

**CITY OF RANCHO PALOS VERDES**  
**COMPETITIVE SERVICE EMPLOYEE**  
**PERSONNEL RULES**

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## RULE I

### DEFINITION OF TERMS

(ADOPTED 01/31/02, AMENDED 05/01/07,  
AMENDED 05/17/11, AMENDED 08/02/11)

Whenever used in these Personnel Rules, the following terms shall have the meanings set forth below:

SECTION 1 – CONTINUOUS EMPLOYMENT/SENIORITY: Total full-time spent in the employ of the City, including all days of attendance at work, and approved leaves of absence whether paid or non-paid, but shall not include unauthorized absences, time spent between employment with the City, suspensions or layoffs of more than thirty (30) days.

SECTION 2 – CITY: The City of Rancho Palos Verdes.

SECTION 3 – CITY MANAGER: The duly appointed City Manager of the City of Rancho Palos Verdes or his/her designee.

SECTION 4 – CLASSIFICATION: A position or positions assigned to the same job title.

SECTION 5 – COMPETITIVE SERVICE: The competitive service established by Section 2.46.040 of the Rancho Palos Verdes Municipal Code.

SECTION 6 – DAY: Unless otherwise indicated, day means calendar day.

SECTION 7 – EMPLOYEE: A competitive service employee as defined in Municipal Code Section 2.46.040 and compensated through the City payroll who is either: 1) regularly scheduled to work forty (40) or more hours per week; or, 2) who shares an existing full-time position with another employee so that the combination of hours that each employee works totals forty (40) or more hours per week, and who has successfully completed the probationary period as hereinafter provided in these Rules. Employee also does not include elective officials, members of appointed boards, commissions, and committees, City Council-appointed City officers, independent contractors, part-time employees, temporary employees, emergency employees, management employees or volunteers.

SECTION 8 – EVALUATION DATE: The date in which an employee is scheduled to receive his/her performance review.

(a)The date on which a probationary employee has completed not less than six (6) months of service within a job classification,

(b) The date on which a regular employee has completed one (1) year of service within a job classification and annually thereafter.

(c) The evaluation date shall be adjusted as required for any break in service, or adjusted in accordance with the merit increase schedule outlined in Rule V.

SECTION 9 – EXEMPT EMPLOYEE: An employee whose duties and salary exempt him/her from the overtime pay provisions of the federal Fair Labor Standards Act.

SECTION 10 – MANAGEMENT EMPLOYEE or MANAGER: The Deputy City Manager and Department Heads as defined in the Management Employee Personnel Rules or so designated either in a class specification or by the City Manager.

SECTION 11 – NONEXEMPT EMPLOYEE: An employee who is subject to the overtime pay and compensatory time off provisions of the federal Fair Labor Standards Act.

SECTION 12 – PERSONNEL OFFICER: The City Manager shall serve as the Personnel Officer as outlined in Municipal Code Section 2.46.030.

SECTION 13 – PROBATIONARY EMPLOYEE: An employee who is employed with the City during his/her initial-hire, transfer or promotional probationary period, or extension thereof.

(a) An initial-hire probationary employee is an employee who (1) is serving a probationary period, and (2) has not previously been employed by the City, or (3) has previously been employed by the City but who is re-employed after a break in service.

(b) A transfer probationary employee is a City employee who has been transferred to an equivalent job classification in a different department and who is serving a probationary period.

(c) A promotional probationary employee is a City employee who has been promoted to a higher job classification requiring different skills and who is serving a probationary period.

SECTION 14 – PROBATIONARY PERIOD: A period of time not less than six (6) months as defined in Municipal Code Section 2.46.070, which is an integral part of the examination, recruiting, testing and selection process of employment. During the probationary period, an employee is required to demonstrate his/her fitness for the position to which he/she is tentatively appointed, including promotional or transfer appointments, by actual performance of the duties of the position.

SECTION 15 -- RULES: The Competitive Service Employee Personnel Rules.

SECTION 16 – TERMINATION: The cessation of employment with the City for non-disciplinary reasons such as, but not limited to, layoff, resignation, or failure to successfully complete the initial-hire probationary period.

SECTION 17 – WORK DAY: Any day, Monday through Friday, except holidays, when City Hall administrative offices are open for business.

SECTION 18 – WORK WEEK: A regular schedule of forty (40) hours in a seven day period, the scheduling of which may vary from time to time based on the workforce needs of the City as determined by the City Manager.

## RULE II

### APPLICATION AND EXCLUSIONS

(ADOPTED 01/31/02, AMENDED 05/01/07, AMENDED 05/17/11)

(a) The Competitive Service Employee Personnel Rules apply to all employees in the competitive service as defined in Municipal Code Section 2.46.040.

(b) Independent contractors and volunteers are not employees of the City and are not included in the competitive service. Similarly, part-time employees, temporary employees, emergency employees and management employees are not included in the competitive service. Notwithstanding their exclusion from the competitive service, the following rules shall apply as indicated:

(i) Rule XIII (NONDISCRIMINATION POLICY) and Rule XIV (VIOLENCE IN THE WORKPLACE), shall apply to independent contractors, volunteers, probationary employees, part-time employees, temporary employees, emergency employees, and to job applicants. These rules shall also apply to the City Manager and to management employees, through the Management Employee Personnel Rules.

(ii) Rule VII, Section 8 (PREGNANCY DISABILITY LEAVE), and Rule VII, Section 11 (FAMILY AND MEDICAL LEAVE) shall apply to probationary employees, part-time employees, temporary employees, and emergency employees, to the extent such employees otherwise meet the eligibility requirements for pregnancy disability leave and/or family and medical leave." These provisions shall also apply to the City Manager and to management employees, through the Management Employee Personnel Rules.

## RULE III

### CLASSIFICATION PROCEDURES

(ADOPTED 03/11/02, AMENDED 05/17/11)

SECTION 1 – PREPARATION OF CLASSIFICATION PLAN: The City Manager shall prepare, maintain and amend the classification plan. The classification plan shall contain job specifications for job classifications for positions covered by these Rules.

SECTION 2 – ALLOCATION OF POSITIONS: The City Manager shall allocate every competitive service position to one of the classifications established by the classification plan and shall allocate all positions substantially similar to the same classification.

SECTION 3 – CLASS SPECIFICATIONS: The classification plan shall consist of job specifications, which shall set forth a descriptive title, typical duties and responsibilities, essential functions of the position, and the training, experience, and other qualifications necessary or desirable for the effective performance of each position within a classification.

SECTION 4 – RECRUITMENT: Recruitment and appointment to positions within the competitive service shall be accomplished according to procedures established by the City Manager, consistent with the requirements of the Municipal Code, these Rules and applicable law.

SECTION 5 – VETERANS' PREFERENCE SYSTEM: The recruitment procedures utilized for employment within the competitive service of the City (not including in-house promotions) shall include a Veterans' Preference System giving preference to a veteran who has received an honorable discharge over other identically qualified applicants. Normally, this will involve the awarding of one or more veteran credit points to a qualified veteran who meets the minimum requirements of the position and who passes all portions of the testing or examination process. The procedures may require applicants to request veterans' preference consideration in conjunction with their applications and to timely submit documents or other proof sufficient to determine eligibility. The procedures, requirements and definitions used in the Veterans' Preference System shall be consistent with those provided in any applicable law involving Veterans Preference Systems for California cities.

## RULE IV

### PROBATIONARY PERIOD AND PROCEDURES

(ADOPTED 01/31/02, AMENDED 05/17/11)

SECTION 1 – OBJECTIVE OF PROBATIONARY PERIOD: The probationary period shall be regarded as part of the selection and evaluation process. The City shall closely observe the probationary employee's work performance during the probationary period.

SECTION 2 – DURATION OF PROBATIONARY PERIOD: All initial-hire and promotional appointments shall be tentative and subject to a probationary period of not less than six (6) months actual service. The City Manager may extend a probationary period up to six (6) additional months of actual service. Wherever possible, the City Manager shall give the probationary employee written notice of the extension of the probationary period ten (10) days before its expiration. The written notice shall state the reason for the extension. Failure to give the probationary employee notice of the extension prior to the expiration of the initial probationary period shall automatically extend the period. The length of the automatic extension without a written notice shall not exceed a period over thirty (30) days.

SECTION 3 – TERMINATION OF INITIAL HIRE PROBATIONARY EMPLOYEE: During or at the conclusion of the initial-hire probationary period, or any extension thereof, the City Manager, after consultation with the probationary employee's Department head, where practical, may terminate an initial hire probationary employee without cause, and without a hearing or right of appeal.

SECTION 4 – PROCEDURES – REGULAR APPOINTMENT FOLLOWING PROBATIONARY PERIOD: The City Manager shall be notified in writing two (2) weeks prior to the expiration of any probationary period. After consultation with the probationary employee's Department Head and immediate supervisor, the City Manager shall determine whether:

- (a) The initial-hire probationary employee shall become a regular employee,
- (b) The initial-hire probationary employee shall be terminated or discharged,
- (c) The transfer probationary employee's transfer shall be confirmed,
- (d) The transfer probationary employee's transfer shall be rejected,
- (e) The promotional probationary employee's promotion shall be confirmed,
- (f) The promotional probationary employee's promotion shall be rejected, or

(g) The employee's initial, transfer or promotional probationary period shall be extended.

SECTION 5 – REJECTION FOLLOWING TRANSFER OR PROMOTION: Any probationary employee rejected during or at the conclusion of a probationary period following a transfer or promotional appointment shall be reinstated to the classification from which the employee was transferred or promoted unless (a) charges are filed and the employee is dismissed from employment in the manner provided in these Rules, (b) there is no vacancy in such position, or (c) the employee is terminated from employment due to a layoff or other basis. If there is no vacancy, the employee may request to be placed on a reemployment list.

## RULE V

### REGULAR COMPENSATION/PERFORMANCE EVALUATIONS

(ADOPTED 01/31/02)

Compensation shall be determined from a salary schedule of ranges established by Resolution of the City Council. Each range spread shall be approximately thirty percent (30%) from the bottom of the range to the top of the range. During the annual budget deliberations, the City Council shall establish a pool of funds to be used by the City Manager for employee merit increases if general fund reserves are estimated to be sufficient to cover the cost associated with such a merit pool.

SECTION 1 – INITIAL EMPLOYMENT: The rate of compensation for initial employment in any classification shall be determined by the City Manager at his/her sole discretion based upon the experience, education, skills and ability of the employee.

SECTION 2 – PERFORMANCE EVALUATION: A probationary employee shall receive a probationary performance evaluation at the conclusion of the probationary period, or any extension thereof. Each regular employee shall receive a performance evaluation after completing one (1) year of service within a job classification and annually thereafter. The evaluation date shall be adjusted as required in Rule I by any break in service, transfer or promotion.

SECTION 3 – MERIT ADVANCEMENT WITHIN A RANGE: The only reason for advancement within a range shall be meritorious performance in an employee's assigned duties:

(a) Except as allowed in this section, probationary employees will not be eligible for merit advancement at the conclusion of the probationary period.

(b) Meritorious performance shall be determined by the overall rating on the employee's performance evaluation.

(c) Merit increases shall be based on meritorious service and granted only if sufficient funding is available within the City Manager's merit pool. Granted increases shall be effective on the same day in which the employee's evaluation date falls, whether or not the performance evaluation is conducted on the evaluation date.

(d) An employee may be advanced within his/her range in accordance with the merit pay program determined annually by the City Manager.

(e) All proposed advancements shall be recommended by the Department Head and approved by the City Manager before becoming effective. The City Manager shall make a final determination on all proposed merit increases based upon the overall

rating on the employee's evaluation, the Department Head's recommendation and the funds available in the City Manager's merit pool.

(f) When an employee demonstrates exceptional ability and proficiency, such employee may be advanced within his/her range with the approval of the City Manager, in his/her sole discretion, within available funding, following recommendation by the Department Head, without regard to the minimum length of service provisions contained in this section. Advancements under this section shall not change the employee's regular evaluation date.

SECTION 4 – PROMOTIONAL ADVANCEMENT: When an employee is promoted from employment in one classification to employment in a classification assigned a higher range, advancement shall be to a level within the higher classification as will accord such employee an increase of at least five percent (5%) over his/her current rate of compensation, provided that the salary does not exceed the maximum of the range.

SECTION 5 – ACTING PAY: An employee who, by written assignment by his/her Department Head or the City Manager, performs the duties of a position with a higher salary classification than that in which he/she is regularly employed, shall receive compensation specified for the position to which he/she is assigned if he/she performs the duties for a period of one (1) calendar month or more. The employee shall be compensated at a level within the higher classification as will accord such employee an increase of at least 5 percent (5%) over his/her current rate of compensation, provided that the salary does not exceed the maximum of the range. Such compensation shall be retroactive to the first day of the assignment through the duration of the assignment.

SECTION 6 – TOP OF THE RANGE: In no case shall an employee's regular salary exceed the maximum of the range established by Resolution of the City Council.

## RULE VI

### OVERTIME COMPENSATION

(ADOPTED 01/31/02, AMENDED 05/17/11)

**SECTION 1 – WORK SCHEDULE:** When necessary to perform essential work, nonexempt employees and nonexempt probationary employees may be required to work at a time other than during, or in excess of, forty (40) hours in the work week.

(a) Overtime shall be defined as any combination of actual hours worked and paid leave, which exceeds forty (40) hours in any work week.

(b) Work in excess of forty (40) hours in the workweek requires written approval of the nonexempt employee's Department Head or the City Manager. Whenever possible, the employee shall obtain the Department Head's or the City Manager's written approval in advance.

**SECTION 2 – OVERTIME COMPENSATION:** Nonexempt employees and nonexempt probationary employees shall receive overtime compensation or compensatory time off in accordance with the federal Fair Labor Standards Act. Accordingly, nonexempt employees and nonexempt probationary employees shall be paid one and one-half (1 ½) times their regular hourly rate of pay or receive compensatory time off at one and one half (1 ½) hours for all hours worked in excess of forty (40) in the work week.

**SECTION 3 – COMPENSATORY TIME:** Nonexempt employees and nonexempt probationary employees may elect to be credited with compensatory time off in lieu of paid overtime at the time such overtime is recorded. Such compensatory time shall be at the rate of one and one half (1 ½) hours for each hour of overtime worked. Compensatory time may not be accumulated to exceed forty (40) hours.

(a) The taking of all compensatory time off shall first be approved by the nonexempt employee's or nonexempt probationary employee's Department Head or the City Manager and shall be granted in accordance with the work force needs of the City and the federal Fair Labor Standards Act.

(b) Compensatory time may be used for medical appointments.

(c) Compensatory time may be used for pregnancy disability leave and other leave provided pursuant to the federal and California family and medical leave statutes.

(d) Upon termination or dismissal from employment, nonexempt employees and nonexempt probationary employees shall be paid for accumulated compensatory time up to a maximum amount, which may be accumulated under the provisions of these Rules, in accordance with federal and state law.

RULE VII

LEAVES

(ADOPTED 01/31/02, AMENDED 05/17/11, AMENDED 08/02/11)

(a) Time spent by an employee on an approved paid leave shall not be construed as a break in service or employment, and rights accrued at the time the leave is granted shall be retained by the employee. Additionally, a leave of absence, with pay or without pay, granted to any employee shall not create a vacancy in the position. For the duration of any such leave of absence, the duties of the position may be performed by another employee from the competitive service on an acting assignment, an independent consultant or a temporary employee, provided that any person so assigned shall possess the minimum qualifications for such position.

(b) Except as otherwise permitted by law, all requests for leave shall be in writing, and shall be sent to the City Manager or his/her designee. The request shall include the expected start and end dates of the leave, and any medical certifications required by the provisions of this Rule. An employee shall provide as much advance notice of the need for leave as practicable. Generally, when the need for the leave is foreseeable, the employee shall try to provide at least ten (10) days' notice prior to the commencement of the leave. Failure to provide advance notice of the need for leave may be grounds for delaying the start of the leave.

SECTION 1 – VACATION LEAVE:

(a) Employees are entitled to accrue paid vacation leave under the following schedule:

<u>Length of Employment</u>	<u>Vacation Accrual Rates</u>	<u>Maximum Accumulation</u>
Beginning of 1 <sup>st</sup> month through 2 years	6.67 hours per month	160 hours
Beginning of 3 <sup>rd</sup> year through 5 years	8 hours per month	192 hours
Beginning of 6 <sup>th</sup> year through 15 years	10 hours per month	240 hours
Beginning of 16 <sup>th</sup> year and more	8 additional hours per year for each year of service up to a maximum of 160 hours per year	Twice the annual accrual not to exceed 320 hours (i.e. 256, 272, 288, 304 or 320 hours, as applicable)

(b) After completion of the initial-hire probationary period, the employee will be credited with vacation leave earned during the probationary period. The employee shall be entitled to take such leave upon the completion of the initial-hire probationary period or extension thereof. However, an initial-hire probationary employee may utilize accrued vacation leave prior to the completion of the probationary period with the written approval of the City Manager.

(c) Vacation leave may be accumulated to a maximum of two years' worth of accrued vacation leave. For specific amounts, see table above. Once an employee reaches the maximum vacation leave which may be accumulated, the employee shall cease to accrue any further vacation leave until the amount accumulated falls below the maximum.

(d) The scheduling of vacation leave must be approved in advance by the employee's Department Head or the City Manager. Employees shall submit a written request to schedule vacation leave to the employee's Department Head or the City Manager within a reasonable amount of time prior to the desired date and may be granted in accordance with the work force needs of the City.

(e) Employees will have the option to be paid for vacation leave that exceeds the maximum allowed by these Rules if a requested vacation leave is received and denied by the employee's Department Head and the City Manager due to the work force needs of the City, not less than thirty (30) days prior to exceeding the maximum accrual.

(f) Employees shall not be granted, and accordingly are not entitled to take, vacation leave in advance of its accrual.

(g) Upon termination or dismissal from employment, employees and probationary employees shall be paid for accumulated vacation leave up to a maximum amount, which may be accumulated by these Rules.

(h) Vacation leave may be used for medical appointments, pregnancy disability leave and leave pursuant to the federal and California family and medical leave statutes.

## SECTION 2 – ADMINISTRATIVE LEAVE:

(a) Exempt employees and exempt probationary employees may be granted up to sixty-two (62) hours of administrative leave per fiscal year at the sole discretion of the City Manager.

(b) The scheduling of administrative leave must be approved in advance by the City Manager or his/her designee. Exempt employees shall submit a written request to schedule administrative leave to the City Manager or his/her designee within a reasonable amount of time prior to the desired leave. In the exercise of the City Manager's discretion, he/she shall consider the work force needs of the City.

(c) Administrative leave may not be accumulated to the next fiscal year.

(d) Upon termination or dismissal from employment, exempt employees or exempt probationary employees shall not be granted and accordingly are not entitled to be paid for administrative leave.

(e) Exempt probationary employees are eligible to use administrative leave if granted by the City Manager or his/her designee during their probationary period.

(f) Administrative leave may be used for medical appointments, pregnancy disability leave and leaves provided pursuant to the federal and California family and medical leave statutes.

### SECTION 3 – SICK LEAVE:

(a) Employees and probationary employees earn paid sick leave at the rate of eight (8) hours for each full calendar month on continuous employment with the City including time served in probationary status.

(b) Probationary employees are eligible to use paid sick leave during their probationary period.

(c) Unused sick leave may be accumulated to a maximum of seven hundred twenty (720) hours.

(d) In order to receive paid sick leave, an employee or probationary employee must notify his/her supervisor at the earliest possible time, generally before 8:30 a.m. on the day that the leave will be used. Such notice shall provide the fact and the reason for the leave and duration of the leave. Failure to provide reasonable notice will be cause for denial of sick leave with pay for the period of the absence. Written verification of the cause of absence may be required by the Department Head or City Manager.

(e) Employees and probationary employees shall not be granted, and accordingly are not entitled to take, paid sick leave in advance of its accrual.

(f) Employees and probationary employees who use more than twenty-seven (27) consecutive sick hours shall be required to furnish a physician's certificate stating that the employee is able to safely return to work. A physician's certification may be requested if a supervisor has reason to believe that sick leave is being abused.

Regardless of the length of the sick leave used, the supervisor has the authority to determine if the employee is abusing the sick leave benefit.

(g) Sick leave may be used for medical appointments, pregnancy disability leave, leaves provided pursuant to the federal and California family and medical leave statutes and to care for an employee's spouse, child(ren), parent(s) or spouse's child(ren) or parent(s) due to illness.

(h) Upon termination or dismissal from employment, employees and probationary employees shall not be granted, and accordingly are not entitled to be paid for accumulated sick leave.

(i) This section shall be interpreted and applied in a manner consistent with applicable federal and California law.

**SECTION 4 – WELLNESS LEAVE:** Employees and probationary employees are eligible to earn four and one half (4 ½) hours of paid wellness leave for ten (10) consecutive weeks of perfect attendance without using any sick leave time.

(a) Prospectively, the ten (10) week period shall be calculated from June 2, 1991.

(b) A maximum of nine (9) hours of wellness leave may be accumulated.

(c) Upon termination or dismissal from employment, employees and probationary employees shall not be granted, and accordingly are not entitled to be paid for wellness leave.

(d) Wellness leave may be used for pregnancy disability leave and leaves provided under the federal and California family and medical leave statutes.

**SECTION 5 – BEREAVEMENT LEAVE:** Paid bereavement leave shall not be considered accrued leave which an employee or probationary employee may use at his/her discretion, but is granted by reason of the death of a member of the employee's or probationary employee's immediate family, consisting of an employee's or probationary employee's spouse and employee's or probationary employee's or their spouse's child, parent, sibling, stepparent, stepchild and grandparent. An employee or probationary employee may take a maximum of three (3) working days of bereavement leave each time a death occurs within an employee's or probationary employee's immediate family. In order to receive paid bereavement leave, the employee or probationary employee must notify his/her Department Head or the City Manager at the earliest possible time, generally before 8:30 a.m. on the day that the leave is first requested. In the event the employee or probationary employee must travel out of state in connection with the bereavement, the employee or probationary employee shall be allowed two (2) additional working days of bereavement leave for each incident.

## SECTION 6 – JURY DUTY:

(a) Employees and probationary employees called for jury duty shall give the Department Head or City Manager reasonable advance written notice of the his/her obligation to serve.

(b) Employees and probationary employees will be paid their regular wages, less jury duty pay (other than mileage or subsistence allowances) or may elect to forfeit the jury duty warrant to the City and receive full City wages.

(c) Written evidence of jury duty attendance shall be presented to the Personnel Officer.

(d) Employees and probationary employees shall continue to report to work on those days when excused from jury duty, and on which the employee or probationary employee can work at least four (4) hours during his/her regular workday.

SECTION 7 – LEAVE OF ABSENCE WITHOUT PAY: The City Manager, after consultation with the employee's or probationary employee's Department Head, may grant an employee or probationary employee leave of absence without pay for a period not to exceed four (4) months in accordance with the work force needs of the City. Additionally, the City Manager may apply such conditions as he/she deems warranted in the best interest of the City. No such leave shall be granted except upon written request of the employee or probationary employee. Leave under this section shall only be granted to an employee or probationary employee under circumstances where the employee or probationary employee is not otherwise eligible for pregnancy disability leave or family and medical leave as provided under applicable law and Sections 8 (Pregnancy Disability Leave) and 11 (Family and Medical Leave), respectively of this Rule. Approval shall be in writing and a copy filed with the Personnel Officer.

(a) A leave of absence without pay shall not be construed as a break in service or employment, however, paid leave benefits, increases in salary, and other similar benefits shall not accrue to a person granted such leave during the period of absence.

(b) Use of a leave of absence without pay for a purpose other than that requested may be cause for forfeiture of reinstatement rights. Failure on the part of an employee or probationary employee on leave to report to work promptly at its expiration may be cause for discharge.

(c) An employee or probationary employee reinstated after a leave of absence without pay shall receive that same step in the salary range that he/she received when the leave of absence began. Time spent on such leave without pay shall not count towards service for increases within the salary range, and the employee's or probationary employee's evaluation date shall be set forward one (1) month for each thirty (30) consecutive days taken.

(d) The City shall maintain group health insurance coverage for an employee or probationary employee (including dependent coverage) while the employee or probationary employee is taking a medical leave of absence under this section at the level and under the conditions coverage would have been provided by the City if the employee or probationary employee had not taken such leave. In the event an employee or probationary employee does not return to work following the leave, the City reserves the right to recover the premiums or other sums the City paid for group health insurance coverage during the period of the leave.

(e) The employee or probationary employee is responsible to pay the entire cost of all applicable health and life insurance premiums and other insurance premiums (such as long term disability and accidental death and dismemberment) during a non-medical leave of absence without pay that exceeds thirty (30) days. In addition, in advance of taking the leave, the employee or probationary employee must make written arrangements with the finance department to pay for the costs of such coverage. Premiums shall be paid within the time specified by the City or as otherwise required by the applicable insurance or benefit program.

(f) If the leave of absence without pay was for medical reasons, prior to resuming regular duties, an employee or probationary employee shall furnish the Personnel Officer a physician's certificate stating that the employee is able to return to work.

#### SECTION 8 – PREGNANCY DISABILITY LEAVE:

(a) An employee or probationary employee who is temporarily disabled and unable to work due to pregnancy, childbirth or related medical condition may take a leave of absence without pay for up to four (4) months. Leave taken under the pregnancy disability leave policy runs concurrently with family and medical leave under federal law, but does not run concurrently with family and medical leave under California law. In accordance with federal and state law, the combined maximum amount of time that an eligible employee may take for pregnancy disability leave and family and medical leave is approximately seven months (four (4) months plus twelve (12) workweeks).

(b) All requests for pregnancy disability leave shall be in writing, and shall be sent to the City Manager. The request shall include the expected start and end dates of the leave, and the medical certificate required by this section.

(c) An employee or probationary employee shall provide as much advance notice of the need for pregnancy disability leave as practicable. Generally, the employee or probationary employee shall provide at least thirty (30) days' advance notice.

(d) An employee or probationary employee requesting a pregnancy disability leave shall provide the City Manager with a certificate from a health care provider on a form supplied by the City that the employee or probationary employee is disabled by pregnancy, childbirth or related medical condition. Failure to provide the required

certification in a timely manner (within fifteen (15) days of the leave request) may result in denial of the leave request until such certification is provided. Recertification is required if leave is sought after expiration of the time estimated by the health care provider. Failure to submit a required recertification can result in termination of the leave.

(e) Prior to returning to work, an employee or probationary employee who took pregnancy disability leave must provide the City Manager with a certificate from a health care provider that the employee's or probationary employee's disability has ceased and the person is able to return to work.

(f) A pregnancy disability leave of absence shall not be construed as a break in service or employment.

(g) Use of pregnancy disability leave for a purpose other than that for which it was granted shall be cause for discharge and forfeiture of reinstatement rights. To the extent permitted by law, failure on the part of the employee or probationary employee on Pregnancy Disability Leave to report to work promptly at its expiration shall be cause for discharge.

(h) Except as otherwise provided by law, upon timely return from pregnancy disability leave, the employee or probationary employee shall be reinstated to her original job. If the employee or probationary employee cannot be returned to her original job, she shall be returned to a substantially similar position, unless either there is no substantially similar position available or filling the substantially similar position would substantially undermine the City's ability to operate safely and efficiently.

(i) An employee or probationary employee reinstated to her original job after a pregnancy disability leave of absence shall receive the same salary that she received when the leave of absence began. If the time spent on such leave was without pay, the time shall not count toward service for increases within the salary range or paid leave benefits, and the employee's or probationary employee's evaluation date shall be set forward one (1) month for each thirty (30) consecutive days taken.

(j) The City shall maintain group health insurance coverage for an employee or probationary employee (including dependent coverage) while the employee or probationary employee is taking pregnancy disability leave at the level and under the conditions coverage would have been provided by the City if the employee or probationary employee had not taken the leave. In the event an employee or probationary employee does not return to work following a pregnancy disability leave, the City reserves the right to recover the premiums or other sums the City paid for group health insurance coverage during the period of the leave.

(k) This section shall be interpreted and applied in a manner consistent with applicable federal and California law.

(l) Pregnancy disability leave shall be unpaid, except that an employee may use any accumulated paid vacation leave, sick leave, compensatory time, administrative leave or wellness leave provided for in this Rule.

(m) Pregnancy disability leave may be taken intermittently or on a reduced work schedule when medically advisable, as determined by the employee's or probationary employee's health care provider. When an employee's or probationary employee's need to take leave intermittently or on a reduced work schedule is foreseeable based on planned medical treatment, the employee may be transferred to an available alternative position for which she is qualified that has equivalent pay and benefits in order to better accommodate the periods of leave.

SECTION 9 – MILITARY LEAVE: Military leave and military spouse leave shall be granted in accordance with applicable federal and California law.

SECTION 10 – PAID HOLIDAY LEAVE:

(a) Subject to the restrictions described below, nonexempt employees and nonexempt probationary (new-hire, transfer and promotional) employees shall receive paid leave at his/her straight hourly rate for the following designated City holidays:

- (1) The last Monday in May;
- (2) July 4;
- (3) The first Monday in September
- (4) The fourth Thursday in November
- (5) The day after the fourth Thursday in November
- (6) The period between and including December 24 and January 1 (Saturdays and Sundays or other non-work days excepted); and
- (7) One day as a floating holiday, which shall be designated yearly by the City Manager.

(b) Exempt employees and exempt probationary employees shall receive paid leave for the designated City holidays outlined in Section 10(a) above. At his/her discretion, the City Manager may grant extra compensation or in lieu time off to exempt employees and exempt probationary employees who are required to work on a holiday.

(c) If July 4<sup>th</sup> falls upon a Saturday, the Friday before is the observed holiday, and if the date falls upon a Sunday, the Monday following is the observed holiday.

(d) In order to be eligible for holiday pay, an employee or probationary employee must work the last scheduled workday before and the first scheduled workday after the holiday unless the employee or probationary employee is taking approved paid leave.

(e) If a holiday falls during an employee's or probationary employee's approved vacation leave period, the employee or probationary employee shall be paid for the

holiday and shall not be charged with a vacation day for the day the holiday is observed.

(f) If a holiday falls during an employee's or probationary employee's approved sick leave period, the employee or probationary employee will be paid for the holiday and will not be charged with a sick day for the day the holiday is observed.

(g) Employees and probationary employees on non-paid leave of absence for any reason are ineligible for holiday benefits for holidays that are observed during the period they are on a non-paid leave of absence.

(h) Regardless of the number of hours worked during the work week, nonexempt employees and nonexempt probationary employees who work on a designated City holiday shall be paid their regular hourly rate and one and one half (1 ½) times their regular hourly rate of pay for all hours worked on the holiday or receive credit for the equivalent number of hours worked of compensatory time off and one and one half (1 ½) hours of compensatory time off for all hours worked on the holiday.

(i) Upon termination or dismissal from employment, employees and probationary employees shall not be granted, and accordingly are not entitled to be paid for a floating holiday.

#### SECTION 11 – FAMILY AND MEDICAL LEAVE:

The City will provide eligible employees and probationary employees with family and medical leave, as required by California and federal law pursuant to the federal Family and Medical Leave Act of 1993 ("FMLA") and the California Family Rights Act ("CFRA"). Unless otherwise provided, "Family and Medical Leave" under this Section means leave pursuant to the FMLA and CFRA. As used in this Section, "eligible employee" means and includes both eligible employees and eligible probationary employees.

Rights and obligations which are not specifically set forth in this Section are contained in the Department of Labor regulations implementing the FMLA and the regulations issued by the California Department of Fair Employment and Housing ("DFEH") implementing the CFRA. This Section shall be interpreted in a manner consistent with the requirements of the regulations issued by the U.S. Department of Labor (29 C.F.R. Sections 825.100, et seq.), the National Defense Authorization Act ("NDAA") for 2008, Uniformed Services Employment and Reemployment Rights Act ("USERRA"), the California Military & Veterans Code, and the regulations issued by the DFEH (2 Calif. Code of Reg. Section 7297.0, et seq.), and as such regulations and statutes may be amended from time to time.

(a) All employees or probationary employees who have worked for the City at least twelve (12) months and a minimum of one thousand two hundred fifty (1,250)

hours during the twelve (12) months prior to a request for leave are eligible for an unpaid leave of absence for the following reasons:

(1) The birth of a child of the employee or probationary employee\_and to care for the child.

(2) The placement of a child with the employee or probationary employee through adoption or a foster care program.

(3) To care for the employee's or probationary employee's spouse, child or parent if the spouse, child or parent, or the spouse's child or parent has a serious health condition.

(4) The serious health condition of the employee or probationary employee\_that makes the employee unable to perform the functions of his/her position.

(5) Leave for Treatment of Substance Abuse. Leave for treatment of substance abuse may qualify for Family and Medical Leave under the FMLA, provided all other eligibility requirements (including but not limited to, serious health condition, inpatient care and continuing treatment) are met. However, an employee's or probationary employee's absence due to his/her use of a substance does not qualify as a serious health condition. The treatment must be provided by a health care provider, or by a provider of health care services on referral of a health care provider. This Section does not prevent the City from taking action against any employee or probationary employee who violates the City's Discipline Policy set forth in Rule XII (including but expressly not limited to Subsections 2(h) and 2(i) thereof), or any employee or probationary employee who violates the Drug-Free Workplace Act, or any other substance abuse policy adopted by the City. An eligible employee may also take Family and Medical Leave under the FMLA to care for a covered family member who is receiving treatment for substance abuse.

(6) Qualifying Exigency Leave. An eligible employee may take up to twelve (12) weeks of leave under the FMLA because of a qualifying exigency arising out of the fact that the employee's or probationary employee's spouse, son, daughter, or parent is on, or has been notified of an impending call or order to, "covered active duty" in the Armed Forces.

(7) Caregiver Leave. Under the FMLA, an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member may take up to twenty-six (26) weeks of leave in a twelve-month period to care for the service member.

(b) Determination of the 12- month employment period under the FMLA. Under the FMLA, the twelve (12) months that an employee or probationary employee must have been employed by the City need not be consecutive months, subject to the following:

(1) Employment periods prior to a break in service of seven (7) years or more will not be counted in determining whether the employee or probationary employee has been employed by the City for at least twelve (12) months, unless the employee's or probationary employee's break in service resulted from his/her fulfillment of his/her National Guard or reserve military service obligations.

(2) Time served performing military service will be counted in determining if the employee or probationary employee has been employed by the City for at least twelve (12) months.

(3) If an employee or probationary employee is maintained on the payroll for any part of a week (including any periods of paid or unpaid leave such as vacation or holiday leave) during which other benefits or compensation are paid by the City, the week will count as a week of employment.

(4) Nothing under this Section shall provide the employee or probationary employee with rights any greater than he/she would have under the USERRA.

(c) Determination of 1,250 hours requirement following return from military service.

(1) A person who is reemployed following military service shall have the hours that he/she would have worked for the City added to the hours that he/she actually worked during the previous 12-month period to meet the 1,250-hour requirement.

(2) Use of the employee's or probationary employee's pre-service work schedule may be used to determine the hours that would have been worked during the period of military service, unless another method provides a more accurate calculation.

(d) Prior to the proposed start of the employee's or probationary employee's Family and Medical Leave, the City will determine whether he/she has worked for the City for at least 1,250 hours in the past twelve (12) months and whether he/she has been employed by the City for a total of at least twelve (12) months.

(e) If an employee or probationary employee is on non-Family and Medical Leave at the time he/she meets the eligibility requirements for Family and Medical Leave, any portion of leave taken for a Family and Medical Leave-qualifying reason after the employee or probationary employee meets the eligibility requirements shall be Family and Medical Leave.

(f) A "serious health condition" is an illness, injury, impairment or physical or mental condition that involves either:

(1) Inpatient care in a hospital, hospice, or residential medical care facility; or

(2) Continuing treatment or continuing supervision by a health care provider, including any of the following:

(i) Under the CFRA, a period of incapacity due to a serious health condition of more than three (3) consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves treatment two (2) or more times by a health care provider or treatment by a health care provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Under the FMLA, a period of incapacity due to serious health condition of more than three (3) consecutive, full days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves: (A) treatment two (2) or more times, within thirty (30) days of the first day of incapacity (unless extenuating circumstances exist) by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of or on referral by a health care provider; or (B) treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of a health care provider. The treatment must be an in-person visit to a health care provider, and the first (or only) in-person treatment visit must take place within seven (7) days of the first day of incapacity. Determination of whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty (30) day period shall be made by the health care provider, not the employee or probationary employee. "Extenuating circumstances" means circumstances beyond the employee's or probationary employee's control that prevent the follow-up visit from occurring as planned by the health care provider.

(iii) Under the FMLA, any period of incapacity due to pregnancy or for prenatal care. (See also subsection (h), below, regarding interrelationship between pregnancy disability leave and Family and Medical Leave.)

(iv) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which requires periodic visits for treatment by a health care provider at least twice a year, continues over an extended period of time (including recurring episodes of a single underlying condition), and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for Family and Medical Leave even if the absence lasts only one (1) day.

(v) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or probationary

employee, or his/her family member, must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.

(vi) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive days in the absence of medical intervention or treatment.

(vii) As used in this Section, "incapacity" means the inability to work, attend school and/or perform other regular activities due to the serious health condition and/or treatment or recovery from the serious health condition.

(g) Each eligible employee or probationary employee shall be entitled to take an unpaid leave of up to twelve (12) work weeks during any rolling twelve (12) month period for the purposes listed above; except that Caregiver Leave shall be a maximum of twenty-six (26) workweeks.

(h) Interrelationship between State pregnancy disability leave and Federal Family and Medical Leave. An employee or probationary employee disabled by pregnancy shall be entitled to take unpaid leave, in addition to medical and family leave. Under certain circumstances as allowed by applicable law, an employee or probationary employee may take Family and Medical Leave intermittently or on a reduced leave schedule basis (by taking leave in blocks of time or by reducing the employee's weekly or daily work schedule).

(i) Entitlement to Family and Medical Leave for the birth of a child or the placement of a child with the employee or probationary employee through adoption or a foster care program shall expire twelve (12) months after the birth or placement of the child with the employee or probationary employee.

(j) An employee or probationary employee married to another employee or probationary employee at the City is entitled to an aggregate amount of Family and Medical Leave that does not exceed twelve (12) workweeks when added to the Family and Medical Leave taken by the employee's or probationary employee's spouse for the purpose of the birth or placement of a child with them. However, if Family and Medical Leave is needed to care for a child with a serious health condition, both the mother and father are entitled to Family and Medical Leave. In such circumstance, a husband and wife may each take twelve (12) weeks of Family and Medical Leave if needed to care for their newborn child with a serious health condition, provided they have not exhausted their entitlements during the applicable 12-month Family and Medical Leave period.

(k) A Family or Medical Leave shall be unpaid, except that an employee or probationary employee may use any accumulated vacation leave, sick leave,

compensatory time, administrative leave and wellness leave during the leave provided for in this Section.

(l) The City shall maintain group health insurance coverage for an employee or probationary employee (including dependent coverage) while taking Family and Medical Leave at the level and under the conditions that the City would otherwise have provided coverage if the employee or probationary employee had not taken the leave. In the event an employee or probationary employee does not return to work following a Family and Medical Leave, the City reserves the right to recover the premiums or other sums the City paid for group health insurance coverage during the period of the employee's or probationary employee's leave, to the extent permitted by applicable law.

(m) Except as otherwise permitted by law, a request for Family and Medical Leave shall be in writing, and shall be sent to the City Manager. The request shall include the expected start and end dates of the leave, and the certifications set forth in subsections (j) or (k) herein. An employee or probationary employee shall provide as much advance notice of the need for leave as practicable. Generally, when the need for leave is foreseeable, the employee or probationary employee shall provide not less than ten (10) days' notice prior to the commencement of the leave. Failure to provide advance notice of the need for leave may be grounds for delaying the start of the leave.

(n) Where the employee or probationary employee takes leave for planned medical treatment of a spouse, child or parent, a spouse's child or parent or of the employee or probationary employee, the employee or probationary employee shall consult with the City Manager and make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the City.

(o) An employee or probationary employee requesting leave under this section because of a serious health condition shall provide medical certification from the appropriate health care provider on a form supplied by the City. Failure to provide the required certificate in a timely manner (within fifteen (15) days of the leave request) may result in denial of the leave request until such certification is provided. Recertification is required if leave is sought after expiration of the time estimated by the health care provider. Failure to submit a required recertification can result in termination of the leave. The certification shall contain, at a minimum, the following information:

- (1) The date on which the serious health condition began;
- (2) The probably duration of the serious health condition;

(3) An estimate of the amount of time that the health care provider believes the employee or probationary employee needs to care for the individual requiring the care; and

(4) A statement that the serious health condition warrants the participation of a family member to provide care during the period of the treatment or supervision of the individual requiring care.

(p) For requests involving the employee's or probationary employee's own serious health condition except those involving pregnancy disability, the City, at its expense, may request a second opinion by a health care provider of the City's choice. If the second opinion differs from the first one, the City will pay for a third, mutually agreeable, health care provider to provide a final and binding opinion. The certification shall contain at a minimum, the following information:

(1) The date on which the serious health condition began;

(2) The probable duration of the serious health condition;

(3) A statement by the health care provider that, due to the serious health condition, the employee or probationary employee is unable to perform the functions of his or her position with the City, and;

(4) To the extent provided by applicable law, appropriate medical facts within the knowledge of the health care provider regarding the condition that are related to the employee's or probationary employee's ability to perform his/her job duties.

(q) During the leave, the City may require periodic recertification by a health care provider and other periodic reports.

(r) Except as otherwise provided by law, upon return from Family and Medical Leave, the employee or probationary employee shall be reinstated to the same or an equivalent position held when the leave commenced. If the employee or probationary employee cannot be returned to their original job, he/she shall be returned to a substantially similar job, unless either there is no substantially similar job position available or filling the substantially similar position would substantially undermine the City's ability to operate safely and efficiently.

(s) Prior to returning to work, an employee or probationary employee who took a medical leave for his/her own serious medical condition must provide the City Manager with a certification from a health care provider that the employee or probationary employee is able to resume work.

(t) This section shall be interpreted and applied in a manner consistent with applicable federal and California law.

SECTION 12 – OTHER LEAVES: The City Manager shall grant such other leaves as are required by law. Except as otherwise provided by law or by circumstances beyond the employee’s control, employees shall request such leave and obtain approval in advance. All such leaves shall be unpaid, unless otherwise required by law or these Rules, but employees may use otherwise applicable paid-leave benefits to remain in paid status.

RULE VIII

WORKERS' COMPENSATION  
AND UNEMPLOYMENT INSURANCE

(ADOPTED 01/31/02, AMENDED 12/20/05, AMENDED 05/17/11)

SECTION 1 – WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE: The City provides Workers' Compensation and Unemployment insurance to all employees, in accordance with California law. While not generally covered by these rules, the City also provides workers' compensation coverage for any person who performs volunteer service without pay for the City and for part time employees (Resolution No. 79-87).

SECTION 2 – ON-THE-JOB INJURIES: All injuries suffered during working hours must be reported, in writing, immediately to the Department Head or City Manager. Unless there is an emergency, a City referral form must be obtained from the Personnel office before visiting a doctor. Upon returning to work from all on-the-job injuries, employees and probationary employees must have an approved return to work certificate signed by the attending doctor.

RULE IX

EMPLOYEE EXPENSES

(ADOPTED 01/31/02)

SECTION 1 – MILEAGE AND PARKING EXPENSES: An employee or probationary employee who is required to use his/her private automobile for City assignments shall be reimbursed for mileage at the current standard mileage rate set by the Internal Revenue Service and actual parking expenses.

(a) All claims for mileage and parking reimbursement shall first be approved in writing by the employee's or probationary employee's Department Head or the City Manager, and shall be filed on forms and in accordance with the procedures established by the City Manager.

(b) Employees and probationary employees using their private automobile for City business shall supply the Personnel Officer with a Certificate of Insurance stating that their private automobile is covered by public liability and property damage insurance of not less than the amount required in the procedures established by the City Manager.

## RULE X

### TERMINATION PROCEDURES

(ADOPTED 01/31/02, AMENDED 05/17/11)

#### SECTION 1 – RESIGNATION:

(a) In order to resign in good standing, an employee or probationary employee shall inform the City Manager, in writing, of the effective date of the resignation at least ten (10) working days in advance. This time may be waived, in writing, by the City Manager. Failure to give notice as required by this Rule shall be cause for the City to deny future employment.

(b) An employee or probationary employee who is absent from work voluntarily or involuntarily for more than nine (9) hours without written authorization and who does not present a written explanation acceptable to the City Manager as to the cause of the employee's absence, shall be considered as having voluntarily resigned from the City employment as of the last day worked.

SECTION 2 – LAYOFF: Whenever in the judgment of the City Council it becomes necessary in the interest of economy, because the necessity for a position no longer exists or other legitimate purpose, the City Council may abolish any position in the competitive service; and the employee or probationary employee holding such position or employment may be laid off without taking disciplinary action and without the right of appeal. Except as otherwise determined by the City Council, the City Manager, when it becomes necessary in the interest of economy, because the necessity for a position no longer exists or for other legitimate purpose, may abolish any position or employment in the Competitive Service and may lay off an employee holding such position or employment without taking disciplinary action and without right of appeal.

(a) The order of the layoff of employees and/or probationary employees shall be established by the City Manager on the recommendations of the Department Head(s) involved. Employees and or probationary employees will be laid off from the affected layoff unit (department or classification) in accordance with performance, seniority, attendance and their ability to perform the remaining work available without further training. When, in the opinion of the City Manager, two or more employees and/or probationary employees have relatively equal performance records, experience, skill, ability and qualifications to do the remaining work without further training, the employee(s) and or probationary employee(s) with the least seniority will be laid off first.

(b) Employees or probationary employees to be laid off shall be given at least ten (10) working days prior notice, equivalent pay if laid off immediately, or a combination of notice and pay totaling ten (10) working days if laid off with less than ten (10) working days notice.

(c) An employee, promotional probationary employee, or transfer probationary employee who is subject to layoff may request a reduction to a lower job classification within the same occupational series in the layoff unit provided the employee, promotional probationary employee or transfer probationary employee possesses seniority, an acceptable performance and attendance record, and has the ability to perform the remaining work available without further training. The reduction shall be made only in cases where there is a vacant position in the layoff unit.

(d) The names of employees and probationary employees laid off or demoted in lieu of layoff shall be placed on re-employment lists for those job classifications requiring basically the same qualifications, duties and responsibilities of the class from which the layoff or demotion in lieu of layoff was made as established in Rule XV, Section 3.

SECTION 3 –RETIREMENT: The City shall pay the full employee's or probationary employee's contribution to the California Public Employees Retirement System (CalPERS).

RULE XI

GRIEVANCE PROCEDURES

(ADOPTED 01/31/02, AMENDED 05/17/11)

SECTION 1 – PURPOSE OF GRIEVANCE PROCEDURE:

(a) The grievance procedure shall be used to resolve employee or probationary employee complaints concerning the express terms and condition of employment with the City. Except for oral warnings and written reprimands, the grievance procedure shall not be used for resolving any complaint concerning disciplinary action.

(b) Except as otherwise provided in these Rules, the grievance procedure may be utilized to resolve alleged:

(1) Improper application of rules, regulations and procedures;

(2) Unfair treatment, including coercion, restraint and reprisal;

(3) Improper procedures utilized in employee layoff;

(4) Discrimination because of race, color, religion, creed, sex, sexual orientation, pregnancy, national origin, ancestry, age (40 and over), marital status, disability, alienage, citizenship status or medical condition (cancer-related); or because of any other statutorily or constitutionally impermissible basis.

(5) Any manner affecting an employee's or probationary employee's:

a. Work schedule;

b. Fringe benefits;

c. Holidays;

d. Vacation;

e. Sick Leave;

f. Retirement;

(6) Any other matter regarding the terms and conditions of employment.

## SECTION 2 – INFORMAL DISCUSSION OF GRIEVANCE:

(a) When an employee or probationary employee has a grievance, the employee or probationary employee shall first informally discuss the matter with the employee's or probationary employee's immediate supervisor within five (5) working days from the date of the incident or decision generating the grievance. If, after a discussion with the immediate supervisor, the grievance has not been satisfactorily resolved, the employee or probationary employee shall have the right to informally discuss the grievance with the supervisor's immediate superior. The informal discussion with the supervisor's immediate superior shall occur within ten (10) working days from the date of the incident or decision generating the grievance. If, after such a discussion, the grievance has not been satisfactorily resolved, the employee or probationary employee shall have the right to file a formal grievance.

(b) If an employee's or probationary employee's grievance is with his/her immediate supervisor or the supervisor's immediate superior, and such employee or probationary employee reasonably believes that such grievance will not be resolved at that level, he/she may proceed to the next step of the grievance procedure.

SECTION 3 – FORMAL GRIEVANCE PROCEDURE: The formal grievance procedure shall be used to resolve an employee's or probationary employee's grievance not satisfactorily resolved by informal discussion or otherwise allowed by this Rule.

(a) An employee or probationary employee shall have the right to present a formal grievance in writing to the City Manager within fifteen (15) working days from the date of the incident or decision generating the grievance. All formal grievances shall state the reasons for the complaint and the employee's suggested solution.

(b) A formal grievance shall be timely presented to the City Manager. When the employee or probationary employee presents a formal grievance to the City Manager, the City Manager shall discuss the grievance with the employee or probationary employee. Within fifteen (15) working days after receipt of the formal grievance, the City Manager shall render a written decision. The decision of the City Manager shall resolve the grievance and no further review of the subject matter of the grievance shall be permitted.

## SECTION 4 – GENERAL PROCEDURES:

(a) The employee or probationary employee and the City have the right to representation at any step in the grievance process.

(b) Any grievance not filed or taken to the next step by the employee or probationary employee within the specified time limits shall be deemed settled on the basis of the last decision, and not subject to further reconsideration. By mutual agreement and for good cause, reasonable extensions of time may be given in writing

to the employee or probationary employee by the City Manager at any step in the grievance procedure.

(c) An employee or probationary employee who has filed a grievance shall suffer no discrimination for filing the grievance.

## RULE XII

### DISCIPLINE PROCEDURES

(ADOPTED 01/31/02, AMENDED 04/05/05,  
AMENDED 05/17/11, AMENDED 08/02/11)

SECTION 1 – AUTHORITY TO DISCIPLINE: The City Manager, Deputy City Manager and Department Heads are authorized to take disciplinary action regarding employees under their control in accordance with, and within the limits of, these Rules. Every supervisor shall assist his/her superiors in achieving sound discipline and acceptance by that employee of the corresponding duties and responsibilities, including those disciplinary in nature.

SECTION 2 – CAUSE FOR DISCIPLINE: Each of the following constitutes cause for discipline of any employee. It is the intent of these Rules to include as a cause for discipline any action or non-action by an employee which impedes or disrupts the performance of the City and its organizational component units, is detrimental to employees or public safety, violates properly established rules and procedures or adversely affects the reputation of the City, its officers or employees. Examples of causes for discipline include, but are not limited to:

(a) Any violation of any written rule or regulation promulgated by City related to conduct or performance.

(b) Fraud in securing appointment.

(c) Incompetence.

(d) Inefficiency.

(e) Neglect of duty.

(f) Dishonesty or lying to a supervisor or superior.

(g) Violation of any law relating to conflicts of interest, whether contractual or financial.

(h) Use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of controlled substances or alcohol while on duty or on City premises, except for the use of prescribed controlled substances (1) as directed by the licensed health care provider prescribing controlled substances and in accordance with the manufacturer's directions, and (2) in a manner not otherwise in violation of these Rules.

(i) The use of any substance, controlled or purchased over-the-counter, which impairs the employee's performance of his/her duties.

(j) Unexcused absences.

(k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude, including but expressly not limited to, any conviction for any offense set forth in the City of Rancho Palos Verdes Policy for conducting Criminal Background Checks and Securing Received Criminal History Information. A plea or verdict of guilty or nolo contendere to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.

(l) Defrauding the City by making a false claim for compensation, benefits or reimbursements.

(m) Making a false Workers' Compensation Claim against the City.

(n) Improper political activity which prevents the employee or other employees from the efficient performance of employment with the City, or which has a disruptive effect on the efficiency or integrity of the City service of the department in which such employee is employed.

(o) Failure or refusal to cooperate with supervisory personnel or other employees.

(p) Misuse or misappropriation of City property or funds.

(q) Gambling for money or articles of value on City property or during working hours.

(r) Tardiness.

(s) Abuse of sick leave privileges.

(t) Excessive absenteeism, which impairs the City's ability to provide services or function effectively or efficiently.

(u) Refusal to take and subscribe any oath or affirmation which is required by law or these Rules in connection with his/her employment.

(v) Refusing to report on official call of emergency.

(w) Violation of departmental rules and regulations.

(x) Intentionally misrepresenting information or facts in any statement, declaration or affidavit duly required of an employee.

(y) Failure or refusal to carry out an order or directive of a supervisor.

(z) Asking, receiving or agreeing to receive any bribe, gratuity or reward of any kind upon any understanding that any employee's action shall be influenced thereby, or shall be given in any particular manner, or upon any particular question or matter upon which any employee may be required to act in the employee's capacity; or attempting by menace, deceit, suppression of truth, or any corrupt means to influence any employee to commit any act, conduct or omission which is clearly inconsistent, incompatible, in conflict with, or inimical to the best interests of the City.

(aa) Failure to observe or comply with safe working standards, to endanger, to injure, or to damage public property or the private property of any employee or member of the public through negligent, improper or careless conduct or use of equipment; or to permit such actions on the part of any employee under his/her supervision or control.

(bb) Conduct disrespectful to the public, elected and appointed City officials, supervisors, superiors, Department Heads, City Manager, Deputy City Manager or members of City boards and commissions.

(cc) Failure to report any criminal conviction and/or arrest pending final adjudication as required by the City of Rancho Palos Verdes Policy for Conducting Criminal Background Checks and Securing Received Criminal History Information.

In the event that the City imposes disciplinary action for cause, including but not limited to any of the above acts or omissions, the employee shall have the right to contest or seek review of the disciplinary action on the basis thereof, in accordance with procedures set forth in Sections 5,6,7,8, and 9 of this Rule.

SECTION 3 – TYPES OF DISCIPLINARY ACTION: Disciplinary actions include reprimands, suspensions, demotions, reductions in pay and dismissal, as defined below:

(a) Verbal Reprimand. An oral warning that may be given to the employee in the event that a deficiency in performance or conduct is not of sufficient magnitude to warrant a more formal disciplinary action. A written record may be made of such conferences and placed in the employee's personnel file with a copy provided to the employee. Verbal reprimands are not subject to appeal. However, the employee has the right to place in his/her personnel file a written response or rebuttal to any written record of verbal reprimand, provided that such response or rebuttal is submitted for inclusion in the file within thirty (30) days of the employee's receipt of the written record.

(b) Written Reprimand. A written statement relating to an action or omission which meets any of the grounds for disciplinary action listed in these Rules, indicating that there is cause for dissatisfaction with the employee's services and that further disciplinary measures may be taken if the cause is not corrected. The written

statement shall be placed in the employee's personnel file, with a copy provided to the employee. Written reprimands are not subject to appeal. However, the employee has the right to place in his/her personnel file a written response or rebuttal to any written statement, provided that such response or rebuttal is submitted for inclusion in the personnel file within thirty (30) days of the employee's receipt of the written statement.

(c) Suspension. The temporary separation of the employee from City service without pay for disciplinary purposes for a period not to exceed thirty (30) days per occurrence.

(d) Demotion. A change in employment status from one position to another having a lower rate of pay and/or change in duties which are allocated to a class having a lower maximum rate of pay for disciplinary reasons. The disciplinary demotion may be temporary or permanent.

(e) Reduction in Pay. A change in the salary of an employee to a lower rate within the same salary range for disciplinary reasons.

(f) Dismissal. The discharge of the employee from City service for disciplinary reasons. Discharge and dismissal are used interchangeably in these Rules.

#### SECTION 4 – DISCIPLINARY PROCEDURES:

(a) When an employee is to be suspended, demoted, reduced in pay or dismissed, a preliminary written notification shall be provided to the employee. The written notice shall include:

(1) The charges against the employee and reasons for the proposed disciplinary action to be taken;

(2) The proposed disciplinary action to be taken;

(3) Copies of the charges and materials on which the proposed action is based; and,

(4) A statement advising the employee that, before any proposed disciplinary action takes effect, the employee or his/her representative has the right to respond orally or in writing within five (5) working days from the employee's receipt of the written notice.

(b) Within ten (10) working days after the employee has had the opportunity to respond, the employee shall be notified in writing of any disciplinary action to be taken and the effective date of such disciplinary action.

SECTION 5 – APPEAL OF DISCIPLINARY ACTIONS: An employee who has been suspended, demoted, reduced in pay or dismissed for disciplinary reasons, may appeal the disciplinary action.

In order to appeal the disciplinary action, the employee must file a written notice of appeal with the City Manager for a hearing within ten (10) working days after having been furnished with a copy of the notice of disciplinary action.

SECTION 6 – TIME OF HEARING: The hearing on the employee's appeal shall be conducted within ninety (90) days after the employee's filing of the written notice of appeal with the City Manager. The time limit may be extended by the City Manager for good cause and by agreement of the employee and the City Manager.

SECTION 7 – HEARING PROCEDURE: The following procedure shall govern hearings on appeals of disciplinary action:

(a) The City Manager may conduct the hearing or the City Manager may designate any third party to conduct the hearing. If the City Manager files the written statement to discipline an employee that works directly for the City Manager, then the Deputy City Manager may conduct the hearing or the Deputy City Manager may designate any third party to conduct the hearing.

(b) Hearings shall be conducted in the manner most conducive to determination of the truth, and the City Manager shall not be bound by technical rules of evidence. Decisions made shall not be invalidated by informality in the proceedings.

(c) The City Manager shall make arrangements to have the hearing transcribed or recorded to preserve the proceedings and testimony. The employee may obtain a copy of the transcript or recording upon request.

(d) The City Manager shall determine the relevancy, weight and credibility of all testimony and evidence.

(e) The City Manager shall base his/her findings and decision on the preponderance of the evidence presented.

(f) The Department Head shall have the burden of proof. Each side will be permitted an opening statement and closing argument. The Department Head shall first present its witnesses and evidence to support the charges and disciplinary action. The employee shall then present his/her witnesses in defense. The Department Head may thereafter present witnesses and evidence in rebuttal.

(g) Each side will be allowed to examine and cross-examine witnesses. All witnesses shall testify under oath. The City Manager may question any witness.

(h) Both the Department Head and the employee may be represented by a designee or by legal counsel. The City Manager may obtain the legal advice of the City Attorney in performing the function of the hearing officer.

(i) The City Manager shall, if requested by either side, subpoena witnesses and/or require the production of documents or other material evidence.

(j) The City Manager may, during a hearing, grant a continuance for any reason believed to be important to the reaching of a fair and proper decision.

(k) Within thirty (30) days after the conclusion of the hearing, the City Manager shall prepare and serve on both sides a written decision setting forth the charges found to be sustained, and the reasons therefore, and the propriety of the disciplinary action imposed. The City Manager may sustain, reject or modify the disciplinary action imposed. If the City Manager sustains the employee, all or part of any loss of the employee's full compensation may be ordered restored.

SECTION 8 – FINALITY OF CITY MANAGER'S DECISION: The decision of the City Manager shall be final and conclusive.

SECTION 9 – JUDICIAL REVIEW: Any legal action to challenge any decision of the City Manager must be filed in a court of competent jurisdiction no later than ninety (90) days following the date the City Manager's written decision becomes final as provided in California Code of Civil Procedure Section 1094.6.

## RULE XIII

### NON-DISCRIMINATION POLICY

(ADOPTED 01/31/02, AMENDED 05/17/11, AMENDED 08/02/11)

SECTION 1 – EQUAL EMPLOYMENT OPPORTUNITY STATEMENT: The City is committed to a policy of equal employment opportunity. Consistent with this commitment and California and federal law, the City does not discriminate against employees or applicants because of race, color, religion, sex, sexual orientation, pregnancy, national origin, ancestry, age (40 and over), marital status, disability, alienage, citizenship status or medical condition (cancer-related), or any other basis prohibited by applicable federal and California law. Equal employment opportunity will be extended to all persons in all aspects of the employer-employee relationship, including hiring, training, promotion, transfer, discipline, layoff, recall, discharge and termination.

#### SECTION 2 – POLICY AGAINST HARASSMENT:

##### (a) STATEMENT OF POLICY.

Harassment in the workplace on the basis of race, color, religion, sex, sexual orientation, pregnancy, national origin, ancestry, age (40 and over), marital status, disability, alienage, citizenship status or medical condition (cancer-related), or any other basis prohibited by applicable federal and California law, and the policy of the City is prohibited. The City is committed to creating and maintaining a workplace free from unlawful harassment. That commitment includes taking all reasonable steps to prevent unlawful workplace harassment.

(1) The protections afforded by this Policy apply to applicants for employment and employees (including, for all purposes of this section, probationary employees). If harassment prohibited by this Policy occurs, the City shall take appropriate corrective action against the harasser, and seek to remedy the effects of the harassment on the employee or applicant for employment. If the harasser is a non-employee, for example, an appointed commissioner or committee member, or a volunteer or vendor, such corrective action may include termination of the City's relationship with the non-employee. If the harasser is a City Council member, corrective action may include, but is not limited to, public censure of the City Council member by the City Council.

##### (b) SEXUAL HARASSMENT.

(1) Sexual harassment is unlawful harassment on the basis of sex, including gender harassment and harassment based on pregnancy, childbirth, or related medical conditions.

(2) The California Fair Employment and Housing Commission (“FEHC”) regulations define sexual harassment as unwanted sexual advances, or unwelcome visual, verbal or physical conduct of a sexual nature. Under federal law, sexual harassment includes “quid pro quo” sexual harassment, which is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to sexual advances or behavior is made either explicitly or implicitly a term or condition of an individual’s employment, when submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual. Sexual harassment also includes sexual harassment based on a hostile work environment when such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance, or creating an intimidating, hostile or offensive working environment.

(3) Sexual harassment may be committed by a member of the opposite or the same sex. Employees may be the victims of sexual harassment even if the sexual harassment is directed at others but occurs in the employee’s presence or has an indirect impact on the employee’s terms and conditions of employment.

#### (c) TYPES OF HARASSMENT.

(1) The following statuses are referred to in this Policy as “protected status”: race, color, religion, sex, sexual orientation, pregnancy, national origin, ancestry, age (40 and over), marital status, disability, alienage and citizenship status or medical condition (cancer-related), or any other basis prohibited by applicable federal and California law.

(2) Unlawful harassment also consists of verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her protected status, or the proposed status or his/her relatives, friends, or associates, and that:

(i) Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;

(ii) Has the purpose or effect of unreasonably interfering with an individual’s work performance; or,

(iii) Otherwise adversely affects an individual’s employment opportunities.

(3) Unlawful harassment may be charged even if the complainant is not the specific intended target of the conduct.

(4) The following is a partial list of the types of conduct that may constitute unlawful harassment:

(i) Verbal Harassment. This form of harassment includes, but is not limited to, epithets, jokes, derogatory comments, negative stereotyping, slurs or other verbal conduct that denigrates or shows hostility or aversion toward an employee or applicant based on his/her protected status, or the protected status of his/her relatives, friends, or associates.

(ii) Physical Harassment. This form of harassment includes, but is not limited to, assault, unwelcome touching, impeding or blocking movement, threatening acts, intimidating acts, hostile acts or other physical conduct that denigrates or shows hostility or aversion toward an employee or applicant based on his/her protected status or the protected status of his/her relatives, friends, or associates.

(iii) Visual Harassment. This form of harassment includes, but is not limited to, displaying pictures, posters, cartoons, drawings, or other written or graphic materials that denigrates, shows hostility or aversion or are derogatory toward an employee or applicant based on his/her protected status or the protected status of his/her relatives, friends, or associates.

(iv) Sexual Harassment. In addition to items (i) through (iii) above, this form of harassment includes, but is not limited to:

(a) Unwelcome verbal or written sexual advances or propositions;

(b) Offering or denying employment benefits or privileges in exchange for granting or withholding sexual favors;

(c) Making or threatening reprisals after the rejection of sexual advances;

(d) Leering or making gestures of a sexual nature, and displaying sexually suggestive objects, pictures, cartoons or posters;

(e) Unwelcome sexually-related or derogatory comments, epithets, slurs or jokes;

(f) Verbal abuse of a sexual nature, oral or written comments about an individual's body, sexually degrading words used to describe an individual, sexually suggestive or obscene letters, notes, or invitations;

(g) Unwelcome touching, assaulting, impeding or blocking movements; and

(h) Gender harassment and harassment based on pregnancy, childbirth, or related medical conditions.

(d) COMPLAINT RESOLUTION PROCEDURE.

(1) Complaints of harassment or retaliation may be made orally or in writing. As used in this procedure, reference to complaints of harassment includes complaints of prohibited retaliation. Anonymous complaints will be taken seriously and investigated. However, the ability to investigate or extent of the investigation may be limited by the inability to follow-up with the complaining party. Making a complaint is not limited to the person who was the target of the harassment or retaliation.

(2) The City will promptly, thoroughly and objectively investigate charges of unlawful harassment. The Deputy City Manager, or the City Manager, if the Deputy City Manager is the alleged harasser, shall investigate and attempt to resolve all harassment complaints. The Deputy City Manager or the City Manager may assign responsibility to investigate harassment charges to another competent person, including an outside investigator. The City shall advise the complaining individual of his/her rights and responsibilities under the City's harassment complaint resolution procedure and his/her right to redress unlawful harassment. Complaints and investigations shall be handled with due regard for the rights of the complainant and the alleged harasser. Information about the investigation and complaint shall only be released to individuals on a need-to-know basis, or as required by law.

(3) An employee who witnesses harassment prohibited by this Policy has a duty to report it to the employee's immediate supervisor, Department Head, the Deputy City Manager, or the City Manager, if the Deputy City Manager is the alleged harasser.

(4) An immediate supervisor or Department Head receiving a complaint of harassment shall immediately report it to the Deputy City Manager, or the City Manager if the Deputy City Manager is the alleged harasser.

(5) Procedure for Complaints involving City Council Members, Commissions, Committee Members, Other Officials or the City Manager

(a) In place of the other reporting options, complaints involving City Council members, commissioners, committee members or other officials should be made directly to the City Manager. If the complainant believes the City Manager is also involved in the harassment, the complaint should be made to the City Attorney. If reported to the City Manager, the City Manager shall consult with the City Attorney. For complaints involving City Council members, commissioners, committee members and other officials, the City Manager or City Attorney is hereby authorized to investigate the complaint consistent with this Rule and to retain an outside investigator without need for further authorization from the City Council. If the investigation determines a violation of this Rule occurred, the City Manager shall consult with the City Attorney and the City Manager or City Attorney, as applicable, shall advise the City Council of the results of the investigation.

(b) In place of the other reporting options, complaints involving the City Manager should be reported to the City Attorney. The City Attorney is authorized to investigate the complaint consistent with this Rule and to retain an outside investigator without need for further authorization from the City Council. If the investigation determines a violation of this Rule occurred, the City Attorney shall advise the City Council of the results of the investigation.

(6) Informal Procedure. An applicant or employee who believes he/she has been illegally harassed should promptly inform the harasser that such conduct is inappropriate, offensive and unwelcome, and that the harasser should immediately cease such conduct. If the harassment does not stop immediately or the employee does not wish to discuss the matter directly with the harasser, the employee should promptly discuss the matter with his/her supervisor, Department Head, the Deputy City Manager, or if the alleged harasser is the Deputy City Manager, the City Manager. The employee has the discretion to direct the complaint to any of the positions listed above. Applicants shall file harassment complaints with the Deputy City Manager, or the City Manager, if the Deputy City Manager is the alleged harasser.

(7) Formal Procedure.

(i) If the informal resolution procedure does not resolve the complaint to the satisfaction of the complaining employee or applicant, the employee or applicant may file a formal complaint by providing a written and signed statement to the Deputy City Manager, or, if the Deputy City Manager is the alleged harasser, to the City Manager. A formal complaint should be filed within ten (10) working days of the event(s) giving rise to the complaint. If a complaint is filed after ten (10) working days, the City shall have the sole discretion to decide the extent of the investigation of the complaint. The City wants complaints to be filed promptly to ensure the investigation takes place while memories and evidence are still fresh and witnesses are available, and to enable the City to take prompt remedial action, when warranted. The complaint shall include the date(s), time(s), and place(s) of incident(s) of harassment, a description of the circumstance(s), the name(s) of the person(s) involved and witnesses, if any, and any desired remedy.

(ii) The City Manager, the Deputy City Manager or a person assigned by the City Manager or the Deputy City Manager, shall investigate complaints of harassment by taking the following steps:

(a) Review the written complaint;

(b) Interview the complainant, the alleged harasser and any others who may have relevant evidence;

(c) Review pertinent documents or records;

(d) Prepare a written report regarding the findings and conclusions reached. The complainant and the alleged harasser shall be notified of the results of the investigation; and,

(iii) Discipline taken against a harasser shall be determined by the nature, severity and/or frequency of the offense(s), the work record of the harasser, the likelihood of the misconduct being repeated, and any other relevant factors and evidence. The complainant shall be consulted in connection with the corrective action to be taken against the harasser and the appropriate action to remedy the effects of the harassment on the complainant. The complainant and the harasser shall be notified of the action(s) taken by the City.

(iv) Discipline imposed by the City and any appeal taken therefrom by the employee shall be in accordance with these Rules.

(e) PROTECTION AGAINST RETALIATION.

Employees and applicants have the right to oppose harassment prohibited by this Policy and applicable law, to file a complaint of and to report unlawful harassment, and to cooperate in a harassment investigation free from retaliation. It is City policy to prohibit retaliation against anyone for opposing harassment prohibited by this Policy and applicable law, reporting unlawful harassment in any form, assisting in making a harassment complaint or cooperating in a harassment investigation. Persons engaged in acts of retaliation shall be subject to appropriate disciplinary action, including termination of employment, and/or other appropriate and feasible corrective action.

(f) ENFORCEMENT OF THE LAWS AGAINST HARASSMENT.

(1) Employees or job applicants who believe they have been unlawfully harassed are also entitled to file a complaint of discrimination with the California Department of Fair Employment and Housing ("DFEH") or the federal Equal Employment Opportunity Commission ("EEOC").

(2) The DFEH will attempt to assist the parties to resolve voluntarily the dispute. If the DFEH finds evidence of illegal harassment, and settlement efforts fail, the DFEH may file a formal accusation against the employer and the alleged harasser. The accusation will lead to either a public hearing before the FEHC or a lawsuit filed on the complainant's behalf by the DFEH. If the FEHC finds that unlawful harassment occurred, it could order remedies, including fines or damages for emotional distress from each employer or harasser found to be at fault. The FEHC may also order hiring or reinstatement, back pay and benefits, promotions, changes in the policies or practices of an employer.

(3) Similar procedures and remedies are available under federal law, including Title VII of the Civil Rights Act of 1964, as amended, the Americans with

Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, as amended, and the Rehabilitation Act of 1973, as amended.

(4) Victims of unlawful harassment may be entitled to damages even though they have not been denied employment opportunities, pay or benefits. If unlawful harassment occurs, the City may be liable for the conduct of its managers and supervisors and for the conduct of employees and non-employees. Harassers may be held personally liable for their misconduct. Some forms of harassment are crimes.

(g) ADDITIONAL INFORMATION. For more information regarding employee and applicant rights and remedies regarding unlawful harassment, an employee or applicant may contact the DFEH or the EEOC. The location of the nearest DFEH office can be obtained by calling (916) 445-9918 (voice) or (916) 324-1678 (TDD). The location of the nearest EEOC office can be obtained by calling (202) 663-4895 (voice) or (202) 663-4399 (TDD).

(h) QUESTIONS. Questions regarding this policy should be directed to the Personnel Officer.

## RULE XIV

### VIOLENCE IN THE WORKPLACE

(ADOPTED 01/31/02, AMENDED 05/17/11, AMENDED 08/02/11)

SECTION 1 – STATEMENT OF POLICY: The City is committed to providing a safe workplace that is free of violence or the threat of violence. In support of this commitment, the City strictly prohibits employees and non-employees, while on City premises or engaged in City-related activities, from behaving in a violent or threatening manner. Under this policy, the City also seeks to prevent workplace violence before it begins and reserves the right to address behavior that reasonably suggests a propensity toward violence, even where actual violence has not yet occurred. Retaliation against a person making a report of workplace violence or cooperating in an investigation of possible workplace violence is also prohibited.

#### SECTION 2 – DEFINITIONS:

- (a) Workplace violence includes, but is not limited to the following:
- (1) Fighting or challenging another person to fight, including but not limited to striking, slapping, punching, spitting or physically assaulting;
  - (2) Threats intended to place a person in fear of physical harm or that would cause a reasonable person to be placed in fear of physical harm;
  - (3) Threatening, physically aggressive or violent behavior, such as acts of intimidation, stalking or any activity that attempts to instill fear in others;
  - (4) Other behavior that suggests a propensity toward violence, such as belligerent speech, excessive arguing or swearing, sabotage or threats of sabotage toward City property or a demonstrated pattern of refusal to follow City policies or procedures;
  - (5) Throwing objects with the apparent intent to harm another person or place any person in reasonable fear of harm;
  - (6) Defacing or vandalizing City property; or
  - (7) Except as authorized by the City Manager, bringing any weapon or firearm of any kind onto City property (including parking lots) or while conducting City business.

SECTION 3 – REPORTING PROCEDURES: Any employee who witnesses or becomes aware of an instance of workplace violence, as described above, or who is a victim of workplace violence shall notify their immediate supervisor. In the event that

the employee's immediate supervisor is involved, the employee should notify the Deputy City Manager or the City Manager. Any supervisor receiving such a report shall immediately notify the Deputy City Manager or, if the Deputy City Manager is involved in the alleged violence, the City Manager. Instances of prohibited retaliation may be reported in a similar manner.

**SECTION 4 – INVESTIGATION:** All complaints or allegations will be investigated promptly and thoroughly. The Deputy City Manager will be responsible for assuring that an appropriate investigation is completed, except where the Deputy City Manager is alleged to be involved, in which case the City Manager will assure that an appropriate investigation is completed. To the extent possible, the City will endeavor to maintain the confidentiality of the reporting party and the investigation. However, disclosures may be necessary to conduct the investigation, in compliance with due process rights, where legally required or to protect individual safety. The complainant and, if applicable, an accused employee will be advised of the results of the investigation.

**SECTION 5 – DISCIPLINE OR OTHER ACTION:** If the City determines that this policy has been violated, appropriate corrective action will be taken. Corrective action may include discipline, up to and including termination. The appropriate discipline may vary depending on the particular facts and circumstances of the situation. If the violent behavior involves a non-employee, the City will take action in an effort to prevent future occurrences. Corrective action involving commissioners, committee members or volunteers may include severing their relationship to the City. Corrective action involving City Council members may include censure by the City Council. Action may be taken under this policy in addition to any available civil or criminal action.

## RULE XV

### MISCELLANEOUS PROCEDURES

(ADOPTED 01/31/02, AMENDED 05/17/11)

**SECTION 1 – TRANSFERS:** Transfers are permitted, subject to written consent of the Department Heads involved and the City Manager. Such changes are authorized only from one (1) position to another in the same class or to a position in another class having the same maximum salary limit and involving the performance of similar duties and requiring substantially the same qualifications.

**SECTION 2 – RECLASSIFICATION:** The duties of positions that have changed materially may be allocated to a more appropriate class by the City Manager. An incumbent meeting the new qualifications of the reclassified position shall move with the position.

**SECTION 3 – RE-EMPLOYMENT LIST:** Names of persons laid off or demoted in lieu of layoff in accordance with these Rules may be carried on a re-employment list(s), prepared and maintained by the Personnel Officer, for a period of six (6) months, unless extended by the City Manager at his/her sole discretion.

(a) Persons who refuse re-employment shall be removed from the list.

(b) Persons who are appointed to permanent positions of the same level, whether in the City or another agency, as that which was demoted or laid off shall be removed from the list.

(c) Persons who fail to respond to a notice of re-employment mailed to the last known address within ten (10) working days from the date in which the notice was mailed shall be removed from the list.

**SECTION 4 – REINSTATEMENT:** With the written approval of the City Manager, a former employee or probationary employee may be reinstated (1) to his/her former position, if vacant; or, (2) to a vacant position in the same comparable class; provided that the employee or probationary employee left the City's employ less than one (1) year prior to seeking reinstatement. The City Manager may require that a reinstated employee or probationary employee serve an initial-hire probationary period.

**SECTION 5 – WRITTEN NOTICE:** Any written notice required to be given by the provisions of these Rules, unless herein otherwise specifically provided, may be given either by personal service or by mail. In the case of service by mail, the notice must be deposited in the United States mail, in a sealed envelope, with postage prepaid; addressed to the person on whom it is to be served; at the address in any notice given by him/her of his/her last known address, and, if there be no last known address, then

addressed to him/her at the City (if still associated with the City in some capacity). Service by mail shall be deemed complete at the time of the deposit in the mail.

SECTION 6 – OUTSIDE EMPLOYMENT: Employees and probationary employees shall be allowed to engage in employment other than their job with the City, with the understanding that City employment is the highest priority and such employment does not interfere with the performance of assigned duties and does not constitute a conflict of interest. The employee or probationary employee must notify the City Manager in writing regarding their outside employment.

SECTION 7 – MANAGEMENT PREROGATIVES: The City through the City Council possesses the sole right to operate the City and all management prerogatives remain vested with the City. In this context, except as specifically limited by express provision of these Rules, all management prerogatives, powers, authority and functions whether heretofore exercised, and regardless of the frequency or infrequency of their exercise, shall remain vested exclusively with the City. It is expressly recognized that these rights, include, but are not limited to, the right to hire, direct, assign or transfer an employee or probationary employee; the right to lay off employees or probationary employees; the right to determine and change staffing levels and work performance standards; the right to determine the content of the workday, including without limitation, workload factors; the right to determine the quality and quantity of services to be offered to the public, and the means and methods of offering those services, the right to contract or subcontract City functions, including any work performed by employees or probationary employees; the right to discipline employees, including the right to reprimand, suspend, reduce in pay, demote and/or terminate employees; the right to relieve employees or probationary employees of duty, demote, dismiss or terminate employees or probationary employees for non-disciplinary purposes; the right to consolidate City functions; the right to determine City functions; the right to implement, modify and delete rules, regulations, resolutions and ordinances; the right to establish, change, combine wages or eliminate jobs, job functions and job classifications; the right to establish or change wages and compensation; the right to introduce new or improved procedures, methods, processes or to make technological changes; and the right to establish and change shifts, schedules of work, and starting and quitting times.

SECTION 8 – INCENTIVE PROGRAM: From time to time, the City Manager may grant an incentive pay award to any employee or probationary employee in recognition for extraordinary work.

(a) The City Manager shall determine the amount of incentive pay per employee award. However, in no case shall the incentive pay exceed five percent (5%) of an employee's base salary.

(b) Employees or probationary employees shall be limited to no more than two (2) incentive pay awards in a twelve (12) month period.

**SECTION 9 – SHARED FULL-TIME POSITIONS:** From time to time, the City Manager may allow two (2) qualified employees to share the duties and responsibilities associated with one (1) existing full-time position. The employees sharing the full-time position shall have the same job title and shall be employed in the same department. The City Manager shall have the ability to discontinue a shared full-time position at any time and without any right of appeal. Participation is contingent upon the two (2) employees entering into an agreement with the City at the time of appointment, which sets forth the rules and procedures of the job sharing agreement. The agreement shall include, but is not limited to, the minimum length of the commitment to job share by the employees, the weekly schedule or regular number of hours to be worked by each employee (generally, each employee shall work twenty (20) hours per week or a combination of forty (40) hours per week, although alternative schedules may be approved by the City Manager), the minimum amount of notice required from the employee to terminate job sharing, and the procedure to be followed if the shared position is discontinued by the City Manager. The employees that share full-time positions shall be subject to these Rules, except that employment benefits shall be applied as follows:

**OVERTIME COMPENSATION:** Shared-position employees shall not be eligible to receive overtime compensation unless they individually work more than forty (40) hours a week. The number of hours worked in any given week shall not be calculated as an aggregate of both employees' hours worked.

**COMPENSATORY TIME:** Shared-position employees shall not be eligible to receive compensatory time in lieu of paid overtime unless they individually work more than forty (40) hours a week. The number of hours worked in any given week shall not be calculated as an aggregate of both employees' hours worked.

**VACATION LEAVE:** Each shared-position employee is entitled to accrue paid vacation leave as a percentage of that employee's total number of hours worked each month, based on the following schedule:

<u>Length of Continuous Employment</u>	<u>Vacation Accrual Rates</u>
Beginning of 1 <sup>st</sup> month through 2 years	3.85% of the hours worked per month
Beginning of 3 <sup>rd</sup> year through 5 years	4.62% of the hours worked per month.
Beginning of 6 <sup>th</sup> year through 15 years	5.77% of the hours worked per month

Beginning of 16<sup>th</sup> year and more

4 additional hours per year for each year of service up to a maximum of 80 hours per year

Each shared-position employee may accumulate a maximum of two (2) years' worth of accrued vacation leave. The maximum of two (2) years' worth of accrued vacation leave shall be calculated by taking the employee's then applicable schedule or regular number of hours, extended forward over two years. The employee's then applicable vacation rate from the above schedule shall be applied to determine the maximum vacation leave which may be accumulated. Once an employee reaches the maximum vacation leave which may be accumulated, the employee shall cease to accrue any further vacation leave until the amount accumulated falls below the maximum. In the event an employee's schedule or regular number of hours is reduced, the City Manager or his/her designee shall grant the employee a reasonable period of time, not to exceed one (1) year, to reduce the employee's accumulated vacation leave below the maximum.

SICK LEAVE:

Each shared-position employee shall earn sick leave at the rate of five percent (5%) of the hours that the employee worked for each full calendar month of continuous employment with the City, including time served in probationary status. Unused sick leave may be accumulated to a maximum of three hundred sixty (360) hours.

ALL OTHER LEAVE:

Each shared-position employee shall be eligible to use bereavement leave, jury duty, leave of absence without pay, pregnancy disability leave, military leave, paid holiday leave and administrative leave (if applicable), family and medical leave and other leave, as set forth in Rule VII, except that each employee shall only be entitled to use such leave in the amount of hours that the employee normally would have been scheduled to work that day or week, as applicable.

RETIREMENT:

The City shall pay the full employee contribution to the California Public Employees' Retirement System

(CalPERS) for each shared-position employee who is a member of CalPERS.

**HEALTH INSURANCE:**

The City shall pay a proportional share of the medical, dental, vision insurance premiums for the shared-position employee and dependent care premium based on the number of hours that the employee worked per week, unless coverage is refused by the employee. If health coverage or dependent coverage is accepted by the employee, they shall pay the remaining balance of any insurance premiums.

**LIFE INSURANCE:**

The City shall pay the entire premium of the employee's life insurance premium, at twice the employee's annual salary. Annual salary shall be based on the regular number of hours per week each employee is scheduled to work, as adjusted annually, according to the City's normal procedures.

**LONG TERM DISABILITY:**

The City shall pay the entire premium of the employee's long term disability insurance policy.

**ACCIDENTAL DEATH AND DISMEMBERMENT:**

The City shall pay the entire premium of the employee's accidental death and dismemberment insurance policy.

**MEDICARE:**

The City shall pay the federal mandatory contribution for each shared-position employee.

## RULE XVI

### MEDICAL EXAMINATION PROCEDURES

(ADOPTED 12/20/05, AMENDED 05/17/11)

SECTION 1 – MEDICAL EXAMINATION: Any employee may be required to undergo a medical examination at a time designated by the Personnel Officer, if he/she has a reasonable belief, based on objective evidence, that a medical examination is necessary in accordance with the provisions of this Rule. As used in this Rule, the term “medical examination” means a procedure or test that seeks information about an individual’s physical or mental impairments or health. A medical examination does not include tests for current use of illegal drugs, physical fitness tests, physical agility tests, psychological tests or other personality tests designed to evaluate personality traits, or polygraph examinations. Except as stated herein, nothing in this Rule is intended to govern or regulate tests that are not medical examinations.

SECTION 2 – NEW HIRES OR RE-HIRES: In order to be eligible for employment or re-employment with the City, a job applicant shall be required to undergo a medical examination at a City-designated medical facility to determine whether the applicant is capable of performing the essential functions required of the position and can meet the standards established by the Personnel Officer.

SECTION 3 – PROMOTION OR TRANSFER: In order to be eligible for a promotion or a transfer to a job classification in a category requiring greater physical qualifications than his/her present job classification, an employee may be required to undergo the same pre-employment medical examination as a new hire or re-hire at a City-designated medical facility to determine whether the candidate is capable of performing the essential functions required of the promotional or transfer position and can meet the standards established by the Personnel Officer.

#### SECTION 4 – PROCEDURE:

(a) All medical examinations shall be job-related and consistent with business necessity.

(b) The medical examination of a job applicant will occur only after a conditional offer of employment is made and where all entering employees in the same classification are subject to the same examination.

(c) The medical examination of an existing employee seeking a promotion or transfer will occur only after a conditional offer of promotion or transfer is made and where all new entering employees in the same classification are subject to the same examination.

(d) Pre-employment tests for illegal drugs may be administered as part of the application process, as set forth in Section 11, below.

SECTION 5 – FINDINGS OF MEDICAL EXAMINATION:

(a) Job Applicants. Subject to paragraph (c), if a job applicant fails to pass a medical examination following a conditional job offer, the conditional job offer shall be withdrawn.

(b) Promotional or Transfer Candidates. Subject to paragraph (c), if an existing employee fails to pass a medical evaluation following a conditional offer of a promotion or transfer, the City will assign duties consistent with the medical examination, including allowing the employee to remain in his/her former position if he/she is able to perform the essential job functions. If no appropriate position is vacant, such employee shall be recommended for disability or retirement if he/she is eligible, or terminated.

(c) If the job applicant or candidate for promotion or transfer is a qualified individual with a disability under the Americans with Disabilities Act (“ADA”) or California Fair Employment and Housing Act (“FEHA”), the City will engage in an interactive process with the job applicant or candidate, and consider any request for reasonable accommodation by the job applicant or candidate consistent with the requirements of the ADA and/or FEHA.

(1) Job Applicants. Following the results of the medical examination and the interactive process, the conditional offer of employment will be withdrawn if the City determines that the applicant cannot be reasonably accommodated and/or would pose a direct threat to his/her own safety and/or the safety of others.

(2) Promotional or Transfer Candidates. Following the results of the medical examination and the interactive process, the conditional offer of the promotion or transfer shall be withdrawn if the City determines that the employee cannot be reasonably accommodated in the promotional or transfer position or would pose a direct threat to his/her own safety and/or the safety of others. If no appropriate position is vacant, such employee shall be recommended for disability or retirement if he/she is eligible, or terminated.

SECTION 6 – ABSENCE DUE TO ILLNESS OR INCAPACITY:

(a) Any employee who returns to work after an absence in excess of three consecutive work shifts due to illness or incapacity, or who demonstrates a pattern of absences (such as repeated absences the day before or after weekends) may be required by the Personnel Officer to provide a return to work certification from the employee’s treating physician or other health care provider confirming there was a medical reason for the employee’s absence, and that he/she is able to perform the essential functions of his/her position and/or does not present a direct threat to himself/herself, to his/her fellow employees and/or to members of the public, due to

any medical reason, before the employee will be permitted to return to work. The City reserves the right to choose the health care provider who shall provide the certification. Nothing herein shall preclude the City from requiring a fitness for duty examination under Section 7 of this Rule.

(b) In addition, any employee who returns to work after an absence in excess of three consecutive work shifts due to illness or incapacity, or who demonstrates a pattern of absences (such as repeated absences the day before or after weekends) may also be required by the Personnel Officer to undergo a medical examination before the employee may be permitted to return to work if the City has reasonable belief that the employee's present ability to perform essential job functions will be impaired by a physical or mental impairment or condition, or if he/she will pose a direct threat to himself/herself, to his/her fellow employees and/or to members of the public due to a physical or mental condition or impairment.

(c) Any employee who fails to pass a medical examination upon his/her return from an absence in excess of three consecutive work shifts may be required to remain off duty pending receipt of a return to work certification from his/her physician or other health care provider, and/or may be transferred or demoted to an available alternative or modified position based on the employee's ability to perform essential job functions and meet the minimum qualifications of the job, recommended for disability or retirement, or terminated.

SECTION 7 – FITNESS FOR DUTY: The Personnel Officer may at any time require that an employee undergo a fitness for duty examination at a City-designated facility based on specific facts and circumstances leading to the reasonable conclusion that such employee is not able to perform the essential functions of his/her position and/or that he/she may pose a direct threat to himself/herself, to his/her fellow employees and/or to members of the public. The cost of the fitness for duty examination will be borne by the City. The City may take appropriate action based upon the results of the fitness for duty examination. The City may also take disciplinary action against any employee who refuses to comply with the City's requirement that he/she undergo a fitness for duty examination.

SECTION 8 – QUALIFIED PHYSICIAN: All medical examinations required under the provisions of this Rule shall be performed by a City-designated physician, psychologist, psychiatrist or other health care professional, in active practice licensed by the State of California and within the scope of his/her practice as defined by California law. In the case of out-of-state candidates for employment, the physician or other health care professional performing the medical examination may be licensed by the state in which the candidate resides.

SECTION 9 – CITY FINANCIAL RESPONSIBILITY: The City shall pay for any medical examination required under the provisions of this Rule.

SECTION 10 – CONFIDENTIALITY: Medical information will be kept confidential, on separate forms and in separate locked medical files, and shall be

reviewed only to assess whether the applicant or employee has the ability to perform the functions of the job, with or without reasonable accommodation; or whether the employee may pose a direct threat to himself/herself and/or to others; to determine whether the employee is fit for duty; to assist in providing reasonable accommodation; to provide first aid as necessary; for insurance purposes; and to comply with other provisions of federal and/or state law.

SECTION 11 – PRE-EMPLOYMENT DRUG TESTING: The City is committed to providing a safe, effective and productive work force, and to comply with the Drug-Free Workplace Act of 1988.

(a) All new hires and all re-hires may be required to submit to pre-employment drug testing, as part of the application process. An offer of employment will be conditioned upon the job applicant testing negative for illegal drugs.

(b) The City's drug testing policy will comply with all applicable provisions of federal and state law, including but not limited to, confidentiality, privacy and testing methodology.

(c) The City shall pay for any pre-employment drug testing required under this section.

SECTION 12 – NONDISCRIMINATION: All medical examinations shall be undertaken in accordance with the ADA and the FEHA, with respect to job applicants and employees with disabilities. The City does not discriminate against job applicants or employees on the basis of disability.

SECTION 13 – NONEXCLUSIVITY: This Rule shall not preclude the City from requiring medical examinations under circumstances otherwise permitted or authorized under federal or state law.

## RULE XVII

### DRUG AND ALCOHOL POLICY

(ADOPTED 08/02/11)

SECTION 1 – PURPOSE AND APPLICATION: The City is committed to providing a workplace that is free from the effects of drug and alcohol abuse. Drug and alcohol abuse has been found to be a contributing factor to absenteeism, tardiness, substandard performance, increased potential for accidents, disruptive behavior, increased workload for co-workers, poor morale and impaired public relations. To further its interests in service to the community, avoiding accidents, promoting and maintaining a safe and productive workplace and protecting City property, equipment and operations, the City has adopted this policy. This policy is intended to apply to all employees, regardless of appointment type or time basis, including, without limitation, full-time, part-time, temporary, emergency, competitive service, management and probationary employees. The provisions of this policy are in addition to any policies or procedures involving the same or similar matters, such as any procedures regarding pre-employment drug testing.

#### SECTION 2 – GENERAL POLICY:

(a) No employee while on duty, reporting for duty or on standby for duty shall:

(1) Use, possess or be under the influence of illegal or unauthorized drugs;

(2) Use or be under the influence of alcohol to any extent that would impede the employee's ability to perform his or her duties safely and effectively; or

(3) Have a measurable amount of any illegal or unauthorized drug (including metabolites) or alcohol in his or her body, as determined by a drug and alcohol test and subject to minimum cut-off values for testing.

(b) An employee must notify his/her supervisor or the Personnel Officer, 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.

(c) No employee shall perform duties which the employee cannot perform without posing a threat to the health or safety of the employee or others because of drugs taken under a legal prescription or otherwise authorized.

(d) Employees shall be subject to drug and alcohol testing (“substance testing”) when there is a reasonable suspicion the employee has violated sub-section (a), above. In addition, an employee who has already been found in violation of sub-section (a), above, through an adverse employment action (as applicable), medical examination, testing procedures or the employee’s own admission, may be required to submit to periodic substance testing for a period of one year, as a condition of remaining in employment.

### SECTION 3 – REASONABLE SUSPICION:

(a) Reasonable suspicion is the good faith belief based on specific articulable facts or evidence and reasonable inferences drawn from such facts and evidence that an employee may have violated this policy and that substance testing may reveal evidence related to that violation.

(b) Facts or evidence supporting reasonable suspicion may include, but are not limited to, an employee’s manner, disposition, muscular movement, appearance, unusual behavior, speech, or breath odor; information provided by an employee, law enforcement official or other person believed to be reliable; or other surrounding circumstances.

(c) Where the initial reasonable suspicion determination is based on observed behavior and it is practical to do so, the employee may be asked about the observed behavior and given an opportunity to provide a reasonable explanation.

(d) For purposes of substance testing, reasonable suspicion will only exist after the Personnel Officer, Deputy City Manager, City Manager or designate of the City Manager have reviewed the facts, evidence and circumstances in a particular case and concur in the finding of reasonable suspicion. In the event the Personnel Officer, Deputy City Manager, City Manager or designate of the City Manager are unavailable, a supervisor or manager who is at least one level of supervision above a supervisor or manager making the initial reasonable suspicion determination may make the review and determination under this paragraph.

(e) Following concurrence, as provided above, the facts, evidence and circumstances on which the reasonable suspicion is based will be summarized in writing.

### SECTION 4 – SUBSTANCE TESTING:

(a) Where reasonable suspicion exists, as defined in this policy, the involved employee may be requested to take a substance test in accordance with the procedures in this policy. If the employee refuses to cooperate with the administration of the test, the refusal will be considered a positive test result. A refusal to cooperate includes, but is not limited to, refusing to appear for a test; unreasonably failing to

submit a sample for testing; tampering with, substituting, adulterating, masking or water-loading a sample; or obstructing or not fully cooperating with testing procedures.

(b) The employee will be referred to an independent, Substance Abuse & Mental Health Services Administration (SAMHSA)-certified medical clinic or laboratory, which will administer the substance test. The employee will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that the employee has taken that may affect the outcome of the test.

(c) Drug testing will be by a process at least as accurate and valid as urinalysis using an immunoassay screening test, with the positive test results confirmed using gas chromatography/mass spectrometry before a sample is considered positive.

(d) Alcohol testing will be by a process at least as accurate and valid as urinalysis using an enzymatic assay screening test with all positive screening results being confirmed by using gas chromatography before a sample is considered positive or breath sample testing using breath alcohol analyzing instruments which meet California Department of Health Services standards (such as 17 CCR 1221.2, 1221.3).

(e) Substances to be tested for may include: amphetamines and methamphetamines, cocaine, marijuana/cannabinoids (THC), opiates (narcotics), phencyclidine (PCP), barbiturates, benzodiazepines, methaqualone and alcohol. Other controlled substances may be added to the list where their use is reasonably suspected and items may be dropped from the list, where appropriate.

(f) Cut-off levels may be established by the City after consultation with expert staff of the laboratories or other qualified personnel. Cut-off levels will be set to identify positive test samples while reasonably minimizing false positive test results. The designated levels may change over time based on changes in technology, testing experience or other factors.

(g) In the event cut-off levels are not established prior to any test, the City will use cut-off levels established in the SAMHSA Mandatory Guidelines for Federal Drug Testing Programs. Any other provision of this policy notwithstanding, the cut-off level established for a positive alcohol test (both initial and confirmation) will not be less than 0.02 percent (0.02 gm/210 liters of breath or 0.02 gm/deciliter of blood or 0.02 mg/ml of urine).

(h) Test samples will be collected in a clinical setting using procedures designed to assure that true samples are obtained. Chain of custody procedures will be followed through the testing process, to its final disposition.

(i) The cost of reasonable suspicion testing under this policy will be paid by the City. Transportation will either be provided or paid for by the City.

(j) Pending test results, an employee may either be temporarily reassigned or placed on administrative leave.

SECTION 5 – MEDICAL REVIEW OFFICER:

(a) A medical review officer (MRO), who is a California licensed physician with the appropriate medical training to interpret and evaluate a confirmed positive test result, will be used in the testing process. For confirmed positive results, the MRO will:

(1) Review the results and determine if the applicable standards and procedures have been followed.

(2) Advise the employee of the results and provide the employee with an opportunity to discuss and explain the results, including the opportunity to provide the MRO with information regarding any medication which may have affected the results of the test.

(3) Consider any assertions by the affected employee of irregularities in the sample collection and testing process.

(4) Based on the above, provide a written explanation of the test results to the City.

(b) An MRO may report a positive test result to the City without discussion with the involved employee if:

(1) The employee has expressly declined the opportunity to discuss the test results with the MRO.

(2) Documented contact has been made with the employee who has been instructed to contact the MRO within 72 hours and more than 72 hours have passed since that time.

(3) Neither the City nor the MRO, after making and documenting reasonable attempts to contact the employee, have been able to contact the employee within seven (7) days of the date on which the MRO receives the test results from the laboratory.

SECTION 6 – CONFIDENTIALITY: All records of the circumstances and results of substance testing under this policy will remain confidential personnel records. Laboratory reports and test results will be maintained in a file separate from the employee's personnel file. Information may only be released: to the employee who was tested or other individuals designated in writing by the employee; to the MRO; to the extent necessary to properly supervise or assign the employee; as necessary to determine what action should be taken in response to the test results; and for use in

responding to appeals, litigation or administrative proceedings arising from or related to the test or related actions.

SECTION 7 – QUESTIONS: Any matter not specifically addressed in these procedures may be handled in accord with the established procedures of the medical facility performing the substance test or the SAMHSA Mandatory Guidelines for Federal Drug Testing Programs or as otherwise reasonably determined by the City. Questions regarding this policy should be directed to the Personnel Officer.