to Rule 13.8b Binding Arbitration by submitting a written request to the City Manager within five (5) days.



13.8b Evidentiary Appeal before a Hearing Officer.

- 13.8b(1) Within ten (10) working days of the written request for appeal, an impartial Hearing Officer shall be selected from a list of names submitted by both parties. In the event the parties are unable to agree upon a mutually acceptable hearing officer, the parties may request a list of hearing officers from the Office of Administrative Hearings, and shall select the hearing officer from that list. The Hearing Officer should have experience conducting similar types of appeals and will establish procedures for conducting the hearing.
- 13.8b(2) The cost of the Hearing Officer shall be shared equally by both the employee or the employee organization that represents the employee, if any, and the City.
- 13.8b(3) At the evidentiary appeal hearing, the parties shall have the right to introduce relevant evidence, give testimony under oath, and to cross examine any witnesses. A written record of the hearing shall be prepared. The City and the employee shall each bear their own expenses, fees and costs.
- 13.8b(4) The Hearing Officer shall render a written decision to both parties and each parties' representatives within twenty (20) working days from the date of the conclusion of the appeal hearing unless a different time frame is agreed upon between the parties or required by the Hearing Officer. If the parties decide to submit written briefs, the conclusion of the hearing shall be after the transcript is prepared and when the Hearing Officer has received the written briefs, whichever is later.
- 13.8b(5) The decision of the Hearing Officer shall be final. As provided by the California Code of Civil Procedure Sections 1094.5 and 1094.6, the parties have 90 days from the date of the proof of service of mailing the written findings and decision to appeal the decision to the Superior Court in and for the County of Contra Costa.

13.9 Reimbursement for Loss of Pay.

- 13.9a If the disciplinary action is subsequently revoked or modified, the employee is entitled to reimbursement for loss of City pay, if any. Reimbursement is limited to the period of time between the effective date of disciplinary action and the date of final decision on the appeal.
- 13.9b No reimbursement may be made for any portion of the period during which the employee was not ready, willing and able to perform the duties of his/her position.

13.10 Disciplinary Deductions as to FLSA-Exempt Employees.

- 13.10a Under no circumstances shall a FLSA exempt employee have any salary reduction imposed as a disciplinary measure, except as provided in this Policy.
- 13.10b A FLSA exempt employee may be suspended from work and his or her salary reduced for

the time away from work in the following minimum increments in any of the circumstances described below:

- 13.10b(1) In time increments of a full work week beginning at Sunday midnight; or
- 13.10b(2) For less than a full work week if the City has a good faith belief that the employee committed an infraction of a safety rule of major significance, such as rules relating to the prevention of serious danger to other employees; or
- 13.10b(3) For a violation of a City workplace conduct rule, a suspension shall not be for a time increment of less than one workday. The term “workplace conduct rule” includes inappropriate conduct, including harassment, violence, drug or alcohol violations, or violations of state or federal laws, but does not include performance or attendance issues.

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

## RULE 14

### GRIEVANCE PROCEDURE

Unless otherwise provided in a MOU, the following provision shall be applicable to employees under these Rules.

- 14.1 Purpose. The purposes of this grievance procedure are to:
- 14.1a Promote full communication between the City and its employees by providing a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment.
  - 14.1b Assure the employee of a prompt and fair discussion on the issue involved.
  - 14.1c Provide that complaints are settled as near as possible to the point of origin.
  - 14.1d Encourage the prompt resolution of problems and complaints.
  - 14.1e Enable employees to make their complaints known by orderly process.
  - 14.1f Provide that complaints are heard and settled informally.
- 14.2 Statement of City Policy. Retaliatory or discriminatory action for using this procedure or discrimination in the application of a rule or policy is prohibited.
- 14.3 Applicability. This Rule applies to (a) a claimed violation of the City's Personnel Rules and Regulations, and (b) a claimed violation of the MOU governing the employee's employment with the City, except that it is not applicable to employee discipline, employee evaluations, or any dispute resolved through another City process.

The grievance procedures do not apply to:

- 14.3a Disputes resolved through another City process, including but not limited to disciplinary actions, which are governed by Rule 13;
- 14.3b The determination of the contents of a job classification or a decision to reclassify a position;
- 14.3c The determination of procedures and standards for employment and promotion;
- 14.3d Items which require capital expenditure;
- 14.3e Items subject to the meet and confer process as defined in the California Government Code;
- 14.3f All City rights reserved in the City's employer-employee relations resolution;
- 14.3g Requests for changes in the content of employee evaluations or performance reviews, verbal or written warnings, reprimands, or counseling memos;
- 14.3h Challenges to layoff, transfer, denial of reinstatement, or denial of advancement;

14.3i Challenges to examinations or appointment to positions; and

14.3j Employees or groups of employees who are not adversely affected by the action or incident causing the grievance.

14.4 Form of Grievance. An employee (the grievant) must present his/her grievance or problem in writing, and the Supervisor, Department Head or Personnel Officer shall respond in writing.

14.5 Grievance Procedure - Department Level. A grievance should be considered within the Department whenever possible.

The employee should bring the grievance to the attention of the immediate Supervisor as soon as possible. If the employee does not bring the grievance to the attention of the Supervisor within ten (10) working days of the date of the action or incident causing the grievance, it is considered a waiver of the employee's right to submit the grievance.

The Supervisor shall consider the grievance and notify the grievant of the Supervisor's action or decision within ten (10) working days from the date the grievance was submitted.

If the matter cannot be settled by the immediate Supervisor, or if the grievant is still dissatisfied after the Supervisor's decision, he/she may submit the grievance to the Department Head. The grievance should be submitted to the Department Head within ten (10) working days from the date of the Supervisor's notification of his/her decision.

The Department Head shall confer with the grievant, the Supervisor and such other persons as may be necessary to gather all the facts and to find a solution. The Department Head must take action and notify the grievant of his/her decision in writing within ten (10) working days.

14.6 Grievance Procedure - Personnel Officer Review. If the grievant is not satisfied with the Department Head's decision, he/she may within ten (10) working days of the date of the Department Head's decision, request in writing a meeting with the Personnel Officer. If no request is received within ten (10) working days, the grievance procedure ends.

Upon receiving a written request, the Personnel Officer shall within ten (10) working days discuss the grievance with the grievant, and any other persons involved.

The Personnel Officer shall render a decision in writing to the grievant within ten (10) working days.

14.7 Grievance Procedure - City Manager Review. If the grievant is not satisfied with the Personnel Officer's decision, he/she may within ten (10) working days of the date of the Personnel Officer's decision, request in writing a meeting with the City Manager. If no request is received within ten (10) working days, the grievance procedure ends.

Upon receiving a written request, the City Manager shall within ten (10) working days discuss the grievance with the grievant, and any other persons involved.

The City Manager shall render a decision in writing to the grievant within ten (10) working days of meeting with the grievant. The decision of the City Manager is final.

The time between the steps of the procedure may be extended by mutual agreement of the parties.

- 14.8 Extension of Time Limit. Failure of City representatives to comply with time limits specified in this Grievance Procedure shall entitle the grievant to appeal to the next level of review; and failure of the grievant to comply with said time limits shall constitute abandonment of the grievance, except however, that any time limit or stage of procedure in this Rule may be waived for good cause and with the written signed consent of both parties.

## RULE 15

### CITY-OWNED/LEASED VEHICLES AND EQUIPMENT, AND PRIVATELY OWNED VEHICLES USED FOR CITY PURPOSES

This Rule and its subsections (as indicated) apply to all individuals who use City-owned/leased vehicles and equipment and/or who use privately owned vehicles for City purposes. The only exception is an individual who may be legally exempt from one or more of these requirements as permitted or required by California state law. This includes peace officers who, due to the nature of their job, may be exempt from one or more of these requirements as permitted or required by California state law.

#### 15.1 City-Owned/Leased Vehicle Use Policy.

15.1a Purpose. The purpose of this City-Owned/Leased Vehicle Use policy is to prevent vehicle accidents and to promote safe driving practices while maintaining City vehicles and heavy equipment in proper operating condition.

15.1b Scope. This policy applies to all individuals who use the City's vehicles and/or heavy equipment. In addition to the provisions of this policy, all employees are required to comply with applicable Federal Department of Transportation (DOT), California Department of Motor Vehicles (DMV) and local traffic laws, and all established City of Pleasant Hill driving safety work rules, best practices, and procedures.

15.1c Policy. This City-Owned/Leased Vehicle Use policy serves as the uniform best practice standard governing the privilege of operating City vehicles and/or heavy equipment within the scope of employment. Failure to comply with this policy shall lead to disciplinary action up to and including termination.

#### 15.1d Responsibilities.

15.1d(1) Maintenance Superintendent: The Maintenance Superintendent will have the responsibility to implement the adopted City-Owned/Leased Vehicle Use policy and overall City Vehicle Use safety program by:

- (a) Directing the Maintenance Supervisor and employees to endorse and comply with the adopted policy and program components.
- (b) Providing appropriate safety and financial resources.
- (c) Providing support and interest in the City Vehicle Use safety program.

15.1d(2) Maintenance Supervisors: The Maintenance Supervisor will have the responsibility to:

- (a) Provide training to employees so that they are fully qualified to drive and maintain City vehicles and heavy equipment.
- (b) Ensure the safe operation of City vehicles in compliance with the overall City Vehicle Use safety program requirements.
- (c) Coordinate the delivery and pick up of City vehicles and heavy

equipment to the repair shop for routine preventive maintenance.

- (d) Coordinate the delivery and pick up of City vehicles and heavy equipment to the repair shop after unsafe conditions and/or mechanical defects have been reported by City employees.
- (e) Enforce all established City safety policy's driving work rules, procedures, policies and best practices.
- (f) Thoroughly investigate all vehicle accidents and make recommendations to avoid future accidents.
- (g) Demonstrate support and interest in the City Vehicle Use safety program.

15.1d(3) Employees: City employees will have the responsibility to:

- (a) Maintain an approved and valid California driver's license with the applicable classifications and endorsements, if required, at all times. This includes passing the required physical exam and a satisfactory driving record both on and off the job.
- (b) Immediately report any change to the status of their driver's license to their immediate supervisor, Maintenance Superintendent or Personnel Department. This includes any loss or restriction of driving privileges in whatever cause or format.
- (c) Obey all federal, California State, and city laws regarding the operation of vehicles including, but not limited to, Federal DOT, California DMV, and City of Pleasant Hill traffic regulations.
- (d) Adhere to the directives of this City safety policy, the overall City Vehicle Use safety program, and all City safe driving policies and procedures relative to the maintenance of the vehicle and safe operation condition.
- (e) Participate in in-service training and apply their education and training to the safe operation of assigned vehicles and heavy equipment.
- (f) Conduct required pre-trip inspections and preventive maintenance on assigned City vehicles and heavy equipment.
- (g) Thoroughly complete and submit to Maintenance Supervisor pre-trip and post-trip inspection forms when using City vehicles.
- (h) Report unsafe conditions and/or mechanical defects with respect to City vehicles to the Maintenance Supervisor.
- (i) Only use City vehicles on City business and for City purposes. City vehicles must be stored in prescribed locations on City property when not in use.

- (j) Wear seat belts and shoulder harnesses at all times while operating or riding in City owned commercial and City vehicles, unless specifically exempt by California state law. Exempt employees include peace officers in an authorized emergency vehicle as defined in Vehicle Code section 165(b)(1). This requirement to wear a seat belt is pursuant to City policy and also required by law. Inoperative or missing seat belts and/or harnesses shall immediately be reported to the immediate supervisor. The vehicle or equipment shall not be operated until the repairs have been made.
- (k) Report all accidents immediately as follows:
  - (1) Report all accidents to the police department having jurisdiction. The police department must be contacted whether injuries occurred or not.
  - (2) File a copy of the police report with the City's Personnel Director within forty-eight hours of the incident.
  - (3) Report the accident to the Maintenance Supervisor and thoroughly complete the City's accident report.
- (l) Take the following additional actions when an accident occurs while using a City vehicle:
  - (1) Immediately take pictures of all damaged property that occurred in the accident.
  - (2) Follow instructions in the "Accident Fact Kit", which is supplied by the City.
  - (3) Exchange information with individuals involved in the accidents along with witnesses.
- (m) For employees assigned a vehicle and/or piece of heavy equipment, perform the daily inspection of the vehicle and/or heavy equipment and complete the required forms. If an employee is unfamiliar with the operation or maintenance of a vehicle or piece of heavy equipment, it is his/her responsibility to request information and instructions on the proper procedures from his or her immediate supervisor.

15.1e Use of City Vehicles. The operation of City owned or leased vehicles and/or heavy equipment is a privilege/requirement, which may be withdrawn at any time at the sole discretion of the City Manager. An employee must comply with the following City Vehicle Use safety driving rules and best practices in order to continue this granted privilege/meet the requirement to operate vehicles and heavy equipment:

- 15.1e(1) Employees shall comply with Sections 15.1d(3)(a) and (b) above for maintaining an authorized and approved driver's licensed and immediately



reporting any changes to that driver's license.

- 15.1e(2) Employees who operate City automobiles, light trucks and medium trucks shall conduct a visual pre-trip inspection of the tires, brakes, headlights, taillights, directional lights, 4-way flashers, wipers, heater and defroster on the vehicle at each fueling.
- 15.1e(3) Employees who operate commercial vehicles shall conduct and document the required "Pre-trip/Post-trip Inspection" prior to and at the conclusion of operating on public roadways as required by federal and state regulations.
- 15.1e(4) Unless used during traffic control conditions, employees shall stop engines and remove ignition keys when parking or leaving City vehicles and/or heavy equipment, unless parked within an enclosed garage.
- 15.1e(5) Only an authorized employee may operate a City-Vehicle. No employee shall allow an unauthorized person to rent, borrow, or use a City-Vehicle.
- 15.1e(6) Individuals not employed by the City are not permitted as passengers in City vehicles unless authorized by the Maintenance Superintendent or City Manager. If the Maintenance Superintendent or City Manager is not sure of an acceptable deviation of the policy, they should consult with the City Attorney or Risk Management/Personnel Department to determine acceptable risk levels.
- 15.1e(7) While fueling City vehicles and/or heavy equipment:
  - (a) Smoking is prohibited while fueling.
  - (b) Engines shall be turned off during the fueling operation. Leaving the vehicle unattended while fueling is prohibited.
  - (c) Using an object to "lock the nozzle" on a fuel pump nozzle while fueling is prohibited.
  - (d) Fuel leaks and/or spills (diesel fuel, and hydraulic oil) shall be immediately absorbed and cleaned up by using materials from the City provided "spill kit". Spills over one gallon shall be reported immediately to the Maintenance Supervisor.
- 15.1e(8) Employees shall report any City vehicle and heavy equipment mechanical problems immediately. Employees shall never drive a City vehicle and/or operate heavy equipment that does not appear safe.
- 15.1e(9) Heavy equipment shall be properly maintained and inspected prior to each use.
- 15.1e(10) Employees shall be properly trained and certified on specialty and heavy equipment prior to its use.
- 15.1e(11) Employees are not allowed to tamper, over-ride or disconnect any

manufacturer installed safety features and devices.

15.1e(12) Vehicle interiors are to be kept clean and free of rubbish.

15.1e(13) Smoking in vehicles is not permitted.

15.1f Fines. Employees are personally responsible for payment of a fine incurred while driving a city vehicle.

15.1g Driver Orientation and Training. Orientation and training must supplement the employee's trial period to assure that all employees have the knowledge and skills necessary to perform the job in the manner expected, as well as to review the City's policies and practices with each employee. The orientation and the type and amount of training that is needed will vary directly with the complexity of the job assignments, and the knowledge and experience level of the employee.

The Maintenance Supervisor is responsible for orienting and training both new and current employees regarding the proper use, maintenance and operation of City vehicles and heavy equipment. The following components shall be thoroughly covered during the employee's orientation/trial period.

15.1g(1) Vehicle Safety Rules, Policies, Procedures and Practices. Employee will be instructed before using the vehicles and/or heavy equipment for the first time on the following:

- (a) Approved uses of City vehicles.
- (b) Vehicle accident procedures.
- (c) Maintenance repair reporting process, procedures and mandatory forms.
- (d) Vehicle and/or heavy equipment field breakdown procedures.
- (e) Proper storage and parking procedures.
- (f) Fueling practices and mandatory forms.
- (g) Drug and Alcohol-Free Workplace Policy.
- (h) All City-Vehicle Use safety driving rules and best practices.

15.1g(2) Vehicle Operation (Off Road). Employees will be instructed on the proper use of vehicles and/or heavy equipment off road and the following:

- (a) Proper use of the vehicle and/or heavy equipment's controls, features and attachments.
- (b) Procedures for operating vehicles or heavy equipment on the roadway.
- (c) Required inspection techniques.

- (d) Completing the mandatory pre-trip inspection form.
- (e) Proper use of safety features and equipment.
- (f) Cargo loading, unloading, and tie-down practices
- (g) Backing procedures and use of spotters.

In addition, the City will provide ongoing in-service training programs which address the knowledge and skills necessary for all employees to perform in a satisfactory and safe manner.

- 15.1h Vehicle and Heavy Equipment Maintenance and Care. It is the responsibility of the Maintenance Superintendent and Maintenance Supervisor to ensure that all City owned or leased vehicles and heavy equipment assigned to their respective employees are in proper working condition at all times. The Maintenance Superintendent and Maintenance Supervisor shall ensure that an orientation and training program is developed for City vehicles and heavy equipment.

The Maintenance Superintendent and Maintenance Supervisor are accountable for the City assigned vehicles and heavy equipment. This accountability includes instruction of employees in the proper operation and preventative maintenance procedures and ensuring that routine vehicle inspections are performed on a pre-use basis and that inspection forms are completed and submitted in accordance with the established procedure.

- 15.1i Vehicle Emergency Breakdown Procedure. Employees are responsible for following the breakdown procedures whenever a vehicle becomes disabled in a public roadway:

- 15.1i(1) Get completely off the traveled roadway. Avoid curves, hills or places where the view may be obstructed.
- 15.1i(2) Shut down the vehicle.
- 15.1i(3) Set the parking brake to prevent movement.
- 15.1i(4) Turn on the 4-way flashers. If reflective triangles are available, set them near the vehicle and at approximately 100' to warn approaching traffic.
- 15.1i(5) Call for assistance (911, maintenance supervisor, operations, manager, repair shop supervisor, etc.)
- 15.1i(6) Stay in and with the vehicle.

- 15.1j Emergency Equipment and Supplies. Maintenance Supervisor and employees are required to maintain and ensure that all commercial vehicles are carrying the following emergency equipment:

- 15.1j(1) Reflective triangles.
- 15.1j(2) Basic first aid kit.
- 15.1j(3) Small multi-purpose dry fire extinguisher; and the

15.1j(4) Proof of Insurance and vehicle registration cards.

15.2 Privately Owned Vehicles Used for City Purposes.

15.2a Overview. This policy covers the use of privately owned vehicles for conducting official City business and shall be applicable to all elected officials and employees of the City. This policy establishes a written policy relative to the reimbursement procedures for privately owned vehicles used for City business and clarifies the City's and the employee's responsibility for damage and/or liability for privately owned vehicles used on official City business.

15.2b Elected officials or employees using their privately owned vehicle on official business must possess a valid California driver's license for the class of vehicle they will be operating.

15.2c City employees cannot be compelled to use their privately owned vehicles for City business unless it is a pre-specified condition/requirement of employment.

15.2d Safety Requirements. To use a privately owned vehicle for City purposes, an employee shall:

15.2d(1) Maintain an approved and valid California driver's license with the applicable classifications and endorsements, if required, at all times. This includes passing the required physical exam and a satisfactory driving record both on and off the job.

15.2d(2) Comply with all Federal, California State, and city laws regarding the operating of vehicles, including, but not limited to, California DMV and City of Pleasant Hill traffic regulations.

15.2d(3) Adhere to all City safe driving practices and procedures, including, but not limited to:

(a) Adhering to the directives of the City safety policy and all City safe driving policies and procedures relative to the maintenance of the vehicle and safe operation condition.

(b) Immediately reporting any change to the status of their driver's license to their immediate supervisor or Personnel Department. This includes any loss or restriction of driving privileges in whatever cause or format.

(c) Wearing seat belts and shoulder harnesses at all times while operating or riding in a privately owned vehicle for City purposes. A privately owned vehicle may not be used for City purposes if it has an inoperative or missing seat belts and/or harnesses, and may not be operated for such purposes until the repairs have been made.

(d) With respect to an accident when an employee is using his or her privately owned vehicle for City purposes,

(1) Immediately reporting all accidents to the police

department having jurisdiction. The police department must be contacted whether injuries occurred or not.

- (2) Filing a copy of the police report with the City's Personnel Director within forty-eight hours of the incident.
- (3) Submitting the accident report to his or her car insurance carrier.
- (4) Immediately taking pictures of all damaged property that occurred in the accident.
- (5) Exchanging information with individuals involved in the accident along with witnesses.
- (6) Complying with all requirements of his or her car insurance company.

15.2d(4) Employees who drive their privately owned vehicle for City purposes are also encouraged to follow the provisions in Sections 15.1i and 15.1j above regarding Vehicle Emergency Breakdown Procedure and Emergency Equipment and Supplies.

15.2e Fines. Employees are personally responsible for the payment of any fines incurred while driving a privately owned vehicle for City purposes.

15.2f Insurance. The individual employee must insure his or her privately owned vehicle to be used on official City business. The employee's insurance coverage is deemed to be primary.

15.1f(1) Employees must submit a certificate of liability and property damage with the City's Finance Officer before using their privately owned vehicle for City purposes. Employees should consult with their insurance agent to determine what would constitute adequate coverage. Insurance coverage at a minimum must meet all California State law insurance requirements.

15.1f(2) No privately owned vehicle may be operated on City business without proof of valid insurance coverage and a valid operator's license as required by California State law.

15.1f(3) The City's insurance policy, which may change each policy period, may specify additional coverage requirements and limits applicable to the employee and the City, and must be followed.

15.2g Clarification on City liability.

15.2g(1) The City shall be responsible to each employee only when the employee is determined not to be negligent and the other party is uninsured. Under such circumstances, the City shall be responsible to the employee only for the amount of the employee's deductible for comprehensive and/or collision damages suffered by the employee.

- 15.2g(2) In all other circumstances, the City is not liable for property damage to the employee's privately owned vehicle when operated within the scope of his or her employment with the City. The City is also not liable for the deductible portion of the employee's insurance policy.
- 15.2h Reimbursement. When necessary to use a privately owned vehicle during the course of an elected official's or employee's official duties, the City shall provide reimbursement as follows:
- 15.2h(1) The City shall reimburse City elected officials or employees the IRS mileage reimbursement rate the IRS announces each year when City elected officials or employees use their privately owned vehicles to conduct City business. The standard mileage rate is based on annual studies by the IRS of the fixed and variable costs of operating an automobile (maintenance, insurance repairs, gas and oil, etc.).
- 15.2h(2) Employees shall not be reimbursed for commuting to and from work, except that employees who are required to attend scheduled meetings outside of normal working hours may be reimbursed for mileage incurred.
- 15.2i City employees are encouraged to carpool whenever feasible.
- 15.3 Use of Cell Phones While Driving for City Purposes.
- 15.3a In the interest of the safety of our employees and other drivers, City employees are prohibited from using cell phones or personal digital assistants (PDA) while driving on City business and/or on City time. Personal and/or City provided cell phones or PDAs are to be turned off any time you are driving on City business or on City time.
- 15.3b As determined by City management, if an employee's job requires that the employee keep a cell phone/PDA turned on while driving, the employee must use a hands-free device while using the cellphone/PDA to make phone calls to conduct City business while driving per City policy and as required by law. Under no circumstances should employees read/send/compose any text messages, emails, or instant messages while operating a motor vehicle while driving on City business and/or on City time.
- 15.3c Pursuant to City policy and as required by law, an employee under the age of 18 years is prohibited from driving a motor vehicle while using a cell phone or other mobile service device, even if equipped with a hands-free device. This prohibition does not apply to such a person using a wireless telephone or mobile service device for emergency purposes. Any violation of this policy is a violation of City rules subject to disciplinary action and may be a violation of law subject to criminal penalties.
- 15.3d The provisions prohibiting the use of cell phones while driving do not apply to peace officers using a wireless telephone while operating an authorized emergency vehicle in the course and scope of their duties.
- 15.4 Equipment Other Than Motor Vehicles. Except as provided in the City's policies on the use of City-owned vehicles, no City equipment, instruments, tools, supplies, machines or other items that are the property of the City may be used by an officer, or employee, for personal use. City property may be monitored and searched at any time and for any reason. City employees have

no expectation of privacy in the messages sent or received on City property or equipment.

- 15.5 City Computers and Other Electronic Communications Resources. See Rule 24 for the City's Electronic Communications Resources Policy, which covers use of City computer and other electronic communication resources.

## **RULE 16**

### **POLITICAL ACTIVITY**

- 16.1 Policy. This Policy applies to all employees and officers of the City. The City prohibits:
- 16.1a Employees and officers from engaging in political activities during working hours.
  - 16.1b Political campaigning in City buildings or on premises adjacent to City buildings; and
  - 16.1c An employee or officer from using his/her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.
- 16.2 Examples of Prohibited Conduct.
- 16.2a Participation in political activities of any kind while in uniform;
  - 16.2b Participation in political activities during working hours;
  - 16.2c Participation in political activities on City worksites;
  - 16.2d Placing or distributing political communications on City property;
  - 16.2e Using City equipment to make political communications;
  - 16.2f Soliciting a political contribution from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee;
  - 16.2g Favoring or discriminating against any employee because of political opinions or affiliations;
  - 16.2h Interfering with any election; or
  - 16.2i Attempting to trade job benefits for votes.
- 16.3 Examples of Permitted Conduct.
- 16.3a Expressing opinions on political subjects or candidates;
  - 16.3b Becoming a candidate for any local, state, or national election;
  - 16.3c Contributing to political campaigns;
  - 16.3d Joining and participating in the activities of political organizations;
  - 16.3e Requesting, 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 that may include City officers or employees;
  - 16.3f Soliciting or receiving, 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



16.3g Soliciting or receiving, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of City officers or employees.

## **RULE 17**

### **TRAINING OF EMPLOYEES**

- 17.1 Responsibility for Training. The Personnel Officer and Department Heads are jointly responsible for developing training programs for employees. Training may include lectures, courses, demonstrations, assignment of reading matter or other devices available for the purpose of improving the effectiveness and broadening the knowledge of a municipal officer or employee in the performance of his/her respective duties.
- 17.2 Credit for Training. Participation in and successful completion of special training courses may be considered in making advancements and promotions. In order for such training to be considered, the employee shall file evidence of training programs with the Personnel Officer.
- 17.3 Training Costs. When, in the opinion of the Personnel Officer or Department Head, a training course to be taken by an employee will benefit the City, the Personnel Officer or Department Head may authorize payment by the City of tuition charges, fees, and the cost of the textbooks. Textbooks purchased by the City become the property of the City. When tuition is paid by the City, the employee must file written evidence of his/her satisfactorily passing the courses with the Personnel Officer. Failure to provide written evidence of satisfactory completion of the course may require the employee to refund money paid by the City for the course.
- 17.4 Educational Incentive. Educational incentives will be paid to employees as outlined in the Memoranda of Understanding. All employees successfully meeting the requirements for Educational Incentive as outlined are eligible for payment.

## RULE 18

### REPORTS AND RECORDS

This Rule and its subsections apply to all employees of the City, as relevant to their employment.

- 18.1 Duty of Personnel Officer to Keep Records. The Personnel Officer shall maintain such records as are necessary for proper administration of the personnel system, including individual personnel folders, and records as to current vacation, sick leave and overtime credit. A Department Head may maintain personnel files for employees within his/her Department, but the official personnel file and all matters of official record (e.g., date appointed, personnel action forms, employee evaluations, record of time off including sick leave and vacation usage, employee discipline, employee commendations and promotions, etc.) must be kept in the central Personnel Office file. The only exception to this Rule is Police Department Internal Investigation files, which are maintained in the Police Department.
- 18.2 Duty to Report to Personnel Officer. Every appointment, transfer, promotion, demotion, change in salary, disciplinary action, and temporary or permanent change in status of employees shall be reported in writing promptly to the Personnel Officer. Each employee is responsible for promptly notifying the Personnel Officer of any changes in relevant personal information such as mailing address, telephone number, emergency contacts, and number and names of dependents within 48 hours of any such changes.
- 18.3 Records are Confidential. The City will maintain the confidentiality of personnel records, including application, examination papers, and eligible tests, to the extent allowable by law. An employee's personnel file shall be accessible for legitimate personnel administrative purposes by the employee's Departmental Management, the City Manager, and others as deemed appropriate by the Personnel Officer. Except as required by law, personnel records are available only to the employee, the employee's authorized representative (when appropriately designated in writing), the Department Head or Supervisor concerned, the Personnel Officer, City Attorney, City Manager, or their authorized designees. Confidential personnel may access personnel files as required by their job duties. Those who access personnel files as part of their job duties are required to maintain the confidentiality of personnel file information.
- 18.4 Employee Access to Personnel File.
- 18.4a Inspection of File. An employee may inspect his/her own personnel file, during business hours at reasonable times and at reasonable intervals. Inspection will only be available by appointment, which can be arranged by contacting the Personnel Officer. The review must be done in the presence of the Personnel Officer or designee.
- The employee will have access to all contents of the file except: 1) records relating to the investigation of a possible criminal offense; 2) letters of reference; and 3) ratings, reports, or records that were (a) obtained prior to the employee's employment; (b) prepared by identifiable examination committee members; and (c) obtained in connection with a promotional examination.
- 18.4b Copies. A copy of the material in the personnel file to which the employee has access will be provided to the employee upon request.

- 18.4c Authorized Representative. An employee may authorize a representative to inspect the employee's personnel file subject to the same rules and procedures applicable to the employee under Section 18.4 of these Rules. In the event the employee wishes to have another person/representative inspect his/her personnel file, the employee must provide the person/representative with written authorization and inform the Personnel Officer when making the appointment. The Personnel Officer will notify the employee of the date, time and place of the inspection in writing. It is the employee's responsibility to notify the person to whom the employee has given written authorization of the date, time and place of inspection.
- 18.4d Under no circumstances is the employee and/or the employee's designee permitted to add or remove any document or other item from the employee's personnel file during the inspection.
- 18.5 Destruction of Personnel Records. Personnel records, including employment applications, shall be destroyed in accordance with the City's retention schedule and applicable state and federal law.
- 18.6 Medical Information.
- 18.6a Separate Confidential Files. All medical information about an employee or applicant is kept separately and is treated as confidential, in accordance with applicable state or federal law.
- 18.6b 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. 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.
- 18.6c Access to Medical Information. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, Managers and Supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.
- 18.6d The City will not provide employee or applicant medical information to a third party (except as permitted under the California Confidentiality of Medical Information Act) unless the employee signs an Authorization for Release of Employee Medical Information in the form attached to this Rule. The City will release only the medical information that is identified in the employee's authorization. If the employee's authorization indicates any limitations regarding the use of the medical information, the City will communicate those limitations to the person or entity to which it discloses the medical information.
- 18.7 References and Release of Information in Personnel Files. This section is applicable to all employees of the City.
- 18.7a 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 if it believes doing so would constitute an unwarranted invasion of personal privacy.

- 18.7b Reference Checks. Except as otherwise provided for herein, all requests from outside the City for reference checks or verification of employment concerning any current or former employee must be referred to the Personnel Officer. Upon receipt of the reference request, the Personnel Officer will release only the employee's term of employment, title, and salary upon departure from City employment (the City's standard response to a reference request).
- 18.7b(1) An employee wishing to receive more than the City's standard response to a reference request must sign a written authorization and release of liability, in a form to be provided and approved by the City, that permits the City to release more information.
- 18.7b(2) Except as provided for in Section 18.7b(3) below, Department Heads and Supervisors should not provide information in response to requests for reference checks or verification of employment, and should refer all requests to the Personnel Officer.
- 18.7b(3) Written inquiries and written reference requests received by the Police Department from other agencies conducting background investigations on prospective police officer candidates will be processed and responded to in accordance with the requirements of the law including obtaining a notarized "Release and Waiver" signed by the prospective candidate and presented by a peace officer or another authorized representative of the requesting law enforcement agency, before releasing the information required by law.
- 18.7c Medical Information. Medical information will be released only in accordance with Section 18.6 above.

## RULE 19

### OUTSIDE EMPLOYMENT

This Rule and its subsections apply to all employees of the City.

Employees who wish to perform outside or secondary employment must be knowledgeable of the potential problems such work may create regarding their position with the City. Outside employment is a very sensitive problem for the City due to potential conflict of interest, citizen complaints and potential liability. Accordingly, any employee engaging in outside employment must abide by the intent and procedure of this Rule.

- 19.1 Outside Employment Defined. Outside employment shall be construed to include all paid work or work for which any sort of compensation is received, which is performed for an employer who is not the City, including but not limited to any self-employment.
- 19.2 Policy. A City employee shall not engage in any outside employment that the appointing authority or City Manager determines is inconsistent, incompatible, or in conflict with, or inimical to his/her duties as a City employee or with the duties, functions, or responsibilities of such a person's appointing authority or the Department in which employed. A City employee shall not perform any outside employment if any part of his/her efforts will be subject to approval by any officer, employee, board, or commission of the City, unless otherwise authorized by these Rules.
- 19.3 Prohibited Activities. Each appointing authority may determine, subject to the concurrence of the City Manager, those outside activities which, for employees under his/her jurisdiction, are inconsistent with, incompatible to, or in conflict with their duties as City employees. An employee's outside employment may be prohibited if it:
  - 19.3a Involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of one's City office or employment; or
  - 19.3b Involves receipt or acceptance by the City employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of hours of his/her City employment or as part of the duties of such a City employee; or
  - 19.3c Involves the performance of an act in other than the capacity of the City employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee of the City by which he/she is employed; or
  - 19.3d Involves such time demands as would render an employee unable to commit his/her full attention to the diligent performance of his/her duties as a City employee.
- 19.4 Authorization. All outside employment is subject to the prior written approval of the appointing authority with the concurrence and agreement of the City Manager. Any employee wishing to engage in an outside employment shall inform the appointing authority of such desire and provide information as to the time required and the nature of such employment and such other information as may be required. The appointing authority shall either authorize or prohibit the

outside employment. Notice of such determination shall be in writing to the employee involved. If authorization is granted, it shall be valid only for the work and period described therein.

- 19.5 Use of City Equipment Prohibited. No City-owned, leased, or rented equipment, autos, trucks, instruments, tools, supplies, machines, or any other item that is the property of the City shall be used by any City employee while said employee is engaged in any outside employment or otherwise for personal use.
- 19.6 Violation and Penalties. Any violation of these provisions respecting outside employment and use of City property shall constitute sufficient grounds for disciplinary action, up to and including immediate dismissal of the employee from the City service.
- 19.7 Part-Time Employees. This Rule applies to part-time, temporary, or emergency employees.
- 19.8 Emergency and Other Overtime Situations. In an emergency situation, all employees who are contacted to return to work unless physically incapacitated, must return to work as soon as possible, which may mean that an employee must leave his/her outside employment to return to work with the City.
- In addition, an employee who is contacted on numerous occasions to come back to work on an overtime basis and is unable, due to being employed at an outside employment, may be subject to disciplinary action.
- 19.9 Limits of City Liability. The City is not liable for any injury or illness arising out of, or in the course of, outside employment.
- 19.10 Falsification of Records. If it is found that an employee falsified his/her records relating to outside employment, such action can subject the employee to disciplinary action, up to and including dismissal, depending on the severity of the violation and falsification.

## **RULE 20**

### **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

This Rule is applicable to all applicants, employees, officers, officials, and contractors of the City. The City prohibits discrimination and harassment against employees, officers, officials, contractors, or applicants, for employment on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other basis protected by law. The City will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline, and termination. Employees, applicants, officers, officials, or contractors who believe they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedure provided in Rule 22 of these Personnel Rules.



## RULE 21

### REASONABLE ACCOMMODATION POLICY

- 21.1 Policy. This Policy applies to all employees of the City who meet the requirements of this Policy.

The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act (ADA). Reasonable accommodations are defined by, and will be determined consistent with, the requirements of FEHA and the ADA.

- 21.2 Procedure.

21.2a Request for Accommodation. An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request, preferably in writing, to the Personnel Officer. The request must identify a) the job-related functions at issue; and b) the desired accommodation(s).

21.2b Reasonable Documentation of Disability. Following receipt of the request, the Personnel Officer may require additional information, such as reasonable documentation of the existence of a disability.

21.2c 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.

21.2d Interactive Process Discussion. After receipt of reasonable documentation of disability and/or a fitness-for-duty report, the City will arrange for a discussion, in person or via telephone conference call, with the applicant or employee and his/her representative(s), if any. The purpose of the discussion is to work in good faith to fully consider all feasible potential reasonable accommodations.

21.2e Case-by-Case Determination. The City determines, in its sole discretion, whether reasonable accommodation(s) can be made and the type of accommodation(s) to provide. The City will not provide accommodation(s) that would pose an undue hardship upon City finances or operations, or that 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).

## RULE 22

### HARASSMENT, DISCRIMINATION, AND RETALIATION PREVENTION POLICY

This Rule and its subsections apply to all employees, officers, officials, applicants, and contractors of the City.

- 22.1 Purpose. The purpose of this Policy is to establish a strong commitment to (1) prohibit harassment, discrimination, or retaliation in employment; (2) define discrimination, harassment, and retaliation; and (3) set forth a procedure for investigating and resolving such internal complaints. The City encourages all covered individuals to report, as soon as possible, any conduct that is believed to violate this Policy.
- 22.2 Policy. The City has a zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of law to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions.

Harassment or discrimination against an applicant or employee by a Supervisor, management employee, elected or appointed official, co-worker, member of the public, or contractor on the basis of race, religion, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other classification protected by law, will not be tolerated.

This Policy applies to all terms and conditions of employment, including, but not limited to, recruitment, examination, hiring, placement, appointment, promotion, disciplinary action, layoff, termination, re-employment, transfer, leave of absence, compensation, and training. All employees and persons providing services to the City are encouraged to report any potential violations of this Rule to any City management employee as soon as possible. Supervisors are required to report any potential violations of this Rule to the Personnel Officer as soon as possible.

Disciplinary action up to and including dismissal, or other appropriate remedial action, will be instituted for prohibited behavior that violates this Policy.

Each employee will receive training regarding this Policy within the first six (6) months of hire and, on a recurring basis, no less than every three (3) years thereafter. Supervisory employees will receive training regarding this Policy on a recurring basis, no less than every two (2) years following the initial post-employment training.

Any retaliation against a person for filing a harassment or discrimination charge or complaint, whether with the City or an administrative agency or court, or for participating in any complaint process, or otherwise demonstrating support for such actions, is prohibited. Employees found to be retaliating against another employee will be subject to disciplinary action up to and including termination.

## 22.3 Definitions.

- 22.3a Protected Classification. This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, religion, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other classification protected by law.
- 22.3b Policy Coverage. This Policy prohibits the employer, elected or appointed officials, officers, employees, or contractors from harassing or discriminating against applicants, officers, officials, employees, or contractors because of 1) an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.
- 22.3c Discrimination. This Policy prohibits treating individuals differently because of the individual's protected classification as defined in this Policy.
- 22.3d Harassment may include, but is not limited to, the following types of behavior that is taken because of a person's protected classification. Note that harassment is not limited to conduct that employers or employees take. Under certain circumstances, harassment can also include conduct taken by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or even members of the public:
- 22.3d(1) Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.
- 22.3d(2) Physical acts, such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
- 22.3d(3) Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.
- 22.3d(4) Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

22.3e Guidelines for Identifying Harassment. To help clarify what is harassment or discrimination on the basis of a protected characteristic, use the following guidelines:

- 22.3e(1) Harassment includes any conduct that would be "unwelcome" to an individual of the recipient's same protected classification and that is taken because of the recipient's protected classification.
- 22.3e(2) It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient might not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
- 22.3e(3) Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
- 22.3e(4) Even visual, verbal, or physical conduct between two employees who appear to welcome the conduct can constitute harassment of a third applicant, officer, official, employee, or contractor who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
- 22.3e(5) Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).

22.4 Retaliation. Any adverse conduct taken because an applicant, employee, or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited. "Adverse conduct" includes but is not limited to, taking adverse actions because an individual has reported harassment or discrimination, spreading rumors about a complainant, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process. A person who reports harassment or discrimination may be a complainant who uses the Complaint Procedure below or a third party or witness to the harassment or discrimination who reports the conduct.

22.5 Complaint Procedure.

22.5a Filing. An employee who believes he/she has been denied an equal employment opportunity or reasonable accommodation, or has been harassed or discriminated against, or retaliated against, may make a complaint orally or in writing to either his/her immediate Supervisor, any other Supervisor (including the Personnel Officer), the City

Manager, or the City Attorney as soon as possible and no later than sixty (60) days following the incident.

A job applicant who believes he/she has been denied an equal employment opportunity or reasonable accommodation, or has been harassed or discriminated against, or retaliated against, may make a complaint orally or in writing to the Personnel Officer, the City Manager, the City Attorney, or any other Supervisor of the City as soon as possible and no later than sixty (60) days following the incident.

Any Supervisor who receives a harassment, discrimination, or retaliation complaint must immediately notify the City Manager.

If the complaint concerns the City Manager, the employee may submit a written complaint to the City Attorney for review. In this case, the City Attorney shall perform the functions of the City Manager authorized in Section 22.6 below.

An employee or job applicant may also file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) ([www.eeoc.gov](http://www.eeoc.gov)) or the State of California Department of Fair Employment and Housing ([www.dfeh.ca.gov](http://www.dfeh.ca.gov)).

22.5b Advice and Counseling. An employee may seek advice and/or counseling concerning equal employment, reasonable accommodation, harassment, discrimination, and/or retaliation. Sources for this advice and/or counseling include, but are not limited to, the following agencies:

22.5b(1) The U.S. Equal Employment Opportunity Commission (EEOC).

22.5b(2) The State of California Department of Fair Employment and Housing (DFEH).

## 22.6 Investigation.

22.6a The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, Supervisors, or Managers become aware that harassment, discrimination, retaliation, or failure to reasonably accommodate may be occurring, regardless of whether or not the recipient of the alleged action or a third party reports a potential violation.

22.6b Upon awareness or notification of the complaint, the City Manager or his/her designee will assign an investigator to gather facts and make factual findings concerning the grounds for the complaint.

22.6c The City Manager may take interim action to diffuse volatile circumstances, such as placing the alleged perpetrator on paid administrative leave or temporarily transferring the alleged perpetrator. No interim action should be taken to change the complaining

individual's working conditions unless the complaining individual voluntarily consents to the temporary change.

22.6d The investigator will review the complaint allegations. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will

remind all witnesses (1) to maintain the confidentiality of the content of the interview when appropriate depending upon the facts and when permitted by law, and (2) that retaliation against those who report alleged harassment, discrimination, retaliation, or failure to reasonably accommodate, or who participate in the investigation is prohibited.

22.6e The investigator will provide a written report to the City Manager, or to the City Attorney if the City Manager is the subject of the investigation. Giving consideration to all factual information and the totality of the circumstances, the City Manager will determine whether the City's policies have been violated, or whether discrimination or harassment has occurred, and, when the investigation has concluded, will promptly communicate in writing to the complainant and the accused.

## 22.7 Remedial and Disciplinary Action.

22.7a If the investigation determines that the alleged conduct occurred and that the conduct violated this Policy, the City will notify the complainant and perpetrator of the general conclusion(s) of the investigation and will take effective remedial action designed to end the violation(s). Any employee determined to have violated this Policy will be subject to disciplinary action, up to and including dismissal of employment. Disciplinary action may also be taken against any Supervisor or Manager who condones or ignores the potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this Policy.

22.7b Remedial action will be commensurate with the severity of the offense. The City will take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation, and to protect the complainant from retaliation as a result of communicating the complaint.

## 22.8 Confidentiality.

22.8a The City Manager, City Attorney (if involved), and all Supervisors are required to maintain confidentiality to the extent possible in communicating or investigating any claims of alleged discrimination, harassment, retaliation, or failure to reasonably accommodate.

22.8b While complete confidentiality may not be possible, the investigation will be conducted in a manner that ensures, to the extent feasible, the privacy of the parties involved.

22.8c An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a Supervisor or the City Manager. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction.

22.8d The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

## 22.9 Responsibilities.

22.9a Managers and Supervisors are responsible for:

- 22.9a(1) Informing employees of this Policy.
- 22.9a(2) Modeling appropriate behavior.
- 22.9a(3) Taking all reasonable steps necessary to prevent harassment, discrimination, or retaliation from occurring.
- 22.9a(4) Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
- 22.9a(5) Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
- 22.9a(6) Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
- 22.9a(7) Informing those who complain of harassment or discrimination of their option to contact the EEOC or DFEH regarding alleged Policy violations.
- 22.9a(8) Assisting, advising, or consulting with employees and the Personnel Officer regarding this Policy and Complaint Procedure.
- 22.9a(9) Assisting in the investigation of complaints involving employee(s) in their Departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with employer Personnel Rules, up to and including dismissal.
- 22.9a(10) Implementing appropriate disciplinary and remedial actions.
- 22.9a(11) Reporting potential violations of this Policy of which they become aware, regardless of whether a complaint has been submitted, to the Personnel Officer or the Department Head.
- 22.9a(12) Participating in periodic training and scheduling employees for training.

22.9b Each employee or outside contractor hired by the City is responsible for:

- 22.9b(1) Treating all employees and contractors with respect and consideration.
- 22.9b(2) Modeling appropriate behavior.
- 22.9b(3) Participating in periodic training.
- 22.9b(4) Fully cooperating with the employer's investigations by responding fully and truthfully to all questions posed during the investigation.
- 22.9b(5) Maintaining confidentiality as required by this Policy.
- 22.9b(6) Reporting any act he/she believes in good faith constitutes harassment,

discrimination, or retaliation as defined in this Policy, to his/her immediate Supervisor, or Department Head, or Personnel Officer.



## RULE 23

### RETALIATION PREVENTION UNDER PATIENT PROTECTION AND AFFORDABLE CARE ACT

This Policy applies to all employees of the City.

- 23.1 Purpose. To comply with the anti-retaliation provisions of the federal Patient Protection and Affordable Care Act (ACA), and its implementing regulations.
- 23.2 Policy Statement. This Policy prohibits retaliation against an employee who:
- 23.2a Receives a health insurance tax credit or subsidy through Covered California (aka the “Marketplace” or “exchange”);
  - 23.2b Reports potential violations of protections afforded under Title I of the Act (see <http://www.hhs.gov/healthcare/rights/law/title/i-quality-affordable-health-care.pdf>), which provides guaranteed availability protections among other things;
  - 23.2c Testifies in a proceeding concerning such violation;
  - 23.2d Assists or participates in a proceeding concerning a violation; or
  - 23.2e Objects to, or refuses to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes to be in violation of any provision of Title I of the Act.
- An action is considered retaliatory if it discriminates against any employee with respect to compensation, terms, conditions, or other privileges of employment. Retaliation can include dismissal, discharge, demotion, denial of overtime, denial of promotion or other benefits, failure to hire or rehire, reassignment, discipline, blacklisting, and the reduction of pay or hours.
- 23.3 Complaint Process. An employee who believes he/she has been retaliated against must complain within 180 days by an in-person visit or telephone call to a local office of the Department of Occupational Safety and Health Administration (OSHA), or by sending a written complaint.

## RULE 24

### ELECTRONIC COMMUNICATIONS RESOURCES POLICY

This Policy applies to all employees, officers, officials, applicants, and contractors of the City, and to any individual who uses the City's Electronic Communications Resources.

- 24.1 The City encourages the use of Electronic Communications Resources to share information in support of its mission of public service and to conduct its business. This Policy governs all Electronic Communications Resources including, but not limited to, the Internet, email, voice-mail, cellular telephones, pagers, personal digital assistants, smartphones, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, agency-hosted social media, and documentation that supports electronic communications services ("Electronic Communications Resources").
- 24.2 Electronic Communications. The City's email system is an official communication tool for City business. An official email address is established and assigned by the City to each employee. All City communications sent via email will be sent to this address. City employees must use the official City email, instead of their private email address (such as Yahoo, Hotmail, etc.) when communicating City business via email.

Electronic Communications Resources must be used in compliance with applicable statutes, regulations, and City policies including those that require a work environment free from discrimination and harassment. Electronic communications should conform to the same standards of propriety and respect as any other verbal or written communication at the City. Employees are expected to use common sense and judgment to avoid any communication that is disrespectful, offensive, or illegal.

The City, as the provider of access to its Electronic Communications Resources, reserves the right to specify how those resources will be used and administered to comply with this Policy. It is important to realize that the message content sent from the City's account reflects upon the City (positively or negatively) to those who receive the message. Employees may be subject to disciplinary action for using the Electronic Communications Resources in a manner other than for their intended purposes, or in a manner that violates applicable laws, rules, and policies.

Electronic communications to recipients on systems outside of the City pass through systems and networks not managed by the City. The privacy and confidentiality of these messages is, therefore, not assured. In addition, some delivery methods and networks impose legal restrictions regarding the nature of messages allowed. Users are expected to comply with all such regulations. Employees and other users of the Electronic Communications Resources may create criminal and civil liability for themselves and the City by using outside or third party systems in an offensive, defamatory, or illegal manner and in such event employees and other users may be subject to disciplinary action up to and including termination.

- 24.3 Incidental Personal Use. Electronic Communication Resources are provided by the City to facilitate the performance of City work. Incidental personal use is secondary, and should not (i) interfere with the City's operation of Electronic Communications Resources; (ii) interfere with the user's employment or other obligations to the City, (iii) interfere with other employees' ability to perform their duties, or (iv) burden the agency with noticeable incremental costs.

Incidental use of the agency's Electronic Communications Resources should clearly indicate that the use is personal. Users of Electronic Communications Resources shall not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of the agency unless appropriately authorized to do so. The City is not responsible for any loss or damage incurred by an individual as a result of personal use of the City's Electronic Communications Resources.

- 24.4 Privacy Limits. The California Public Records Act requires the agency to disclose specified public records. In response to requests for such disclosure, it may be necessary to examine electronic communications records that users may consider to be personal to determine whether they are public records that are subject to disclosure. Electronic communications records may also be subject to disclosure in litigation or administrative proceedings in the same manner as other City records.

All communications transmitted via the agency's Electronic Communications Resources, whether or not related to personal or confidential matters, are subject to monitoring, at the City's discretion. The City monitors communications transmitted via the City's Electronic Communications Resources in the ordinary course of business for purposes that include ensuring their reliability and security. The existence of passwords and "message delete" functions do not restrict or eliminate the City's ability or right to access electronic communications.

Employees should not communicate their private, privileged, or confidential information, including but not limited to personal attorney-client communications, financial or medical information and other privileged information, via the City's Electronic Communications Resources. Employees who do communicate their private, privileged or confidential information via the City's Electronic Communications Resources will be deemed to have waived any privilege or privacy rights in those communications, even where those communications are made via personal password-protected accounts using the City's Electronic Communications Resources.

Electronic communications sent to and received from attorneys representing the City are privileged communications. Such electronic communications shall not be distributed, copied, or blind-copied to unauthorized individuals.

Additionally, the City may be required to produce information transmitted or stored on its Electronic Communications Resources pursuant to a court order, subpoena, or statute.

- 24.5 Restrictions. The information sources accessible via the Internet are worldwide and constantly growing in kind and number. It is not possible for any Internet access provider to fully manage the types of information accessible by its systems and users, especially with regard to content limitations. Nonetheless, the City reserves the right to restrict access to any data source, at its sole discretion. These restrictions do not constitute an implication of approval of other non-restricted sources.

Without exhausting all the possibilities, the following are examples of inappropriate use of the City's Electronic Communications Resources:

- 24.5a Exposing others unwillingly, either through carelessness or intention, to material that is offensive, obscene, or in poor taste. This includes information that could create an intimidating, offensive, or hostile work environment.

- 24.5b Any use that may, for a reasonable person, create or further a hostile attitude or give offense on the basis of race, religion, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other classification protected by law or City policy. This includes transmitting images, messages, cartoons, or jokes that include ethnic or racial slurs, or are offensive, or that may be construed as harassment or disparaging of others based on a protected class.
- 24.5c Committing acts of violence including direct threats, communications that make an individual feel threatened or bullied, expressions of an intent to harm or to create an unsafe and/or dangerous situation or to make a person feel unsafe or in danger, or any other actions, activities, behavior, or conduct that violates the City's Workplace Security Policy (Rule 28) or Policy against Incivility and Bullying in the Workplace (Rule 29).
- 24.5d Conducting any ongoing personal business, including (but not limited to) accessing dating services and social media sites.
- 24.5e Using or disclosing the username or password of another person to gain access to his/her email or other electronic communications resources account without the required consent and approval, or to otherwise make the City's electronic communications system(s) available to others without the required consent and approval.
- 24.5f Communicating confidential City information to unauthorized individuals within or outside of the City.
- 24.5g Sending messages or information that is in conflict with applicable law or City policies, rules or procedures.
- 24.5h Attempting to access unauthorized data or break into any City or non-City system, including, but not limited to, any Police Department, Department of Justice, Department of Motor Vehicle, Credit Bureau, and/or criminal history databases.
- 24.5i Engaging in theft or the unauthorized copying of electronic files or data.
- 24.5j Performing acts that are wasteful of computing resources or that unfairly monopolize resources to the exclusion of others is prohibited. These acts include, but are not limited to, sending mass mailings or chain letters and creating unnecessary network traffic.
- 24.5k Intentionally misrepresenting one's identity for improper or illegal acts.
- 24.5l Engaging in unlawful activities, such as, but not limited to, gambling, or committing a crime including fraud, or violating any federal, state, or local law.
- 24.5m Engaging in commercial activity or activity for financial gain not under the auspices of the City.
- 24.5n Engaging in recreational use of the City's Electronic Communications Resources that interferes with the ability of the employee or other users to conduct City work. This includes but is not limited to downloading or uploading software, games, or shareware.

Employees are also prohibited from downloading and using instant messenger (IM).

24.5o Disrupting or threatening to disrupt the efficient operation of the City's Electronic Communication Resources (for example sabotage or intentionally introducing a computer virus into the City's system).

24.5p Borrowing, copying, or transferring City-owned or authorized hardware or software without prior approval from the Network Administrator.

24.6 Overtime - Prior Approval Required. This section on overtime applies only to employees eligible to receive overtime pay. Time spent outside of employee scheduled work hours in any activity on the City's Electronic Communications Resources for the benefit of the City is time worked. Thus, any time worked this way is subject to rules on overtime as provided in these Rules.

24.6a No time spent in any activity on the City's Electronic Communications Resources for the benefit of the City may be done outside of employee's scheduled work hours without advance approval from the employee's immediate Supervisor. Emergencies may arise that call for an exception to this Rule. In emergencies, the employee may perform the work, but must notify a Supervisor as soon as possible. If the employee's Supervisor denies the request to work outside of employee's scheduled work hours, the employee must obey the Supervisor's directive and cease working.

24.6b All time spent outside of the employee's scheduled hours on the City's Electronic Communications Resources for the benefit of the City must be reported on official City forms so that the City may pay the employee for that work. Employees may never choose to work and not request compensation. All legitimate work will be compensated.

24.6c Employees are required to record all work time on official City records and to work overtime with approval. Failure to follow the City's overtime approval procedures will result in being paid for all legitimate work time, and being subject to disciplinary action, up to and including termination, for violating the overtime approval procedures.

## RULE 25

### SOCIAL MEDIA USE POLICY

This Policy applies to all employees of the City.

- 25.1 Introduction. The City understands that its employees use social media sites to share events in their lives, to communicate, and to discuss their opinions with others, including family, friends, and co-workers. However, the use of social media may present certain risks and carries with it certain responsibilities. To assist employees in making responsible decisions about their use of social media, the City has established this Policy and guidelines for appropriate use of social media.

In the rapidly expanding world of electronic communication, social media can mean many things. In general, social media encompasses the various activities that integrate technology, social interaction, and content creation. Individuals can use social media to create Web content, organize, edit, or comment on content, and combine and share content on their own web site or on someone else's. Social media uses many technologies and forms, including Web feeds, blogs, wikis, photography and video sharing, web logs, journals, diaries, chat rooms, bulletin boards, affinity web sites, podcasts, social networking, fansites, mashups, and virtual worlds.

- 25.2 Understanding Rights and Responsibilities in Using Social Media Technology. Employees should use good and ethical judgment in using social media. To the extent an employee's social media use impacts City employees and clients, the employee should follow City policies and regulations as applicable, including but not limited to those that protect individual privacy rights, anti-discrimination and harassment policies, the anti-workplace violence policy, and other relevant City policies.

Each employee should keep in mind that if his/her conduct adversely affects his/her job performance, the performance of his/her co-workers, is detrimental to the mission and function of the City or otherwise adversely affects members of the public served by the City, people who work on behalf of the City or the City's legitimate business interests, the City may take disciplinary action against the employee up to and including termination.

Employees should keep in mind that they are more likely to resolve work-related complaints by speaking directly with their co-workers or via other channels such as by speaking with the City's Personnel Department, or by filing an internal complaint or grievance, if applicable. Nevertheless, if an employee decides to post complaints or criticism, the employee should avoid using statements, photographs, video, or audio that reasonably could be viewed as malicious, obscene, or threatening or that might constitute harassment or bullying. Examples of such conduct might include offensive posts that could contribute to a hostile work environment on the basis of race, religion, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other classification protected by law or City policy. Examples of threatening conduct include posting material that would make a reasonable person afraid for his/her safety or the safety of his/her family.

Employees should never post any information or rumors that they know to be false about the City, their co-workers, City clients, or people working on behalf of the City.

Employees should not disclose information that may violate City, client, or employee rights. For example, employees should not disclose another individual's social security number, medical information, or financial information in a manner that violates that person's rights.

If an employee publishes a blog or post online related to the work that the employee does or subjects associated with the City, the employee should make it clear that he/she is not speaking on behalf of the City. It is best to include a disclaimer such as "The postings on this site are [the employee's] and do not necessarily reflect the views of the City."

If an employee wants to keep his/her personal life separate from his/her professional or work life, the employee should use privacy settings to restrict personal information on public sites. An employee should consider who the employee invites or accepts to join his/her social network as those individuals will have access to the employee's profile, photographs, etc.

An employee should understand that even if the employee has a private setting, those the employee invites into his/her network can easily, print, save, cut, paste, modify, or publish anything the employee posts. Material can be archived on the Internet even after the employee removes it.

- 25.3 Using social media at work. Unless the use qualifies as incidental use under Section 24.5(4), employees must never use City Electronic Communications Resources, or work time, for their personal social media use. Employees should not use City email addresses to register on social networks, blogs, or other online tools utilized for personal use.
- 25.4 Media contacts. Employees should not speak to the media on the City's behalf without contacting the City's Public Information Officer. Such media inquiries should be directed to them.
- 25.5 Employees should contact the City's Personnel Officer if they have any questions or need further guidance.

## RULE 26

### DRUG AND ALCOHOL-FREE WORKPLACE POLICY

The City is committed to maintain a drug and alcohol free workplace. The purpose of this Policy is to promote a drug and alcohol-free workplace and to eliminate substance abuse and its effects in the workplace.

#### 26.1 Policy.

- 26.1a The manufacture, distribution, dispensation, possession, or use of alcohol or any controlled substance is prohibited in both City workplaces and wherever City business is performed. The only exception is when the possession, dispensation, or use of alcohol is permitted by the City Manager.
- 26.1b A City employee is prohibited from working or being on standby or on-call status if impaired by alcohol or any controlled substance.
- 26.1c An employee must notify his/her Supervisor before beginning work when taking medications or drugs that could interfere with the safe and effective performance of duties or operation of City equipment. If there is a question regarding an employee's ability to perform assigned duties safely and effectively while using prescribed medications, the City may require written medical certification.
- 26.1d Compliance with this Policy is a condition of City employment. Disciplinary action will be taken against those who violate this Policy.
- 26.1e Employees who are required to participate in the City's "Federally Mandated Commercial Driver's License Holders Drug/Alcohol Testing Education Program" are subject to requirements contained in this Policy as well as the mandated policy.

26.2 Scope of Policy. This Policy applies to all City employees when they are on City property or when performing City-related business elsewhere.

26.3 Searches. In order to promote a safe, productive, and efficient workplace, the City has the right to search and inspect all City property, including but not limited to lockers, storage areas, furniture, City vehicles, and other places under the common control of the City, or joint control of the City and employees. No employee has any expectation of privacy in any City building, property, or communications system. The only exception to this search requirement is for Public Safety Officers (as the term is defined in the POBR), who shall not have their lockers or other space for storage that may be assigned to them searched except in their presence, or with their consent, or unless a valid search warrant has been obtained, or where they have been notified that a search will be conducted. This exception only applies to lockers or other space for storage that are owned or leased by the City.

26.4 Drug and Alcohol Testing. Except as provided otherwise in a MOU, or as modified for employees who are required to participate in the City's "Federally Mandated Commercial Driver's License Holders Drug/Alcohol Testing Education Program," the City has discretion to test a current employee for alcohol or drugs in the following instances:



26.4a Reasonable Suspicion Testing. The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those persons reasonably suspected of using or being under the influence of a drug or alcohol at work. Testing must be approved by the Personnel Officer, the Department Head, or a designee.

“Reasonable suspicion” is based on objective factors, such as behavior, speech, body odor, appearance, or other evidence of recent drug or alcohol use that 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 Personnel Officer or the Department Head.

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.

26.4b Post-Accident Testing. The City may require alcohol or drug screening following any work-related accident or any violation of safety precautions or standards, whether or not an injury resulted from the accident or violation, provided that the “reasonable suspicion” factors described above are present.

26.5 Employee’s Responsibilities. A City employee must:

26.5a Not report to work or be on standby or on-call status while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;

26.5b Not possess or use controlled substances (illegal drugs or prescription drugs without a prescription) at any time, or use alcohol at any time while on City property or while on duty for the City at any location;

26.5c Not directly or indirectly through a third party manufacture, sell, distribute, dispense, or provide controlled substances to any person, including any employee, at any time; or manufacture, sell, distribute, dispense, or provide alcohol to any employee while either or both are on duty;

26.5d 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;

26.5e Notify the Department Head of any criminal conviction for a drug violation that occurred in the workplace within no more than five days after such conviction;

26.5f Notify the Supervisor immediately of facts or reasonable suspicions when he/she observes behavior or other evidence that a fellow employee poses a risk to the health and safety of the employee or others;

26.5g Consent to drug or alcohol testing and searches pursuant to this Policy; and

26.5h Follow the City’s drug and alcohol-free workplace policy.

26.6 Management Employee Responsibilities. City management employees must:

26.6a Notify the state or federal granting agency that has funded the work or program, if any, of

any criminal drug statute convictions for a violation that occurred at a site where work is/was being done with a specific grant or contract;

- 26.6b Record factors supporting “reasonable suspicion” as defined above and consult with the Department Head and Personnel Officer in order to determine whether there is reasonable suspicion to test an employee as described by this Policy;
- 26.6c Take appropriate disciplinary action up to and including termination for any criminal drug statute conviction that has a nexus to the employee’s employment, or require that the convicted employee participate satisfactorily in a drug abuse assistance or rehabilitation program as a condition for returning to duty;
- 26.6d Take appropriate disciplinary action for any violation of this Policy consistent with existing discipline procedures;
- 26.6e Enforce this Policy; and
- 26.6f Report any suspected violation of this Policy to the Personnel Officer.

Any Manager or Supervisor who knowingly permits a violation of this Policy by any employee shall be subject to disciplinary action.

26.7 Drug-Free Awareness Program. The following is the City’s drug-free awareness program:

- 26.7a Distribution of a brochure on the dangers of drug abuse to each City employee and volunteer; and
- 26.7b Notification to each City employee and volunteer of the availability of counseling and treatment of drug-related problems through the City’s Employee Assistance Program provider.

## RULE 27

### POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES IN SAFETY-SENSITIVE POSITIONS (PURSUANT TO DEPARTMENT OF TRANSPORTATION REGULATIONS)

This Policy applies to all employees of the City in safety-sensitive positions.

- 27.1 Purpose. The City recognizes that the use of alcohol, drugs, and controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy, and productive work environment for all employees and the public, it is the City's objective to have a work force that is free from the influence of substance abuse.

This Policy also is intended to comply with all applicable federal regulations governing workplace anti-drug programs and safety-sensitive employees. The federal Drug-Free Workplace Act of 1988 and, similarly, the California Drug-Free Workplace Act of 1990 require the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the federal Department of Transportation (DOT). Also, the Federal Highway Administration (FHWA) (whose alcohol and drug testing rules are now enforced by the recently created Federal Motor Carrier Safety Administration (FMSCA) of the DOT) has enacted regulations that mandate urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and to prevent performance of safety-sensitive functions where there is a positive test result. The DOT also has set standards for the collection and testing of urine and breath specimens.

Employees shall be asked to sign a statement certifying that he/she has received a copy of this Policy and understands its contents. Any questions regarding rights and obligations under this Policy shall be referred to the employee's Supervisor, Department Head, or Personnel Officer.

- 27.2 Personnel Affected. The prohibition against substance abuse in the workplace applies to all City employees when they are on City property or when performing any City-related business, or when driving a motor vehicle on private roads and serious injury results. If an employee is a safety-sensitive employee covered by this Policy, the employee must familiarize him or herself with this Policy's provisions because compliance with this Policy is a condition of the employee's employment. A safety-sensitive employee is an employee who meets any of the criteria below and as designated by the City in its sole discretion:

27.2a One in any position that the respective City Department has designated as requiring the use of a Class "A" or Class "B" commercial driver's license, including (as applicable):

27.2a(1) Public Worker/Maintenance I-II;

27.2a(2) Police Officer, Police Sergeant, Police Captain, Police Lieutenant, Police Chief.

27.2b One who performs safety-sensitive functions, the performance of which may affect the public safety, including:

27.2b(1) Driving the controls of a commercial motor vehicle;

27.2b(2) Spending time in a commercial motor vehicle;

- 27.2b(3) Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending to a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments loaded or unloaded;
- 27.2b(4) Repairing, obtaining assistance, inspecting, maintaining, or attending to a commercial motor vehicle;
- 27.2b(5) Using a firearm for security purposes; or
- 27.2b(6) Using heavy equipment.

A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform.

### 27.3 Policy.

#### 27.3a Prohibited Substances.

- 27.3a(1) Alcohol. This Policy addresses the use of alcoholic beverages or substances, including any medication or food containing alcohol such that it is present in the body at a level in excess of that stated in the guidelines by the Department of Transportation, as amended, and currently set at a breath-alcohol concentration of .02 liters or as otherwise noted in this Policy. Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- 27.3a(2) Drugs or Controlled Substances. This Policy addresses any substance that, in the opinion of competent medical professionals, causes or may cause significant impairment of job performance or that causes or may cause behavior that is a threat to the safety of the affected employee or others. All substances listed in any federal, state, or local controlled substance acts or regulations including, but not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, and those substances listed in Schedules I through V of the Section 202 of the federal Controlled Substances Act, are covered by this Policy.
- 27.3a(3) Prescription Drugs. No prescription drug shall be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug shall be used only in the manner, combination, and quantity prescribed. An employee must advise his/her Supervisor of the use or influence of any prescription drug prior to beginning work, when taking the medication or drug could interfere with the safe and effective performance of duties, or the operation of a City vehicle or heavy machinery, such that the employee poses a direct threat to the health and safety of himself/herself or others.

An employee's failure to provide this notice in a timely manner can result in discipline, up to and including termination. In the event there is a

question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

27.3b Prohibited Conduct. The City prohibits the following acts:

- 27.3b(1) Being under the influence of or in possession of alcohol, drugs, or controlled substances when reporting for work;
- 27.3b(2) Ingesting, injecting, or otherwise using alcohol, drugs, or controlled substances while performing job duties, except in accordance with above Section A.3 regarding prescription drugs where applicable;
- 27.3b(3) Being under the influence of alcohol, drugs, or any controlled substances while subject to being called to duty, including stand-by time;
- 27.3b(4) Performing a safety-sensitive function within four hours of using alcohol or while using alcohol;
- 27.3b(5) Directly or through a third party, manufacturing, selling, distributing, dispensing, otherwise attempting to manufacture, sell, or distribute alcohol, drugs, or controlled substances during work hours, including rest breaks or while on City premises;
- 27.3b(6) Use of City property or premises to manufacture, sell, or distribute alcohol, drugs, or controlled substances;
- 27.3b(7) Absence or tardiness as a result of having been under the influence of alcohol, drugs, or controlled substances during non-work time; and
- 27.3b(8) Refusing to submit immediately to any alcohol, drug, or controlled substance test required by this Policy when directed by the City. Refusal includes but is not limited to:
  - (a) A refusal to provide a urine sample for a drug test;
  - (b) An inability to provide a urine sample without a valid medical explanation;
  - (c) A refusal to complete and sign a testing authorization form;
  - (d) An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;
  - (e) Tampering with or attempting to adulterate or substitute the urine specimen;
  - (f) Not reporting to the collection site in the time allotted by the Supervisor or Manager who directs the employee to be tested;
  - (g) Obstructing the collection procedure or testing process in any way; or

- (h) Leaving the scene of an accident without a valid reason and authorization from a Supervisor or Manager was not obtained.

27.3b(9) Consuming alcohol, drugs, or controlled substances during the eight hours immediately following an accident in which the employee was involved, or until the employee undergoes a post-accident alcohol or drug test, whichever comes first.

27.3b(10) Refusal to submit to a search of personal property when directed by the City, upon reasonable suspicion and where applicable in accordance with Section 3309 of the Public Safety Officers Procedural Bill of Rights.

27.3c Notifying the City of Any Criminal Drug Statute Conviction. In accordance with the Drug-Free Workplace Act of 1988, an employee must immediately notify the City of any criminal drug statute conviction of a violation that occurred in the workplace no later than five days after such conviction. Any employee who fails to provide this notice will be subject to discipline, up to and including termination.

27.3d Consequences for Violation of this Policy.

27.3d(1) Discipline. Any violation of this Policy may result in discipline, up to and including termination. Discipline may be imposed regardless of whether or not an employee is convicted of any crime related to any violation of this Policy.

Any violation of this Policy that may constitute criminal conduct or violation of the DOT regulations may be reported to the appropriate law enforcement agencies and/or subject the employee to civil penalties.

27.3d(2) Removal from Work Site. Employees reasonably believed to be under the influence of alcohol, drugs, or controlled substances shall be immediately prevented from engaging in further work and shall be detained for a reasonable time until they can be safely transported from the work site.

27.3d(3) Removal of Safety-Sensitive Functions. An employee whose alcohol test indicates an alcohol concentration level between .02 and .04 will be removed from his/her safety-sensitive position for at least 24 hours. An employee whose alcohol test indicates an alcohol concentration level greater than .04 will be removed from his/her safety-sensitive position for a period to be determined by the Department Head or Personnel Officer.

If an employee tests positive for drugs or controlled substances, the employee may not perform safety-sensitive functions until satisfying the following requirements:

- (a) The employee must be retested and receive a verified negative result; and
- (b) When referred to a Substance Abuse Professional (see Section 2.69), the employee must complete any course of rehabilitation and submit to a return-to-duty test, as developed with the assistance of

the Substance Abuse Professional. The City is not required to pay for this type of treatment.

27.3d(4) Termination for Inability to Perform Essential Functions. After the City has complied with any legal obligation to reasonably accommodate an employee's protected disability, the City may terminate an employee who is unable to perform the essential functions of the job.

27.3e Alcohol and Drug Testing.

27.3e(1) Pre-employment Testing. Prior to the start of employment, the City may require all applicants to submit to a test for alcohol and illegal drug use as a condition of employment. Any applicant who refuses to provide consent for this test, or who receives a verified positive result will be disqualified from City employment.

(a) Requirement for Records Check. As required by the DOT regulations, an applicant to a safety-sensitive position will be asked to provide, by written consent, alcohol and drug testing records from prior employers regulated by the DOT for the two-year period prior to the date of application. These records shall include any alcohol test results of .04 or higher alcohol concentration; refusals to be tested; verified positive drug tests; and documentation of the successful completion of return-to-duty requirements by the DOT.

(b) Requirements for Direct Inquiry. The applicant also must provide information regarding whether he/she has tested positive or has refused to test on any pre-employment drug or alcohol test for any safety-sensitive job applied for but not obtained during the prior two years, as required by the DOT regulations.

27.3e(2) Reasonable Suspicion Testing and Search. If a Supervisor reasonably suspects that an employee is under the influence of alcohol, drugs, or controlled substances while performing job duties or operating City equipment and upon prior approval by the Department Head or Personnel Officer, the Supervisor may require the employee to submit to an alcohol and/or drug test. An employee's refusal to submit to such a test is cause for discipline, up to and including termination.

Moreover, the City reserves the authority to search, without employee consent and, where applicable, subject to Section 3309 of the Public Safety Officers Procedural Bill of Rights, all areas of City property that the City maintains control or joint control with the employee.

Examples of indicators that can form a reasonable suspicion that an employee is under the influence of alcohol, drugs, or controlled substances include, but are not limited to, direct observation of the following:

(a) Slurred speech;

- (b) Glassy or bloodshot eyes;
- (c) Odor of alcohol;
- (d) Unsteady walking and movement;
- (e) An accident involving City property, employee, or client;
- (f) A near accident or other safety violation;
- (g) Physical or verbal altercation;
- (h) Possession of alcohol, drugs, controlled substances, or drug paraphernalia;
- (i) Sleeping on the job;
- (j) Pattern of abnormal or erratic behavior;
- (k) Information either provided by reliable and credible sources or independently corroborated;
- (l) Conviction for a drug-related offense; and
- (m) Tampering with a previous drug test.

27.3e(3)

Post-Accident Testing. Unless the City determines that the employee's performance was not a contributing factor, any employee involved in a reportable accident may be subject to an alcohol test within two hours following the accident and to a drug test within 32 hours following the accident. Not only may the operator of the vehicle be tested, but so may any other employee whose performance may have contributed to the accident, such as the employee who maintains the vehicle or work-site where the accident occurred.

An accident is considered reportable if it occurs while in a City commercial motor vehicle on City property, or when operating a commercial motor vehicle on a public road in commerce and involves any of the following: 1) while performing safety-sensitive functions with respect to the vehicle, the accident involved a fatality; or 2) the issuance of a citation by law enforcement to the employee for a moving traffic violation arising from the accident and a) bodily injury demanding immediate medical treatment away from the scene of the accident or b) vehicular damage so that the vehicle must be towed away from the scene of the accident, even after simple repairs on the scene. The operator of the vehicle must immediately report this accident to the appropriate authorities, as well as the City, so that the relevant drug/alcohol tests may be conducted.

27.3e(4)

Transfers to Safety-Sensitive Positions.

- (a) Requirement for Records Check. As required by the DOT



regulations, employees who transfer to a safety-sensitive job will be asked to provide, by written consent, alcohol and drug testing records for the two-year period prior to the date of application. These records shall include any alcohol test results of .04 or higher alcohol concentration; refusals to be tested; verified positive drug tests; and documentation of the successful completion of return-to-duty requirements by the DOT.

- (b) Requirements for Direct Inquiry. Transferred employees also must provide information regarding whether he/she has tested positive or has refused to test on any pre-employment drug or alcohol test for any safety-sensitive job applied for but not obtained during the prior two years, as required by the DOT regulations.

27.3e(5) Random Testing. Safety-sensitive employees will be subject to random alcohol and drug testing as required by the DOT guidelines. Depending on the random selection, some employees may be tested more than once in a year, while others are not tested at all. Testing will take place just prior to the employee performing a safety-sensitive function, while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function.

- (a) Alcohol Test. Unless otherwise amended by the DOT guidelines, the City will randomly test at least 25% of the total number of safety-sensitive employees in the consortium pool per year for alcohol.
- (b) Drug Test. Unless otherwise amended by the DOT guidelines, the City will randomly test at least 50% of the total number of safety-sensitive employees in the consortium pool per year for drugs.

27.3e(6) Return-to-Duty Testing. An employee who has violated this Policy may be subject to a return-to-duty test and up to six unannounced drug/alcohol tests during the first twelve months after returning to a safety-sensitive position. The results must indicate an alcohol concentration of less than .02 or, in cases of a drug test, must indicate a verified negative result. This testing is separate from any random testing obligation.

27.3f Testing Procedures. The procedures regarding alcohol and drug testing will be provided upon employee request to the Personnel Officer. Analytical urine controlled substance testing and breath testing for alcohol will be conducted as required under the DOT guidelines.

27.3g Record Keeping and Confidentiality. The City is obligated to maintain records of the administration, including violations of, this Policy for a period of five years. Through the consortium pool, an annual report summarizing this information will be issued.

Any laboratory reports and test results shall not appear in an employee's general personnel folder but will be contained in a separate, confidential medical folder that will be securely kept under the control of the Personnel Officer. The report or test results may be disclosed to City management on a strictly need-to-know basis and to the tested

employee upon request. Disclosures, without patient consent, may also occur under the following situations:

- 27.3g(1) When the information is compelled by law or by judicial or administrative process;
- 27.3g(2) When the information has been placed at issue in a formal dispute between the employer and employee;
- 27.3g(3) When the information is to be used in administering an employee benefit plan;
- 27.3g(4) When the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure; or
- 27.3g(5) When requested by the DOT or any state or local officials with regulatory authority over the City or any of its safety-sensitive employees.

27.3h Rehabilitation. The City encourages employees to use City-sponsored employee assistance programs voluntarily to assist them in resolving any alcohol, drug, or controlled substance abuse problems. Employees should contact their Supervisor, Department Head, or Personnel Officer for additional information, including further information concerning the dangerous effects of alcohol misuse and drug use on an employee's health, work, and personal life. The City is committed to providing reasonable accommodation to those employees whose alcohol or drug abuse problem classifies them as disabled under federal and/or state law.

While the City will be supportive of those who seek help voluntarily, the City will be firm in identifying and disciplining those who continue to be substance abusers and who do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs. Therefore, the City may require employees to use employee assistance programs in addition to mandated referrals to a Substance Abuse Professional where applicable.

## RULE 28

### WORKPLACE SECURITY

Except as otherwise provided for herein, this rule and its subsections apply to all employees of the City.

- 28.1 Policy. The City is committed to providing a safe and secure workplace for employees and the public. The City will not tolerate acts or threats of violence in the workplace. The workplace includes any location where City business is conducted, including vehicles and parking lots. Any violation of this Policy will lead to criminal prosecution, and/or disciplinary action, up to and including termination.

This Policy does not apply to Public Safety Officers who use force and control weapons and may engage in undercover and surveillance activities in the course and scope of their duties as Public Safety Officers. Such Officers shall be governed by Police Department rules and regulations and the law regarding the appropriate use of force and control of weapons and the appropriate engagement in undercover and surveillance activities in the course and scope of their duties as Public Safety Officers.

- 28.2 Prohibited Behavior.

28.2a Employees are prohibited from engaging in or promoting acts of intimidation, violence, threats, coercion, assault, hostile and/or abusive statements, actions, gestures, or behavior toward any person while in the course of City employment. The City has zero tolerance for any conduct that involves workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

28.2b Employees engaged in City business are prohibited from carrying weapons (including self-defense weapons) in violation of any law or this Policy. Employees who have legal authority to carry a self-defense weapon shall notify the Department Head in writing of the type of weapon being carried. Employees who have legal authority to carry self-defense weapons violate this Policy if they 1) accidentally discharge or lose their weapon; 2) use, threaten to use, or display the weapon while engaging in City business; or 3) violate any law related to carrying a legal self-defense weapon while engaged in City business.

- 28.3 Definitions.

28.3a “Weapons” are defined as firearms, chemical sprays, clubs or batons, knives, and any other device, tool, chemical agent, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

28.3b “Workplace Violence” is any conduct that causes an individual to reasonably fear for his/her personal safety or the safety of his/her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

- 28.3b(1) Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property. This includes, but is not limited to:

- (a) Intimidating, threatening, or hostile statements, actions, or gestures.
  - (b) Direct, conditional, or veiled threats of any kind.
  - (c) Bomb threats.
  - (d) Acts or words that create a reasonable expectation of immediate or imminent harm, or reasonably demonstrate a credible intent to engage in violence toward a person.
  - (e) Physical assault or abuse with or without an object or weapon.
- 28.3b(2) The destruction of, or threat of destruction to, City property or another employee's property. This includes, but is not limited to, vandalism, arson, or sabotage.
- 28.3b(3) Harassing or threatening phone calls.
- 28.3b(4) Stalking, which includes, but is not limited to:
- (a) The act or process of stealthily following or trying to approach another person, for the purpose of annoying or harassing the person, or to create fear in the person, or to commit a further crime;
  - (b) The persistent, inappropriate, and unwanted attention given to a person, for the purpose of annoying or harassing the person, or to create fear in the person, or to commit a further crime;
  - (c) The use of the Internet or other electronic communication resources to carry out activities cited in either Section 28.3b(4)(a) or Section 28.3b(4)(b).
- 28.3b(5) Surveillance, which includes, but is not limited to:
- (a) Keeping a close watch over someone, for the purpose of annoying or harassing the person, or to create fear in the person, or to commit a further crime;
  - (b) The use of the Internet or other electronic communication resources to carry out Section 28.3b(5)(a).
- 28.3b(6) Possession of offensive or defensive weapons (firearms, illegal knives, clubs, mace, pepper spray, tear gas, etc.). This includes, but is not limited to, carrying or bringing to work weapons of any kind on City premises, parking lots, or while engaged in City business.
- 28.3b(7) Any conduct relating to violence or threats of violence that adversely affects the City's legitimate business interests. This includes, but is not limited to, behavior that is reasonably considered to be threatening or dangerous to any individuals on City premises, to employees of the City,

and to property associated with City business.

28.4 Incident Reporting Procedures.

28.4a An employee must immediately report workplace violence to his/her Supervisor or Department Head. The Supervisor or Department Head will report the matter to the Personnel Officer. This includes, but is not limited to, observations of behavior by other employees, customers, consultants, visitors, and any other persons. Employees are also strongly encouraged to notify the Personnel Officer of any restraining order in effect that could reasonably impact City business and of any potentially violent situation outside of work that could reasonably result in violence in the workplace.

28.4b The Personnel Officer, at the authority of the City Manager, will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident and action(s) taken, and will provide any other relevant information regarding the incident.

28.4c The Personnel Officer will take appropriate steps to provide security, such as:

28.4c(1) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;

28.4c(2) Asking any threatening or potentially violent person to leave the site; and/or

28.4c(3) Immediately contacting an appropriate law enforcement agency.

28.5 Investigation. The City Manager or his/her designee will see that reported violations of this Policy are investigated as necessary.

28.6 Management Responsibilities. Each Department Head has authority to enforce this Policy by:

28.6a Training Supervisors and subordinates about their responsibilities under this Policy;

28.6b Assuring that reports of workplace violence are documented accurately and timely;

28.6c Notifying the Personnel Officer and/or law enforcement authorities of any incidents;

28.6d Making all reasonable efforts to maintain a safe and secure workplace; and

28.6e Maintaining records and follow up actions related to workplace violence reports.

28.7 Follow up and Disciplinary Procedures. An employee found in violation of this Policy will be subject to disciplinary action, up to and including termination of employment. The City may also direct that an employee submit to a fitness-for-duty examination. In addition, employees found in violation of this Policy may be subject to criminal prosecution.

## **RULE 29**

### **POLICY AGAINST INCIVILITY AND BULLYING IN THE WORKPLACE**

This Rule applies to all employees of the City.

- 29.1 Policy. The City has a zero tolerance policy for incivility and bullying in the workplace. Understanding and mutual respect toward all individuals are essential elements to the existence of a safe and healthy workplace. Any employee who commits an act of incivility or bullying is subject to disciplinary action up to and including termination.
- 29.2 Incivility.
- 29.2a Uncivil office behavior includes acting in a characteristically rude and discourteous manner and/or displaying a lack of regard for others.
- 29.2b Examples of incivility include, but are not limited to taking someone else's food or beverage, purposely not greeting or acknowledging someone at the office, and not giving credit to a co-worker on a project. When incivility is extensive it leads to lower job satisfaction, decrease in performance, higher absenteeism, and low morale.
- 29.2c Employees are expected to treat other workers the way they would like to be treated, extend common courtesies, maintain appropriate boundaries, and ask for assistance from management or the Personnel Department when needed.
- 29.3 Bullying.
- 29.3a Workplace bullying is behavior that harms, intimidates, offends, degrades, or humiliates an employee, possibly in front of other employees, clients, or customers. Workplace bullying may cause the loss of trained and talented employees, reduce productivity and morale, and create legal risks.
- 29.3b Examples of bullying include, but are not limited to spreading information about others that employee knows not to be true, intimidating a person, undermining or deliberately impeding a person's work, physically abusing or threatening abuse, removing areas of responsibilities or causing an employee to be underutilized without cause, withholding necessary information, making jokes that are obviously offensive, intruding on a person's privacy by pestering/spying/stalking, yelling or using profanity, criticizing a person consistently or constantly, belittling a person's opinion, unwarranted punishment, blocking applications for training/leave/promotion, and tampering with a person's personal belongings.
- 29.3c If an employee is in doubt about whether an action would be considered bullying, the employee should ask himself/herself if a reasonable person would consider the action acceptable. An employee may also ask the Personnel Officer.
- 29.3d Employees should report bullying to their Supervisor, Department Head, or the Personnel Officer. Supervisors and Department Heads have the responsibility of informing the Personnel Officer of any report of bullying made to them. An informal investigation will be implemented. In the event the informal stage is not sufficient, or the offense is of a serious nature, a formal investigation will be implemented. Any reports of workplace

bullying will be treated seriously and investigated promptly.

29.3e The City has a no retaliation policy to protect employees who make complaints about bullying, or who participate in the complaint and/or investigation process about bullying. Managers and Supervisors are responsible for enforcing this no retaliation policy.

29.4 Training. In order to eliminate and/or minimize risks involved with incivility and bullying, the City will schedule training for employees regarding this Rule.

## RULE 30

### MISCELLANEOUS RULES

- 30.1 Personal Conduct. Each employee shall conduct himself/herself in a manner that does not reflect discredit upon the City. Each Department Head shall prescribe minimum standards of appearance for the employees in his/her Department. Different standards may be applied to different classes, depending upon the type of work required of the employee. Generally an employee is expected to be neatly groomed and suitably dressed for his/her duty so that he/she presents a favorable appearance to the public.
- 30.2 Other Public Offices. An employee may not accept appointment to a county or state office or position or otherwise incur an obligation of civil public service outside his/her employment without first notifying his/her Department Head, the Personnel Officer, and the City Manager, in order to insure compliance with Rule 19 (Outside Employment) and in order to otherwise address any necessary potential conflict of interest issues.
- 30.3 Official Badge or Insignia. An official or employee who wears a badge or other official insignia as evidence of his/her authority may not permit the badge or insignia to be used or worn by another person without the prior, written approval of the Department Head. The Department Head may not grant approval except to a person regularly and formally appointed by the City Manager to the position designated by the badge or insignia. The employee shall return the badge or insignia to the Department Head when he/she leaves office or is terminated.
- 30.4 Rewards, Gifts, and Contributions. Employees shall not, either in the course of regular employment or when off duty, through the representation of any position or connection held with the City, solicit directly or indirectly, any person, firm or organization for any reward, gratuity, contribution or gift.
- Employees shall not accept any gratuity, fee, loan, reward, or gift whatever, directly or indirectly, from any person as a result of their being employees of the City of Pleasant Hill.
- 30.5 Administrative Regulations. The City Manager may make additional administrative policies to carry out or supplement these Rules. Each Department Head may adopt supplementary Department rules and regulations not in conflict with these Rules. Department rules and regulations must be approved by the City Manager.
- 30.6 Lactation Accommodation.
- 30.6a Policy. A female employee who wishes to express breast milk for her infant child while at work may make arrangements with the Supervisor to do so.
- 30.6b Procedure. The employee should submit a memo to her Supervisor that states the proposed schedule and location for the lactation breaks. The lactation breaks should run concurrently with the regular break times, and, if necessary, other times that would not seriously disrupt work. The location for the lactation break should be private, not be a toilet stall, and should be within a reasonable proximity of the employee's work area. The location may be the place where the employee normally works, if that area can be made reasonably private. The Supervisor is not required to provide break time on any given occasion if the break would seriously disrupt work or operations.



- 30.6c Pay. Lactation break time that runs concurrently with regular break time is paid. Lactation break time in addition to regular break time is unpaid for overtime-eligible employees and paid for FLSA-exempt employees.
- 30.7 Dress Code. Employees are required to dress appropriately for the jobs they are performing. Therefore, failure to follow the dress regulations contained in this section shall be grounds for discipline.
- 30.7a All clothing must be neat, clean and in good repair.
- 30.7b Prescribed uniforms and safety equipment must be worn when required.
- 30.7c Footwear must be appropriate for the work environment and functions being performed.
- 30.7d Hair must be neat, clean and well groomed.
- 30.7e Beards, mustaches and sideburns must be maintained in a neat and well-groomed fashion.
- 30.7f Jewelry is acceptable except in areas where it constitutes a health or safety hazard.
- 30.7g Good personal hygiene is required.
- 30.7h Dress must be appropriate to the work setting, particularly if the employee deals with the public. Examples of prohibited clothing include:
- (1) Ripped, torn or faded clothing.
  - (2) Clothing designed specifically for sporting activities or outside leisure (such as sweats, shorts, tennis outfits, flip-flops, etc.).
  - (3) Clothing more appropriate for evening or leisure wear (such as short miniskirts, low-cut, tank, or halter tops, backless dresses, sheer clothing, etc.).