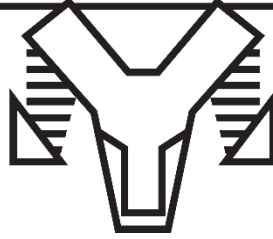


CITY OF RANCHO MIRAGE



City of Rancho Mirage Personnel Rules and Regulations

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100 Introduction and General Information Policies

102 Effect and Applicability of Personnel Policies

102.1 Authority and Purpose of Personnel Policies

Adoption of these Personnel Policies (“Policies”) is authorized and directed pursuant to Resolution No. 2021-53 of the City of Rancho Mirage (“City”).

It is the purpose of these Policies is to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the City.

102.2 No Contract Right; City’s Discretion to Modify These Policies

These Policies do not create any contract right, or any express or implied contract of employment. The City retains the full discretion to modify these Policies at any time in accordance with law, including the obligation to meet and confer.

102.3 Applicability of Policies

These Policies apply to all categories of employees of the City unless a specific section or provision excludes them. Independent contractors, volunteers, and board or council members are not employees.

102.4 Conflict Between These Policies and a Memorandum of Understanding

If a provision of these Policies conflicts with any provision of a memorandum of understanding (“MOU”) between the City and a recognized employee association (“Association”), the provision of the MOU that is in conflict shall apply to employees covered by that MOU.

102.5 Employee Acceptance of Policies and Revisions to Policies

As a condition of employment, all employees are required to read and request necessary clarification of these Policies. Each employee is required to sign a statement of receipt acknowledging that: a) he or she has received a copy, or has been provided access to the Policies; and b) understands that he or she is responsible to read and become familiar with the contents and any revisions to the Policies.

102.6 Violation of Policies

Violation of any of the provisions of these Policies shall be grounds for discipline up to and including dismissal.

103 Delegation of Authority

103.1 Delegation of Appointing and Personnel Authority to the City Manager

The City Council delegates to the City Manager the authority to authorize employment, establish job responsibilities, and perform other personnel actions as to all subordinate employees in accordance with all federal and state laws and regulations and within the limits of the Municipal Code and these Policies. The City Manager may delegate responsibility to the Personnel Officer to perform personnel actions in accordance with this section. The Director of Administrative Services functions as the City Personnel Officer.

103.2 Retention of Personnel Authority as to Certain Personnel

As to those elected officials, or employees who directly report to the City Council, if any, the City Council retains all authority over all personnel actions as authorized by law and these Policies.

104 Categories of Employees and Non-Employees

104.1 At-Will Employee

An at-will employee is one who serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. At-will employees include any of the following:

- a) City Manager
- b) Assistants to the City Manager
- c) Department Heads/Department Directors
- d) Employees whose positions are funded under a state or federal employment program
- e) Confidential employees, such as, Executive Coordinators, Human Resource Specialist and Human Resource Director
- f) Employees designated as part-time, temporary, interns, etc.
- g) Probationary employees during their initial hire probationary period of City employment and promotional employees as to their employment status in the higher classification only.

104.2 Probationary Employee

A probationary employee is one who is serving a probationary period at either: the outset of initial employment with the City, or at the outset of a promotion to a higher classification. During the initial probationary period, a probationary employee serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. A probationary employee serving in the initial 12-month probationary period is an at-will employee.

104.3 For-Cause Employee

A for-cause employee is one who has satisfactorily completed the initial 12-month probationary period and cannot be disciplined except when the City has cause to do so. A for-cause employee has a property right in continued employment, and has the right to pre- and post-disciplinary procedural due process and an evidentiary appeal for certain types of disciplinary actions that result in a significant deprivation of property.

104.4 Full or Part-Time Employee

A full-time employee is one whose position is budgeted to work at least 40 hours per week. Full-time employees receive all benefits provided in these Policies, unless otherwise provided in an MOU, or an employment agreement approved by the City of Rancho Mirage's City Council. Such employees may also be referred to as "permanent" employees. A part-time employee is one whose position is budgeted to work less than 40 hours per week. Part-time employees may have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.

104.5 Temporary Employee

A temporary City employee is an at-will employee who is appointed other than from an eligible list for a short-term basis, not to exceed six months. A temporary employee serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

104.6 Volunteer

A volunteer is not an employee, but instead is an individual who provides services to the City for civic or philanthropic reasons and receives no compensation or benefits other than nominal fees and reimbursement of expenses. A volunteer serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

104.7

Independent Contractor

An independent contractor is not an employee, and serves solely pursuant to a contract that has been formed and approved as required by the City's purchasing policies and procedures. An independent contractor cannot be used to perform any part of the City's regular and customary work.

200 Equal Employment Opportunity

202 Equal Employment Opportunity Policy

The City affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. The City prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or any other basis protected by law. Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing.

203 Policy Against Discrimination, Harassment and Retaliation; Complaint Procedure

203.1 Purpose

The City has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. The City has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. The City encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible. Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

203.1.1 Covered Individuals and Scope of Policy

The individuals covered by this Policy are: applicants, employees regardless of rank or title, elected or appointed officials, interns, volunteers, and contractors. This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

203.2 Definitions

203.2.1 Protected Classification

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law. This Policy prohibits discrimination, harassment or retaliation because: (1) of an individual's protected classification; (2) the perception that an individual has a protected classification; or (3) the individual associates with a person who has or is perceived to have a protected classification.

203.2.2 Protected Activity

This Policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this Policy; (4) opposing violations of this Policy; or (5) participating in an investigation under this Policy.

203.2.3 Discrimination

This Policy prohibits treating covered individuals differently and adversely because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.

203.2.4 Harassment

Harassment includes, but is not limited to, the following types of behavior that are taken because of a person's actual or perceived protected classification:

- a) Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race-oriented stories and jokes.
- b) Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- c) Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.
- d) Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or

rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

203.2.4.1 Guidelines for Identifying Harassment

Harassment includes any conduct, which would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:

- a) It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
- b) Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.
- c) Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- d) Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

203.2.5 Retaliation

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination; (4) spreading rumors about a complainant or about someone who supports or assists the complainant; (5) shunning or avoiding an individual who reports harassment or discrimination; or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

203.3 Complaint Procedure

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor, manager, department head or human resources, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the Personnel Officer. Upon receiving notification of a harassment complaint, the Personnel Officer will complete and/or delegate the following steps. If the Personnel Officer is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

- a) Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: (1) the complainant; (2) the accused; and (3) other persons who have relevant knowledge concerning the allegations in the complaint.
- b) Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- c) Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
- d) If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- e) Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

203.3.1 Proactive Approach

The City takes a proactive approach to potential Policy violations and will conduct an investigation if its supervisory or management employees become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

203.4 Option to Report to Outside Agencies

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on City bulletin boards for office locations and telephone numbers.

In addition, an individual has the option to report harassment, discrimination or retaliation to an anonymous toll-free number or online, provided by the Employment Risk Management Association (ERMA) which can be located at the employee lounge or obtained from the HR division.

203.5 Confidentiality

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

203.6 Responsibilities

- a) Each non-manager or non-supervisor is responsible for:
 - 1) Treating all individuals in the workplace or on worksites with respect and consideration.
 - 2) Modeling behavior that conforms to this Policy.
 - 3) Participating in periodic training.
 - 4) Cooperating with the City's investigations pursuant to this Policy by responding fully and truthfully to all questions posed during the investigation.
 - 5) Taking no actions to influence any potential witness while the investigation is ongoing.
 - 6) Reporting any act he or she believes in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or Personnel Officer.
- b) In addition to the responsibilities listed above, each manager and supervisor is responsible for:
 - 1) Informing employees of this Policy.
 - 2) Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
 - 3) Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
 - 4) Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.

- 5) Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH or ERMA regarding alleged Policy violations.
- 6) Assisting, advising, or consulting with employees and the Personnel Officer regarding this Policy.
- 7) Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
- 8) Implementing appropriate disciplinary and remedial actions.
- 9) Reporting potential violations of this Policy of which he or she becomes aware to the Personnel Officer, regardless of whether a complaint has been submitted.
- 10) Participating in periodic training and scheduling employees for training.

204 Reasonable Accommodation and Interactive Process

204.1 Reasonable Accommodation

Absent undue hardship or direct threats to the health and safety of employee(s), the City provides employment-related reasonable accommodations to:

- a) qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; and
- b) employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider; and
- c) employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- d) employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

204.2 Supporting Documentation or Certification

204.2.1 Reasonable Medical Documentation of Disability

If the disability or the need for reasonable accommodation is not obvious, the City may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the City will: (1) explain the insufficiency; (2) allow the employee or applicant to supplement the documentation; and (3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

204.2.2 Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the City will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: (1) a description of the requested accommodation or transfer; (2) a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and (3) the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

204.2.3 Certification of Victim Status

An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his or her safety while at work must provide both of the following:

- a) a written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- b) a certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

204.3 Fitness for Duty Examinations

204.3.1 Applicants

After a conditional offer of employment has been extended to an applicant, the City may require the applicant to submit to a fitness for duty examination that is job-related; necessary for efficient operations of the City; and required of all applicants for the job classification. An applicant or employee who is required to pass a medical and/or psychological examination will be notified of his/her right to obtain a second opinion at his/her expense and that he/she may submit such second opinions for consideration.

204.3.2 Current Employee

The Personnel Officer may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of his or her job when there is significant evidence that:

- a) the employee's ability to perform one or more essential functions of his or her job has declined; or
- b) could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties, or is still capable of performing those duties in a manner that does not harm him or herself or others.

204.3.3 Role of Health Care Provider

The City may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request a City selected health care provider to do so at the City's expense. The City will allow an employee paid time off to attend the exam. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant or employee can perform the essential functions of his/her position and any work restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide the City with non-confidential information regarding whether:

- a) the applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
- b) the applicant or employee is fit to perform essential job functions;
- c) workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- d) there are any reasonable accommodations that would enable the employee to perform essential job functions; and
- e) the employee's continued employment poses a threat to the health and safety of him or herself or others.

Should the health care provider exceed the scope of the City's request and provide confidential health information, without valid consent of the applicant or employee, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

204.3.4 Authorization for Use of Medical Information

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

204.3.5 Medical Information from the Employee or Applicant

If an employee or applicant submits medical information to the City from his or her own health care provider, the Personnel Officer will not forward that information on to the health care provider who conducted the examination for the City, without the employee or applicant's written authorization. Upon receipt of the written authorization, the Personnel Officer will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

204.4 Interactive Process

204.4.1 When to Initiate the Interactive Process

The Personnel Officer will initiate the interactive process when:

- a) an applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s); or
- b) the City otherwise becomes aware of the need for an accommodation through a third party (e.g. a doctor's note requesting an accommodation), or by observation of the employee's work; or
- c) the City becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation; or
- d) an employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider; or
- e) an employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave; or
- f) an employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his or her safety at work; or
- g) an employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
- h) an employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices.

204.4.2 Interactive Communication

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, the Personnel Officer will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his or her designated representative, (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The Personnel Officer will document these communications in writing.

204.4.2.1 Potential Accommodations for Applicants or Employees with Disabilities

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable the individual to retain his or her current job. The process will generally then move on to possible reasonable accommodations in other vacant jobs, for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others. The City will consider accommodations that the applicant or employee suggests, but has the right to select and implement any reasonable accommodation that it deems effective. The range of potential reasonable accommodations includes, but is not limited to:

- Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;
- Job restructuring;
- Part-time or modified work schedules;
- Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;
- Preferential consideration to reassignment to a vacant, comparable position;
- Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or
- Reassignment to a temporary position, if the individual agrees.

204.4.2.2 Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions

Depending on the facts of each case, the interactive process will attempt to identify and implement a reasonable accommodation that is consistent with the medical certification applicable to the applicant or employee. Whether an accommodation is reasonable is a case-by-case analysis that takes into account several factors, including, but not limited to: the employee's medical needs; the duration of the needed accommodation; and the employer's legally permissible past and current practices. The range of potential accommodations includes, but is not limited to:

- Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
- Change in or restructuring of work duties, such as modifying lifting requirements;
- Providing more frequent breaks;
- Providing seating;
- Time off for medical appointments;
- Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. (However,

a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four-month pregnancy disability leave entitlement.)

204.4.2.3 Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking

Depending on the facts of each individual case, the interactive process analysis will review all possible accommodations that would enhance the safety of the employee victim at work. In determining what accommodation is reasonable, the City will consider the exigent circumstance or danger facing the employee. The City will consider the preferences of the employee to be accommodated, but has the right to select and implement any accommodation that it deems effective. The range of potential safety measure accommodations includes, but is not limited to:

- Transfer, reassignment, modified schedule;
- Change in work telephone number;
- Change in location of work station;
- Installation of locks;
- Assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
- The implementation of a safety procedure(s);
- Adjustment to job structure, workplace facility, or work requirement; and
- Referral to a victim assistance organization.

204.4.2.4 Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice

Depending on the facts of each case, the interactive process analysis will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement. The City will consider the preference of the employee or applicant, but has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

- a) Job restructuring or job reassignment (but not segregation from other employees or the public);
- b) Modification of work practices, including dress or grooming standards;
- c) Allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked in order to avoid a conflict with his or her religious observances;

204.4.3 Determination

After the interactive process communications, the Personnel Officer will review the information received, and determine: whether all available information has been reviewed; whether all potential

accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming him or herself or others; and if the accommodations would pose an undue hardship on the City's finances or operations. The Personnel Officer will inform the applicant or employee of his or her determination in writing. The Personnel Officer will use his or her discretion based upon the particular facts of each case.

204.5 *Access to Medical Information Regarding Fitness for Duty*

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Personnel Officer, the City's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law.

205 Whistleblower Protection

205.1 *Policy*

The City prohibits all of the following:

- a) Taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;
- b) Preventing an employee from disclosing information to a government agency, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;
- c) Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation; and
- d) Retaliating against an employee because the employee's family member has, or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

205.2 *Policy Coverage*

This Policy governs and protects the City's officials, officers, employees, temporary employees, or applicants for employment.

205.3 *Definitions*

- a) **"Protected activity"** includes any of the following:
- Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation.
 - Participating in or cooperating in good faith with a local, federal or state enforcement agency that is conducting an investigation in to alleged unlawful activity.
 - Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.
 - Associating with another covered individual who is engaged in any of the protected activities enumerated here.
 - Making or filing in good faith and with reasonable cause an internal complaint with the City regarding alleged unlawful activity.
 - Providing informal notice to the City regarding alleged unlawful activity.
 - Calling a governmental agency's "Whistleblower hotline" in good faith.
 - Filing a written complaint under penalty of perjury that the City has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety.
 - Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation.
- b) **"Adverse action"** may include, but is not limited to, any of the following:
- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.
 - Refusing to hire an individual because of actual or potential protected activity.
 - Denying promotion to an individual because of actual or potential protected activity.
 - Taking any form of disciplinary action because of actual or potential protected activity.
 - Extending a probationary period because of actual or potential protected activity.
 - Altering work schedules or work assignments because of actual or potential protected activity.
 - Condoning hostility and criticism of co-workers and third parties because of actual or protected activity.

- Spreading rumors about a person because of that person's actual or perceived protected activity.
- Shunning or unreasonably avoiding a person because of that person's actual or perceived protected activity.

205.4 Complaint Procedure

An applicant, employee, or temporary employee who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in the City's Policy Against Discrimination, Harassment or Retaliation so that the complaint can be resolved fairly and quickly. Supervisors and Managers have the same responsibilities as defined in the Policy Against Discrimination, Harassment or Retaliation.

300 Classification Policies

302 Classification Plan

302.1 Classification Plan

The classification plan provides a complete inventory of all position in the City service and an accurate description and specifications for each class of employment. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

The Personnel Officer shall ascertain and record the duties and responsibilities of all positions and, after consulting with affected department heads, shall recommend a classification plan, including job descriptions, for such positions. The plan and any revisions thereof shall become effective upon approval of the City Council or designee.

Following the approval of the classification plan, the Personnel Officer shall allocate every position to one of the classifications established by the plan.

When a new position is created, such position may not be filled, until the classification plan has been amended to provide for the new position.

302.2 Reclassification

The Personnel Officer may initiate a job audit to determine whether the duties of a position have changed to such an extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification. Upon completion of the job audit, the Personnel Officer shall make a recommendation regarding reclassification to the City Council or designee.

302.2.1 Status of Employee Whose Position is Reclassified

If an occupied position is reclassified, and the incumbent employee has attained regular or permanent status in the occupied position, then the following requirements apply.

- a) Reclassification to Lower Classification – When a position is reclassified to a lower classification, the incumbent employee shall:
 - 1) Be eligible to transfer to a higher classification should there be an available position and the incumbent meets requirements of the position.
 - 2) Be granted permanent status in the lower classification; and

- 3) Not incur a salary reduction due to reclassification – If the incumbent employee’s salary is greater than the “E” step of the lower classification, the employee shall be Y-rated until the salary in the lower classification is at or above the Y-rate. If the incumbent employee’s salary is less than the “E” step of the lower classification, the employee shall be placed at a Step in the lower classification which is equal to the salary or, if there is not an equal Step, at the closest higher Step in the lower classification.
- b) Reclassification To a Different Classification With the Same Salary Range – When a position is reclassified to a different classification with the same salary range, the incumbent employee shall be paid at the same Step of the salary range, and shall maintain the same salary rights. The incumbent employee shall maintain regular or permanent status as a City employee.
- c) Reclassification To a Higher Classification – When a position is reclassified to a higher classification, the incumbent employee shall maintain regular or permanent status as a City employee.

400 Recruitment, Selection, and Appointment

402 Recruitment, Selection and Appointment Policy

402.1 *Job Announcement*

The Personnel Officer will prepare a job announcement to announce a proposed recruitment. The announcement may be posted on the City's website, in City Hall and other locations the Personnel Officer deems appropriate, depending upon whether the recruitment is open to the public or current employees only. The announcement will include:

- The title and pay for the position;
- The nature of the work to be performed and essential job duties of the position;
- The minimum qualifications, including whether the job is a promotional position;
- A statement of the employment status of the position – for cause or at-will;
- The last date that the Personnel Officer will accept applications, if any;
- The time, place, and type of the examination, if known, and if a medical examination, and/or a drug screen will be required following a conditional offer of employment; and
- Such other information as determined in the discretion of the Personnel Officer.

402.2 *Application Forms*

Job applications shall require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including but not limited to: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. All applications must be completed on City application forms in full and signed, physically or electronically, by the person applying. The Personnel Officer will not process any application which is not fully completed and signed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records.

402.3 *Disqualification of Applications*

The Personnel Officer may reject any application which: (1) is not properly completed or incomplete; (2) contains false statements of material fact or actual or attempted deception, fraud or misconduct in connection with the application; (3) received after the application deadline; or (4) indicates that the applicant does not meet the minimum qualifications for the position.

Whenever an application is rejected, notice of such rejection shall be mailed or emailed to the applicant.

402.3.1 Criminal Conviction Check

After the determination is made that an applicant meets minimum qualifications, the Personnel Officer may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, the City will not deny employment to any applicant solely because he or she has been convicted of a crime. The City may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position. This Policy does not apply to applicants for public safety jobs.

402.4 Employment Examinations

- a) The Personnel Officer will determine the manner and methods of administering employment examinations in connection with Department Director or designee. The selection technique used in the examination process shall be impartial, practical in nature, and relate to those subjects which, in the opinion of the personnel officer, thoroughly measure the relative capacity of the persons examined to execute the duties and responsibilities of the position to which they seek appointment. Examinations may consist of: written tests; oral tests; performance tests; evaluations of prior training and performance, experience and/or education; interviews; working style assessments; practical exercises; file review; or any combination thereof. The content of all examinations will be job-related and designed to test knowledge, skills or abilities that help predict successful completion of job duties.
- b) The content of all examinations will be kept confidential prior to the administration of the examination. All applicants who are invited to the examination will be notified of the nature of the examination.
- c) An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Personnel Officer may require additional information, such as reasonable documentation of the existence of a disability.
- d) Failure in one part of the examination, or the failure to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. Each applicant will be notified by mail whether he or she will continue in the examination process.
- e) Applicants who meet the minimum qualifications and pass all examinations may be subject to a background and/or reference check.

402.5 Employment Eligibility Lists

- a) The Personnel Officer shall prepare and certify the employment eligibility list to the City Manager and appropriate department head as soon as possible after the completion of an examination. The list shall contain two (2) more names than the positions available of persons

successfully passing the examination, arranged in order of final scores earned, from the highest to the lowest passing score. Whenever identical scores are earned, names shall be arranged in alphabetical order and no candidate shall receive any additional consideration because of this arbitrary manner of listing applicants.

- b) Employment lists other than those resulting from a continuous examination shall remain in effect for one year, or until exhausted whichever occurs first, and may be extended, prior to their expiration dates, by approval of the City Manager for additional periods, but in no event shall an employment list remain in effect for more than two years. Open competitive lists created as a result of continuous examination(s) shall remain in effect for not more than one year after the last administration of the examination, or until exhausted. Names placed on open competitive lists shall be merged with any others already on the list in order of final scores and shall remain on the list for not more than one year.
- c) The Personnel Officer shall remove the names of any persons appearing on an eligible or promotional list if the eligible person requests in writing that his/her name be removed, or if a subsequent background investigation is unsatisfactory. The person affected shall be notified of the removal of his/her name by a notice mailed to his/her last known address. The names of persons on any promotional list who are separated from service shall automatically be dropped from the list.

402.6 *Appointments*

- a) The Personnel Officer will make all appointments except for those classifications that report to the governing body. The Personnel Officer has discretion to decide in what manner a vacancy shall be filled. Vacancies may be filled by reinstatement, promotion, transfer, demotion, appointment of temporary employees, or from an appropriate eligibility list if available. No specific list shall have priority over other lists. The City Council will make appointments for those classifications that report to it.
- b) When a position is to be filled from a promotional or open eligibility list, the Personnel Officer may choose from the specified list one of the top three candidates on the eligibility list. If no person among the top three candidates indicates a willingness to accept the appointment, the Personnel Officer may make the appointment from among the remaining names on the eligibility list, may request a new examination and establish a new eligibility list, or may fill the position by any other method authorized by these Policies.
- c) Appointment to certain positions may be made contingent upon the applicant/employee passing a drug/alcohol test, and/or a job-related medical and/or psychological examination. Such examination shall only be required after a conditional offer of employment has been made. (See Policy 204, Reasonable Accommodation and Interactive Process; and Policy 1208, Prohibitions on Drugs and Alcohol in the Workplace.)
- d) The person accepting appointment shall report to the Personnel Officer or designee on the date designated by the Personnel Officer. Otherwise, the applicant shall be deemed to have declined the appointment.

402.6.1 Probationary Appointment

- a) At-Will Status: The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee may be rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights set forth under Policy 1002, Causes for Discipline and Procedures. The probationary employee will be notified prior to the expiration of the probationary period that he or she has been rejected from probation.
- b) Length of Probation: Unless otherwise specified by memorandum of understanding or these Policies, the probationary period is 12 months of actual and continuous service. The probationary period is automatically extended by the length of any absence of one work week or more. The probationary period can also be extended by the City at the discretion of the City Manager or his/her designee.

402.6.2 Probationary Period for Promotional Appointments

- a) At-Will Status: A promotional probationary employee may be rejected at any time during the promotional probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights described in Policy 1002, Causes for Discipline and Procedures. If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee may return to the position held prior to promotion at the range and step held prior to promotion, if there is a vacancy in the prior position, unless he or she is terminated for cause.
- b) Length of Probation: On accepting a promotion, an employee serves a new probationary period of six months of actual and continuous service. The probationary period is automatically extended by the length of any absence of a week or more. The probationary period can also be extended, not to exceed three months, by the City at the discretion of the City Manager or his/her designee.

500 Employment of Relatives or Spouses/Domestic Partners

502 Employment of Relatives, Spouses, Domestic Partners

502.1 Policy

The City regulates the employment and placement of relatives, spouses, and domestic partners so as to avoid conflicts of interest and to promote safety, security, supervision, and morale.

502.2 Definitions

- a) "Relative" means child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
- b) "Spouse" means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law.
- c) "Supervisory relationship" means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to his or her City appointment.

502.3 Employment of Relatives

The City will not appoint, promote or transfer a person to a position within the same department, division, or facility in which the person's relative already holds a position, if any of the following would result:

- A direct or indirect supervisory relationship between the relatives;
- The two employees having job duties which require performance of shared duties on the same or related work assignment;
- Both employees having the same supervisor; or
- A potential for creating an adverse impact on supervision, safety, security, morale or efficiency.

502.4 Spouses or Domestic Partners

The City will not appoint, promote, or transfer a person, to the same department, division, or facility in which the person's spouse or registered domestic partner already holds a position, if such employment would result in any of the following:

- One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner; or

- Potential conflicts of interest or hazards for married persons or those in domestic partnership which are greater than for those who are not married or in domestic partnerships.

When an eligible candidate is refused appointment by virtue of these sections, the name of the candidate shall remain on the eligibility list for openings in the same classification, as otherwise provided in these Policies, where no relative is employed, supervised by, or supervising the vacant position, In no case may an employee participate directly, or indirectly, in the recruitment or selection process for a position for which the employee's relative has filed an employment application.

502.5 Marriage or Domestic Partnership After Employment

- a) Transfer: If two City employees who work in the same department later become spouses or domestic partners, the Personnel Officer has discretion to transfer one of the employees to a similar position in another department. Although the wishes of the two employees will be considered, the Personnel Officer retains sole discretion to determine which employee will be transferred based upon the City needs for supervision, safety, security or morale. Any such transfer that results in a salary reduction is not disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.
- b) Separation: If continuing employment of both employees, who work in the same department and who later become spouses or domestic partners, cannot be accommodated in a manner the Personnel Officer finds to be consistent with the City's interest in the promotion of supervision, safety, security, or morale, then the Personnel Officer retains sole discretion to separate one employee from the City employment. Absent the resignation of one employee, the less senior employee will be separated. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

600 Compensation and Payroll Practices

602 Work Schedules and Attendance

602.1 Work Schedules

Work schedules are determined at the discretion of the department head and are subject to change with or without notice, according to the needs of the department or City. An overtime-eligible employee shall be in attendance and at work during the hours specified by the supervisor.

602.2 Meal Period

A one-hour non-compensated meal period will be provided to all full-time overtime-eligible employees who work at least an eight-hour work day. A 30-minute non-compensated meal period will be provided to all overtime-eligible full-time employees who work more than five hours, but less than eight hours during the work day. Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

602.3 Rest Period

A 15-minute compensated rest period will be provided to all overtime-eligible employees for each four-hour period of service. The rest period shall be taken at a time designated by the employee's supervisor. Rest periods may not be combined to shorten the workday or to extend the meal period.

602.4 Lactation Break Time and Location

The City will provide a reasonable amount of break time to accommodate any employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk. The break time shall, if possible, run concurrently with any break time already provided to the employee. If the employee takes lactation breaks at times other than their provided break times, then the lactation break shall be unpaid or the employee may choose to use accrued leave or modify their break times with supervisory approval.

Those desiring to take a lactation break at times other than their provided break times must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

The City will provide a room or other appropriate location in close proximity to the employee's worksite that is not in a bathroom to express milk in private. The room or location will meet the following requirements:

- Be shielded from view and free from intrusion while being used to express milk;
- Be safe, clean, and free of hazardous materials;
- Contain a surface on which to place a breast pump and personal items;
- Contain a place to sit; and
- Have access to electricity needed to operate an electric battery-powered breast pump.

An employee occupying such private area shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.

The City will provide access to a sink with running water and a refrigerator, or other cooling device, suitable for storing milk, in close proximity to the employee’s work area.

602.4.1 Lactation Accommodation

An employee may make a request for lactation accommodation, either orally or in writing, with the Human Resources Department.

Following receipt of a request for lactation accommodation, the City will provide a timely written response to the employee in which the City will indicate if it is unable to provide the requested break time or a requested location for the purposes of expressing breast milk.

An employee does not believe that the City is providing an appropriate lactation accommodation should immediately inform the Human Resources Department.

An employee who does not believe that the City is providing an appropriate lactation accommodation as required by state law has the right to file a complaint with the California Division of Labor Standards Enforcement/Labor Commissioner.

602.4.2 Storage of Expressed Milk

Any employee storing expressed milk in any authorized refrigerated area within the City shall clearly label it as such. No expressed milk shall be stored at the City beyond the employee’s work day/ shift.

602.5 Advance Request for Permission to Deviate from Regular Work Hours

An overtime-eligible employee is required to seek advance permission from his or her supervisor for any foreseeable absence or deviation from regular working hours, break, and meal times.

602.6 *Notification of Unforeseen Late Arrival or Absence*

An overtime-eligible employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor at least one hour prior to the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the department head.

602.7 *Unauthorized Absence is Prohibited*

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. An overtime-eligible employee who fails to timely notify the supervisor of any absences as required by this Policy, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

602.8 *Excessive Tardiness/Absenteeism and Abuse of Leave*

Excessive tardiness occurs when an overtime-eligible employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.

Abuse of leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination. Should the City suspect that there is an abuse of leave by an employee, the City may require that the employee submit a physician's certificate to support the absence.

604 Work Week, Overtime and Compensatory Time Off

604.1 *Work Week*

The work week begins at 12:00 a.m. on Saturday and ends at 11:59 p.m. on the following Friday, except for employees on a 9/80 work schedule, or as otherwise designated in an applicable MOU, or by a Fair Labor Standards Act (FLSA) 29 USC § 207(k) work period for fire and police employees.

604.1.1 *Work Week for 9/80 Work Schedule*

Employees working a 9/80 work schedule will have a regular day off every other week as determined by the City. For employees working a 9/80 work schedule, each employee's designated work week shall begin exactly four hours after the start of his/her eight hour shift on the day of the week that corresponds to the employee's alternating regular day off.

604.2 Overtime

Overtime is all hours an overtime-eligible employee actually works over 40 hours in his or her designated work week. Unless otherwise specified in a MOU, only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so.

An employee called to work in an emergency shall be credited with 1/2 hour for travel time (15 minutes each way), and in addition, shall earn overtime credit for actual time worked, with a minimum credit of three hours.

The City's overtime policy does not apply to exempt employees.

604.2.1 No Remote Access for Overtime-Eligible Employees

Unless the Personnel Officer, Department Director or supervisor specifies otherwise in writing, overtime-eligible employees may not have remote access to City equipment, resources, or email.

604.2.2 Prior Approval Required for Overtime

Overtime-eligible employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by the City. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.

Overtime may be authorized under, but not limited to, the following circumstances:

- a) In emergency situations (generally caused by inclement weather or disaster).
- b) To complete projects which begin on one day and would be difficult or impossible to complete during regular working hours the next day.
- c) In situations where a job completion is deemed essential by the Department Head or City Manager.

604.3 Accurate Time Reporting

All employees must accurately report all work time to the nearest fifteen minutes.

604.4 No Volunteering of Work Time

All time spent for the benefit of the City must be reported as hours worked on time records so that the employee is paid for all work. Overtime-eligible employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties. Employees have no authorization to work without compensation. No supervisor has authority to request overtime-eligible employees to volunteer work time.

604.5 Compensatory Time Off

An overtime-eligible employee may opt to accrue compensatory time-off (CTO) in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

- a) **Accrual Rate:** CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of 240 hours at any given time.
- b) **Employee Request to Use CTO:** The City will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off without undue disruption, the City will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.
- c) **City Cash Out:** The City reserves the right to cash out accumulated CTO at any time.
- d) **Value of CTO Cash Out:** During employment, CTO is cashed out at the employee's current FLSA regular rate of pay. Employees separating from City service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher.

700 Performance Evaluation Policies

702 Performance Evaluations

702.1 Performance Evaluations

A non-probationary employee's supervisor will prepare and sign a performance evaluation on a City form for each performance evaluation period. The Department Head will review and approve all performance evaluations of subordinates in his or her department. The City Manager will review and approve all performance evaluations of department heads or any other employees under his or her direct supervision. Additional performance evaluations may be prepared at any time the Department Head or City Manager deems necessary. The completed evaluations shall be forwarded to the Personnel Officer for filing.

702.2 Probationary Employee Performance Evaluations

- a) Probationary Employees – New Appointments: As set elsewhere in these rules, a new employee, upon such appointment, serves a 12-month probationary period. Just prior to the close of probation (11 1/2 months) the employee is to be evaluated. The outcome of such employee evaluation will determine that the employee is either “released” (terminated), “probation continued”, or appointed as a “regular employee”, as reflected in an accompanying Personnel Action Form. This evaluation is also the means for determining the appropriateness of a merit increase at the end of the probation period. After successfully passing the probationary period, the employee's anniversary date is set, and the employee receives “regular employee” status, which includes being evaluated on a regular basis as indicated in Section 702.1 above.
- b) Probationary Employees – Promotional Appointments: Upon promotion, a regular employee will be required to submit to a 6-month probationary period. At promotion, the old anniversary date will change to the new anniversary date – date of promotion. An evaluation form will be completed near the end of the probationary period to determine “released” to previous position, if available, “continued probation”, or to appointment to “regular employee” status. Under the terms of “released”, where the previous position is filled, the employee may be laid off until the original or other closely relation position for which he/she qualifies becomes available.

702.3 Performance Evaluation Meeting

The supervisor will meet with the employee to discuss the evaluation. The employee shall sign the evaluation to acknowledge its contents and that he or she has met with his or her supervisor to discuss the evaluation. The employee's signature shall not mean that he or she endorses the contents of the evaluation.

702.4

No Appeal Right

An employee does not have the right to appeal or submit a grievance regarding any matter relating to the content of a performance evaluation. Instead, the employee may comment on the evaluation in a written statement which will then be placed with the evaluation in the employee's personnel file. The written statement must be submitted within 10 days after the employee receives the evaluation.

800 Leaves of Absences

802 Vacation Leave and Holidays

802.1 Vacation Leave

Eligible full-time employees earn vacation leave while in paid status until they reach the applicable vacation accrual cap. Employees accrue vacation time according to their full time status and the number of consecutive years the employee has worked for the City as follows:

a) Full-Time Employee Accrual Rate:

Consecutive Full Time Years of Service	Received Per Pay Period of Paid Status	Received per Year of Paid Status
Less than 2 years	3.08	80 hours
2 – 7 years	4.62	120 hours
8 – 11 years	5.54	144 hours
12 or more years	6.15	160 hours

802.2 Limitations on Vacation Leave Accrual

No employee may accrue more than the equivalent of three times the employee's annual vacation leave accrual rate. When an employee reaches the equivalent of three times the employee's annual vacation leave accrual rate, he/she shall cease earning vacation leave until his or her leave balance falls below the equivalent of three times the employee's annual vacation leave accrual rate. Vacation leave will not accrue during leaves of absence without pay unless required by law.

Probationary employees shall accrue but not take their vacation until after six (6) months of employment.

802.3 Scheduling of Vacation Leave

Vacation leave may not be used until it is earned. The employee and the department head will schedule the times when an employee may take vacation leave. The scheduling will be based on the employee's preference and the City's operational needs. An employee shall provide a minimum of one week's written advance notice, unless waived by the department head, when requesting vacation time off. The City may, at its discretion, require an employee to use accrued vacation.

802.4 Unused Vacation Leave Upon Separation

Any employee separating from the City who has accrued vacation leave shall be paid for all accrued vacation at his or her rate of pay at the time of separation.

802.5 Holidays

Full-time employees, except temporary and part-time employees, receive the holidays listed below with pay. If New Year's Day, Independence Day, or December 25 falls on a Sunday, the Monday following shall be treated as the holiday. If any of those three holidays falls on a Saturday, the preceding work day shall be treated as the holiday. Probationary employees shall be granted holidays as they fall within the probationary period except floating holidays.

- New Year's Day
- Martin Luther King's Birthday
- President's Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day After Thanksgiving Day
- Christmas Eve Day
- Christmas Day

802.6 Effect of Holiday on Vacation Leave

If one or more holidays falls within a vacation leave that an eligible full-time employee is taking, such holiday shall not be charged as vacation leave. Full time employees on a 9/80 work schedule, however, do not receive any holiday pay for a holiday that falls on the regular day off.

802.7 Floating Holidays

Full time employees who are entitled to holidays receive two floating holidays per calendar year that must be used during that calendar year. Any floating holiday time not used will be cashed out on the last pay period of the calendar year.

802.8 Pay for Holidays

Employees entitled to paid holidays or floating holidays shall be paid for the number of hours the employee was scheduled to work had it not been a holiday or floating holiday. An overtime-eligible employee who is required to work on a holiday will receive holiday pay and pay for the actual time worked on the holiday at double time for each hour of overtime worked on the holiday or accrue compensatory time off at a rate equal to two hours for each hour of overtime worked on the holiday.

804 Sick Leave

804.1 Purposes for Sick Leave

Sick leave is paid leave from work that can be used for the following purposes:

- a) diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or
- b) for an employee who is a victim of domestic violence, sexual assault, or stalking, or other crime in order for the employee to engage in any of the following activities: (1) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or (2) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or (3) participate in safety planning or other actions to increase safety.

804.2 Terms of Sick Leave

- a) Accrual & Carryover for Different Categories of Employees:
 - 1) Full time employees who are not temporary accrue eight hours of sick leave for each calendar month of paid status. Full time employee's accumulated sick leave balance may not exceed 960 hours. Full time employee's sick leave is not eligible for cash out.
 - 2) Part-time employees, who are not temporary, are provided three days (24 hours) per year of sick leave. Sick leave for part-time employees does not roll over from year to year. Part time employee's sick leave is not eligible for cash out.
 - 3) Temporary employees are provided three days (24 hours) per year of sick leave. Sick leave for part-time employees does not roll over from year to year. Part time employee's sick leave is not eligible for cash out.
- b) Sick Leave Use:

An employee may use accrued sick leave, in a minimum increment of two hours, beginning on the first day of employment with the City subject to the limits and request provisions in this Policy.
- c) Protected Sick Leave:
 - 1) For full time employees who are not temporary, one-half of the employee's accrued and available annual sick leave is protected and may be used for any of the purposes stated in this Policy.
 - 2) For part-time and temporary employees, up to 24 hours, or three days, whichever is greater, of accrued and available sick leave each year is protected and may be used for any of the purposes stated in this Policy. The year is measured beginning on July 1, 2015, or the employee's anniversary of hire date, whichever is later.

d) Sick Leave Request:

To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice. If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable. If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by this Policy without good reason, may result in the employee being treated as absent without leave.

e) Certification:

Employees who are not part-time or temporary, must provide a physician's certification for any sick leave absence that occurs after the employee has used 24 hours, or three days, whichever is greater, that involves the illness of the employee or family member. All employees, including temporary employees, who use paid leave to address issues related to domestic violence, sexual assault, stalking, or other crimes and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.

f) Sick Leave Reinstatement:

If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of 6 days or 48 hours, whichever is greater, will be reinstated. An employee who worked at least 90 days in the initial employment with the City may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with the City must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave.

806 Family and Medical Care Leaves

806.1 Statement of Policy; Concurrent Running of FMLA and CFRA Leaves

The City provides family and medical care leave for eligible employees as required by State and federal law. Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. This Policy is supplemented by the Federal Family and Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). Unless otherwise stated in this Policy, "Leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the City will run each employee's FMLA and CFRA leaves concurrently.

806.2

Definitions

- a) "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- b) "Single 12 Month Period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date.
- c) "Family member" for FMLA leave means an employee's child, parent, and spouse. "Family member" for CFRA leave means an employee's child, parent, spouse, domestic partner, grandchild, grandparent, and sibling.
- d) "Child"
 - 1) Under the FMLA, "child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is "incapable of self-care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
 - 2) Under the CFRA, "child" means a child, including a child who is 18 years of age or older who is capable of self-care. An employee's child means a biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.
- e) "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- f) "Spouse" means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below.
- g) "Domestic Partner" is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.
- h) "Grandparent" means a parent of the employee's parent.
- i) "Grandchild" means a child of the employee's child.
- j) "Sibling" means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.
- k) "Serious Health Condition" means an illness, injury impairment, or physical or mental condition that involves:

- 1) Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
- 2) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - i. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
 - ii. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 1. Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 2. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
- 3) Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a “serious health condition” only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave. (See Policy 808, Leave Because of Pregnancy, Childbirth, or Related Medical Condition.)
- 4) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- 5) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the

continuing supervision of, but need not be receiving active treatment by health care provider.

- 6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- l) “Health Care Provider” means:
- 1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
 - 2) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;
 - 3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
 - 4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
 - 5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
 - 6) Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
- m) “Covered active duty” means: 1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or 2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- n) “Covered Servicemember” means: 1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or 2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- o) “Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an

outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

- p) "Next of Kin of a Covered Servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.
- q) "Serious Injury or Illness" means: 1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating; or 2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

806.3 Reasons for Leave

Leave is only permitted for the reasons listed below.

- a) The birth of a child or to care for a newborn of an employee;
- b) The placement of a child with an employee in connection with the adoption or foster care of a child;
- c) Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
- d) Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, or sibling who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA;
- e) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of his/her position;
- f) Leave for a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation;
- g) Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered servicemember of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member's

active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period; or

- h) Under the CFRA only, leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s domestic partner is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA.

806.4 Employees Eligible for Leave

An employee is eligible for leave if:

- a) The employee has been employed by the City for at least 12 months; and
- b) The employee has been employed by the City for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
- c) The City directly employs at least 50 full or part-time employees within a 75-mile radius for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. The workweeks do not have to be consecutive. The phrase “current or preceding calendar year” refers to the calendar year in which the employee requests the leave or the calendar year preceding this request. This criteria is not required and does not apply for an employee to be eligible CFRA leave.

806.5 Amount of Leave

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

806.6 Minimum Duration of Leave

- a) If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two weeks duration on any two occasions.
- b) If leave is requested to care for a child, parent, spouse, domestic partner, grandparent, grandchild, sibling or the employee him/herself with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this Policy is required.

806.7

Parents both Employed by the City of Rancho Mirage

If both parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave:

- 1) The aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period; and
- 2) Each parent is entitled to take 12 workweeks of CFRA leave during any 12-month period.

If both parents of a covered servicemember are employed by the City and are entitled to leave to care for a covered servicemember, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 work weeks during the 12-month period. This limitation does not apply to any other type of leave under this Policy.

806.8

Employee Benefits While on Leave

- a) **Group Health Insurance During Unpaid Leave:** Leave under this Policy is unpaid. While on unpaid leave, employees will continue to be covered by the City's group health insurance for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the City will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks).
- b) **Benefit Plans Not Provided through the City's Group Health Plan During Unpaid Leave Do Not Continue:** The City does not pay for benefit plans that are not part of the group health plan for any employee on unpaid leave. As a result, employees will not continue to be covered under the City's benefit plans that are not provided through the City's group health plans while the employee is on unpaid leave.
- c) **Payment of Premiums:** Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using his or her paid leave) or direct payments (if the employee is not using his or her paid leave). The City will inform the employee whether the direct payments for premiums should be paid to the carrier or to the City, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.
- d) **Recovery of Premium if the Employee Fails to Return from Leave:** If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control.

806.9 Substitution of Paid Accrued Leaves

Although family and medical care leave is unpaid, an employee may elect and the City will require an employee to concurrently use all paid accrued leaves during family and medical care leave as described below.

806.9.1 City's Right to Require an Employee to use Paid Leave when using FMLA/CFRA Leave

Employees must use and exhaust their accrued leaves concurrently with family and medical care leave to the same extent that employees have the right to use their accrued leaves concurrently with family and medical care leave with two exceptions:

- a) Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; and
- b) An employee must agree to use accrued sick leave to care for a child, parent, spouse, domestic partner, grandparent, grandchild or sibling.

806.9.2 City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any purpose which also qualifies under both the FMLA and/or CFRA, the City will designate that leave as running concurrently with the employee's 12-week FMLA and/or CFRA leave entitlement.

806.9.3 City and Employee's Rights if an Employee Requests Accrued Leave without Mentioning FMLA or CFRA

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

806.10 Medical Certification/Recertification

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

- a) **Employee's Own Serious Health Condition:** Employees who request leave for their own serious health condition must provide written certification from the health care provider that

contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position. Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested.

- b) **Family Member Serious Health Condition:** Employees who request leave to care for a child, parent, domestic partner, spouse, grandparent, grandchild or sibling who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, spouse, grandparent, grandchild or sibling, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, spouse domestic partner, grandparent, grandchild or sibling. The term “warrants the participation of the employee” includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.
- c) **Servicemember Serious Injury or Illness:** Employees who request FMLA leave to care for a covered servicemember who is a child, spouse, parent or “next of kin” of the employee, must provide written certification from a health care provider regarding the injured servicemember’s serious injury or illness. The City will verify the certification as permitted by the FMLA regulations.
- d) **Qualifying Exigency:** The first time an employee requests FMLA leave because of a qualifying exigency, an employer may require the employee to provide a copy of the military member’s active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member’s active duty service. A copy of the new active duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member. The City will verify the certification as permitted by the FMLA regulations.

806.11 *Time to Provide a Medical Certification*

When an employee has provided at least 30 days’ notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the City within the time frame requested by the City (which must

allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

806.12 Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established in this Policy, the City may delay the taking of FMLA/CFRA leave until required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

806.13 Personnel Officer's Review of the Contents of Medical Certification for Employee's Own Serious Health Condition

- a) **Complete and Sufficient:** The employee must provide a certification for his or her own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the Personnel Officer will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.
- b) **Authentication and Clarification:** After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the Personnel Officer may contact the health care provider who provided the certification to clarify and/or authenticate the certification. "Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Personnel Officer may not ask for additional information beyond that required on the certification form.

806.14 Second and Third Medical Opinions for Employee's Own Serious Health Condition

If the City has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the City may require a medical opinion of a second healthcare provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. The City must provide the employee with a

copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee.

806.15 Intermittent Leave or Leave on a Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule for his or her own serious health condition, or to care for an immediate family member with serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The City may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule.

806.16 Employee Notice of Leave

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact day(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

806.17 Reinstatement Upon Return from Leave

- a) **Reinstatement to Same or Equivalent Position:** Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.
- b) **Date of Reinstatement:** If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.
- c) **Employee's Obligation to Periodically Report on His/Her Condition:** Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

- d) **Fitness for Duty Certification:** As a condition of reinstatement of an employee whose leave was due to the employee’s own serious health condition, which made the employee unable to perform his or her job, the employee must obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.
- e) **Reinstatement of “Key Employees”:** Under the FMLA only, the City may deny reinstatement to a “key” employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City’s intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. Under the CFRA, the City may not deny reinstatement to a “key” employee during or upon expiration of CFRA leave.

806.18 Required Forms

Employees must complete the applicable forms to receive family and medical care leave. The forms may be found in the ‘J’ drive under Human Resources forms.

808 Leave Because of Pregnancy, Childbirth, or Related Medical Condition

808.1 Amount of Leave

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid leave for up to the number of hours she would normally work within four calendar months (one-third of a year or 17 1/3 weeks). For a full-time employee who works 40 hours per week, “four months” means 693 hours of leave entitlement, based on 40 hour per week times 17 1/3 weeks. An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave.

808.2 Notice & Certification Requirements

- a) **Notice:** Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Personnel Officer.
- b) **Certification:** The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: 1) the employee is disabled from working by pregnancy, childbirth or a related medical condition; 2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and 3) the estimated duration or end date of the leave.

808.3 Compensation During Leave

Pregnancy disability leaves are without pay. However, the employee must first use sick leave, if any. Once sick leave is depleted, the employee may elect to use vacation leave or any other accrued paid time off during the leave.

808.4 Benefits During Leave

- a) **Group Health Insurance:** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act.
- b) **Sick and Vacation Leaves:** Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave.
- c) **Employee Status during Leave:** The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

808.5 Reinstatement

- a) Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave.
- b) If the employee's original position is no longer available, the employee will be assigned to a comparable, open position
- c) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies. (See Policy 206, Reasonable Accommodation and Interactive Process.)

810 Other Leaves

810.1 Management Administrative Leave

Those exempt employees identified below will receive administrative leave as the result of a combination of attendance at extra hour meetings and/or the need to work beyond the regular 40 hour week without overtime.

The City employees granted Administrative Leave each year are:

3 DAYS	5 DAYS	7 DAYS
Management Analyst	Building Official	Senior Manager
Finance Analyst	Planning Manager	City Engineer
Enterprise Specialist	Housing Manager	
Project Manager	Library & Operations Manager	
Records Management Supervisor	Code Compliance Manager	
Media & Communications Specialist	Associate Engineer	
Senior Management Analyst		
Senior Planner		
Associate Planner		
Astronomer		

Administrative leave provisions for the City Manager, Directors and City Clerk are set forth in their respective employee contracts.

Administrative leave shall be accrued per pay period, based on a number of hours per pay period that equal the total number of days to be earned during the fiscal year. Although administrative leave is earned on a fiscal year basis, administrative leave can be accumulated by an individual from year to year.

810.2 Jury Duty Leave/Subpoenaed or Court-Ordered Witness Leave

Any employee, including a temporary employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his or her supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her supervisor.

810.2.1 Overtime-Eligible Employees

All overtime-eligible employees will be paid for actual work hours missed because of time spent in jury service or court. The time spent on jury duty is not work time for purposes of calculating overtime compensation.

810.2.2 Overtime-Exempt Employees

All FLSA-exempt employees will continue to receive their normal salary while on jury duty or as serving as a witness only for any work week in which they perform any work duties.

810.3 Other Court or Administrative Proceeding Appearances

810.3.1 Regarding Agency Duties

Any employee, including a temporary employee, who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of his or her City job duties, must give his or her supervisor as much advance notice as is possible. The City will determine whether the matter involves an event or transaction in the course of the employee's City job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time.

810.3.2 Regarding Employee-Initiated Proceedings

Any employee, including a temporary employee, who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that he or she initiated, is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in Public Employment Relations Board (PERB) conferences or hearings, or at a personnel or merit commission is entitled to paid release time.

810.3.3 Regarding Crime Victim/ Victim Family Member Court Attendance Leave

Any employee, including a temporary employee, who is a victim of a crime may take leave from work to attend judicial proceedings related to that crime, if the employee provides the City notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the City within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court/governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off.

810.3.4 Regarding Crime Victim/ Family Member Victims' Rights Proceedings Leave

Any employee, including a temporary employee, who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the City, within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met. The leave is unpaid unless the employee elects to use accrued vacation or paid leave, or compensatory time off.

810.4 Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief

Any employee, including a temporary employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his or her child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave, accrued vacation or paid leave, or compensatory time off.

810.4.1 Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning

Any employee, including a temporary employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the City within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave, accrued vacation or personal leave, or compensatory time off.

810.5 Bereavement Leave

All full-time employees, except temporary full-time employees, may utilize paid bereavement leave of three (3) days to attend a funeral or memorial service, or to take care of family matters, that are related to the death of a member of immediate family. "Immediate family" consists of the following: employee's spouse, domestic partner, child, stepchild, parent, grandparent, grandchild, brother, sister, mother/father-in-law, son or daughter-in-law, brother or sister-in-law, grandparent-in-law, legal guardian, or custodial child, or the same relatives of a domestic partner. Employees are entitled to up to three days for each death in the immediate family. An employee who utilizes bereavement leave shall notify his/her supervisor or department head of the intent to use such leave.

810.6 Military Leave

Military leave will be granted in accordance with state and federal law. An employee requesting leave for this purpose shall promptly provide the department head with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

810.7 School-Related Leave

810.7.1 School or Licensed Day Care Activity Leave

Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or

who are in a licensed child care facility, shall be allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to: participate in activities of their child's school or licensed child care facility; find, enroll, or reenroll a child in a school or with a licensed child care provider; or to pick up a child due to a child care provider or school emergency. The employee must provide reasonable advance notice to his/her supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, personal leave or compensatory time off. The employee must provide documentation from the school or licensed child care facility as verification that the employee participated in school or child care facility activities on a specific date and at a particular time. If both parents, guardians or grandparents having custody work for the City at the same City work site, only the first parent requesting will be entitled to leave under this provision.

810.7.2 Child Suspension Leave

Any employee who is the parent or guardian of a child in grades 1 through 12 may take time off to go to the child's school in response to a request from the child's school, if the employee gives advance notice to his or her supervisor. A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel.

810.8 Paid Administrative Leave

The City has the right to place an employee on leave with full pay for non-disciplinary reasons at any time when the Personnel Officer has determined that the employee's and/or City's best interests warrant the leave. The employee does not have a right to appeal the decision to be placed on administrative leave with pay.

810.9 Leave of Absence Without Pay Must Be Authorized by Law or These Policies

Unless authorized by law or a City policy, an employee is not entitled to a leave of absence without pay. An authorized leave of absence without pay is not a break in service for purposes of calculating seniority. Unless required by law, vacation leave credits, sick leave credits, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits do not accrue to an employee on unpaid leave. Unless required by law, the City will not maintain contributions toward group insurance or retirement coverage for the employee on such leave. During the period of authorized unpaid leave, all service and leave credits shall be retained at the levels existing as of the effective date of the leave.

810.10 Industrial Injury Leave

810.10.1 Employees Not Covered by Labor Code Section 4850

Employees who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in pay status under the following provisions.

810.10.1.1 Coordination of Benefits

When the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated sick leave, vacation, personal holidays, and compensatory time, if any. The employee will continue in pay status and receive his or her pay until his/her accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.

810.10.1.2 Accrual of Sick and Vacation Leave Continues While on Paid Leave

During the time the employee is in fully paid status while absent from work by reason of injury or illness covered by Workers' Compensation, he or she shall continue to accrue sick leave and vacation benefits as though he or she were not on leave of absence.

810.10.1.3 Unpaid Leave and Continuation of Health Care Benefits

Any employee subject to this Policy who depletes his or her accumulated sick leave, compensatory time, personal holiday time and vacation days while absent from work by reason of an injury or illness covered by Workers' Compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

810.11 Time Off to Vote

Any employee, if he or she does not have sufficient time outside of working hours to vote, may request up to two hours of paid leave either at the beginning or end of scheduled working hours to enable him or her to vote. The employee must request time off to vote from his or her supervisor at least two days prior to election day.

900 Resignation, Job Abandonment, Layoff, and Separation

902 Resignation, Job Abandonment, Layoff and Separation

902.1 Types of Separation

All separations of employees from positions in City employment are designated as one of the following types:

- Probationary Release;
- Release of temporary employee;
- Resignation;
- Retirement;
- Job abandonment;
- Layoff;
- Non-disciplinary separation;
- Disciplinary separation.

902.2 Probationary Release

Probationary employees serving in their initial probationary period with the City may be released at any time during the probationary period as recommended by the City Manager, Department Director, or Personnel Officer, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance.

902.3 Release of Temporary Employees

A temporary employee may be separated at any time, without cause, and without right to any appeal or grievance.

902.4 Resignation

An employee who wishes to resign his or her City employment in good standing must submit written notice of resignation to the City Manager, Department Director or Personnel Officer at least two weeks prior to the planned separation date. The written notice must state the reasons for the resignation. Failure to follow the aforementioned procedure may be cause for denying future employment with the City of Rancho Mirage. A resignation becomes final when the City Manager, Department Director, or Personnel Officer accepts the resignation in writing. Once a resignation has been accepted, it is final and irrevocable. A resignation can be accepted by the City Manager, Department Director, or Personnel Officer even if it is submitted less than two weeks prior to the planned resignation date.

902.5 Retirement

An employee planning to retire must provide a written notice to the City Manager, Department Director, or Personnel Officer at least 30 days prior to the effective date of the retirement. A notice of retirement becomes final when the City Manager, Department Director, or Personnel Officer accepts the notice of retirement in writing. Once a notice of retirement has been accepted, it is final and irrevocable.

902.6 Job Abandonment

An employee is deemed to have resigned from his/her position if he or she is absent for three consecutive scheduled work days/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at his or her address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the agency's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Personnel Officer before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee separated for job abandonment has the right to a post-separation appeal.

902.7 Layoff

Whenever, in the judgment of the City Council, a reduction in personnel is necessary for economic or operational reasons, any employee may be laid off or demoted for non-disciplinary reasons.

902.7.1 Order of Layoffs

Upon decision of the City Council to lay off an employee(s), the Personnel Officer shall prepare a layoff list. Employees will be laid off in the inverse order of their seniority in their job classification in the division. Seniority is determined based on the length of employment in the affected job classification in the division, or higher classifications in the division. Length of employment includes all days of employment in attendance at work and on authorized or legally-protected leaves of absence. Length of service does not include unauthorized periods of leave or suspension or layoff. Within each job classification, employees will be laid off in the following order: temporary; part-time; probationary; and for-cause status. If two or more employees in a job classification to be laid off have the same length of employment, the employee to be laid off will be decided by lottery.

902.7.2 Notification of Layoff

Employees to be laid off will be given 21 calendar days' notice of layoff.

902.7.3 Displacement

For-cause employees who are noticed for layoff and who have held for-cause status in a lower classification within the same classification series in the same division, may displace employees in the lower classification provided that the employee seeking to displace has greater length of employment in the lower classification than the incumbent in the lower classification.

Employees in lower classifications will be displaced in inverse order of their length of employment in the classification. Any employee who seeks to displace another must provide the Personnel Officer with written notice no later than five working days after the date of the notice of layoff.

902.7.4 Transfer

If the Personnel Officer determines that a for-cause employee who is subject to layoff is qualified to perform the duties in a vacant position, the employee will receive a written notice of option to transfer in lieu of layoff. An employee who does not accept a transfer within 10 days after the date of the written notice, forfeits the option to transfer. An employee who accepts a transfer will be paid the rate applicable to the position into which he or she transfers.

902.7.5 Appeal

An employee who has been noticed for layoff, and who has any questions or concerns about the layoff decision or process may make an appointment to be heard by the Personnel Officer for an informal pre-layoff review. The employee must request this appeal in writing within five work days from the date of the notice of layoff. The Personnel Officer's decision is final.

902.7.6 Order of Recall

When a vacancy exists and employees are to be recalled to a job classification, the laid off or downgraded employee(s) eligible to return to that job classification, within the department, shall be recalled in inverse order of layoff. Notice of the opening(s) shall be sent to the mailing address as maintained in the personnel file unless a more recent address has been furnished by the laid off/downgraded employee. To expedite recall, more than one (1) employee may be notified of an opening. This recall notice shall be by certified mail and the employee shall have ten (10) calendar days to report to work from the date of postmark of the recall notice. If said employee fails to report to work within ten (10) calendar days, he/she will lose all recall rights. An employee who has been

laid off or downgraded shall be required to meet the physical and other minimum qualifications of the classification to which he/she is recalled.

902.8 Non-Disciplinary Separation

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect. Any for cause employee has the opportunity for a post-separation appeal as described in Policy 1002, Causes for Discipline and Procedures.

902.9 Disciplinary Separation

A for cause employee may be separated for disciplinary reasons pursuant to the policy and procedures in Policy 1002, Causes for Discipline and Procedures.

902.10 Return of City Property

All City property in the employee's possession must be returned prior to separation, including keys, key fobs, identification cards, equipment, credit cards, gas cards, cell phones, pagers, radios and any other City equipment.

902.11 Job References/Verification of Employment

All reference inquiries and verifications of employment must be referred to and approved by the Personnel Officer. Unless the Personnel Officer receives a written waiver signed by the employee, the City will release only the employee's dates of employment, last position held, and final salary rate. Department heads and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the Personnel Officer on a case-by-case basis.

1000 Discipline

1002 Causes for Discipline and Procedures

1002.1 Causes for Discipline

Employees may be disciplined for, including but not limited to, any of the following causes of discipline:

- 1) Violation of any department rule, City policy or City regulation, ordinance or resolution;
- 2) Absence without authorized leave or tardiness;
- 3) Excessive absenteeism and/or tardiness as defined by the employee's department head, and/or these Policies;
- 4) Use of leave from work in a manner not authorized or provided for under City policies;
- 5) Making any false representation or statement, or making any omission of a material fact;
- 6) Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;
- 7) Unsatisfactory job performance;
- 8) Inefficiency;
- 9) Damaging any City property, equipment, resource, or vehicle, or the waste of City supplies through negligence or misconduct.
- 10) Insubordination; or insulting or demeaning the authority of a supervisor or manager;
- 11) Dishonesty;
- 12) Theft;
- 13) Violation of the City's or a department's confidentiality policies, or disclosure of confidential City information to any unauthorized person or entity;
- 14) Misuse or unauthorized use of any City property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, City communication systems, City of Rancho Mirage vehicles or intellectual property;
- 15) Mishandling of public funds;
- 16) Falsifying or tampering with any City record, including work time or financial records;
- 17) Discourteous or offensive treatment of the public or other employees;
- 18) Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.
- 19) Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
- 20) Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the City;
- 21) Any conduct that impairs, disrupts or causes discredit to the City, to the public service, or other employee's employment;
- 22) Reckless or unsafe conduct;

- 23) Working overtime without prior authorization or refusing to work assigned overtime;
- 24) Carrying firearms or other dangerous weapons while on duty when not required by job duties.
- 25) Horseplay or fighting.

1002.2 Types of Counseling, Reprimands and Discipline

The following are types of counseling, reprimands and discipline which the City may impose:

- a) **Counseling Memo:** A counseling memo will be provided to an employee to identify: a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below.
- b) **Verbal Reprimand:** A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.
- c) **Written Reprimand:** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be retained in the employee's personnel file and documented in the performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below. The employee has the right to have his or her written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the Personnel Officer within 14 days after the reprimand is received.
- d) **Suspension Without Pay:** The City may suspend an employee from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the suspension is final and documented in the performance evaluation. A suspension without pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.
Except as otherwise provided by Ordinance or in these Rules, suspensions without pay shall not exceed thirty (30) calendar days for any single suspension.
- e) **Reduction in Pay or Paid Leave:** The City may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of three forms: 1) a decrease in salary, up to five percent (5%) but not below the first step of the employee's salary range; 2) a decrease in salary paid to an employee for a fixed period of time not to exceed six (6) months; or 3) loss of accrued paid vacation or administrative leave, floating holiday, or

compensatory time off. Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation. A reduction in pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.

- f) **Demotion:** The City may demote an employee from his or her position to a lower position for cause. Documents related to a demotion shall become part of the employee's personnel file when the demotion is final and documented in the performance evaluation. A demotion is subject to the discipline and discipline appeal procedures described below.
- g) **Dismissal:** The City may dismiss an employee from his or her position for cause. Documents related to the dismissal shall become a part of an employee's personnel file when the dismissal is final. A dismissed employee is entitled to the discipline and discipline appeal procedures described below.

1002.3 Discipline Procedures

The following discipline procedures only apply to the City's for-cause employees. All employees other than for-cause employees, namely temporary, at-will, probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

- a) **"Skelly" Notice of Intended Disciplinary Action to Employee:** A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:
 - The level of the intended discipline;
 - The specific charges that support the intended discipline;
 - A summary of the facts that show that the elements of each charge at issue in the intended discipline;
 - A copy of all materials upon which the intended discipline is based;
 - Notice of the employee's right to respond to the Department Director or designee regarding the intended discipline within five days from the date of the notice, either by requesting a Skelly conference, or by providing a written response, or both;
 - Notice of the employee's right to have a representative of his or her choice at the Skelly conference; and
 - Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.
- b) **Response by Employee and Skelly Conference:** If the employee requests a Skelly conference, the Department Director or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges

against him or her and present any mitigating circumstances. The Department Director or designee will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the Skelly notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the Skelly letter.

- c) **Final Notice of Discipline:** After the Skelly conference and/or timely receipt of the employee's written response, the Department Director will: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the Department Director will provide the employee with a notice that contains the following:
- The level of discipline, if any, to be imposed and the effective date of the discipline;
 - The specific charges upon which the discipline is based;
 - A summary of the facts that show that the elements of each charge at issue in the intended discipline;
 - A copy of all materials upon which the discipline is based; and
 - A reference to the employee's appeal right and deadline to appeal.
- d) **Delivery of the Final Notice of Discipline:** The final notice of discipline will be sent by mail method that verifies delivery to the last known address of the employee, or delivered to the employee in person. If the notice is not deliverable because the employee has moved without notifying the City or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

1002.4 Discipline Appeal Procedures

The following appeal procedures only apply to the City's for-cause employees. All employees other than for-cause employees, namely temporary, at-will, probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below. The following appeal procedures apply only to suspension without pay, demotion, reduction in pay or dismissal.

- a) **Request for Appeal Hearing:** An employee may submit a written request for appeal to the Personnel Officer within 14 days from: 1) receipt of the final notice of discipline; or 2) the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee. Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline.
- b) **Appeal Hearing Officer:** The appeal hearing officer shall be the City Manager or an individual designated by the City Manager who is selected through State Mediation and Conciliation Service (SMCS), so long as the City Manager did not serve as the Skelly officer for the discipline at issue. If the City Manager served as the Skelly officer for the discipline at issue, then the appeal hearing officer shall be an individual designated by the City Council who is selected through State Mediation and Conciliation Service (SMCS).

- c) **Date and Time of the Appeal Hearing:** Once the appeal hearing officer has been designated, the Personnel Officer will set a date for an appeal hearing. The employee shall be notified in writing at least 21 days prior to the hearing of the scheduled date.
- d) **Prehearing Notice of Witnesses and Evidence:** No later than 10 days before the hearing date, each party will provide the other and the appeal hearing officer a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to call any witness or evidence that has not been listed, unless that party can show that the party could not have reasonably anticipated the need for the witness or exhibit.
- e) **Subpoenas:** Upon the request of either party, and upon his or her own motion, the hearing officer will issue subpoenas to compel attendance at the appeal hearing. Each party is responsible for serving his/her/its own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.
- f) **Continuances:** The appeal hearing officer may continue a scheduled hearing only upon good cause shown.
- g) **Record of the Appeal Hearing:** The hearing shall be recorded, either electronically or by a court reporter, at the option of the City. If the City orders a transcript or makes a transcript of the recording, the City will notify the employee within three days of ordering or making the transcript, and will provide a copy of the transcript upon receipt of the costs of duplication.
- h) **Employee Appearance:** The employee must appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by any person he or she may select.
- i) **Conduct of the Hearing:**
 - 1) **Sworn Testimony:** All witnesses shall be sworn in prior to testifying. The hearing officer or court reporter shall request each witness to raise his or her hand and respond to the following: "Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?"
 - 2) **Evidence:** Hearings need not be conducted according to technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner that the hearing officer decides is the most conducive to determining the truth. The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The appeal hearing officer shall determine the relevance, weight and credibility of testimony and evidence.
 - 3) **Exclusion of Witnesses:** During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing.
 - 4) **Burden of Proof:** The City has the burden of proof by the preponderance of the evidence.

- 5) **Authority of Hearing Officer:** The appeal hearing officer shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.
- 6) **Professionalism:** All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or the appeal hearing officer.
- j) **Presentation of the Case:** The parties will address their remarks, evidence, and objections to the appeal hearing officer. The appeal hearing officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. The appeal hearing officer may limit redundant or irrelevant testimony, or directly question the witness. The hearing will proceed in the following order unless the appeal hearing officer directs otherwise:
 - 1) The City is permitted to make an opening statement;
 - 2) The employee is permitted to make an opening statement;
 - 3) The City will produce its evidence;
 - 4) The employee will produce its evidence;
 - 5) The City followed by the employee, may present rebuttal evidence;
 - 6) Oral closing arguments of no more than 20 minutes may be permitted at the discretion of the appeal hearing officer. The City argues first, the employee argues second, and if the City reserved a portion of its time for rebuttal, the City may present a rebuttal.
- k) **Written Briefs:** Either party may request to submit a written brief and/or a draft decision. The appeal hearing officer will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.
- l) **Appeal Hearing Officer's Recommended Decision:** Within 60 days of the conclusion of the hearing, the appeal hearing officer shall make written findings and a recommended decision as to the discipline.
 - 1) If the City Manager was not the appeal hearing officer or the Skelly officer he or she shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The decision of the City Manager is final. There is no process for reconsideration.
 - 2) If the City Manager was the Skelly officer, the City Council shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The decision of the City Council is final. There is no process for reconsideration.
- m) **Proof of Service of the Written Findings and Decision:** The City will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. It shall be the responsibility of the employee to inform the City of his/her address. A copy of the decision shall also be provided to the Personnel Officer.

1100 Grievances

1102 Grievance Procedures

1102.1 Definition of a Grievance

A grievance is an alleged violation of a specific provision of these Policies that adversely affects the employee and that contains all of the information listed in the “Statement of the Grievance” below. The following procedure applies to all City employees, unless the employee is covered by a grievance procedure in a memorandum of understanding; another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. The grievance procedure cannot be utilized to challenge the content of a performance evaluation.

1102.2 Statement of the Grievance

A concern is not a grievance unless the affected employee is able to state each of the following: the date of the alleged violation; the specific provision(s) of these Policies that were allegedly violated; a description of all facts regarding how the alleged violation occurred; and a list of all persons who are witnesses or are involved. The grievant may use a City form to make the Statement of the Grievance. A Statement of the Grievance must be signed by the employee filing the grievance to certify that it is filed in good faith.

1102.3 Timelines

Failure of the City to comply with the time limits of the grievance procedures allows the grievant to appeal to the next level of review. Failure of the grievant to comply with the time limits of the grievance procedures constitutes settlement and resolution of the grievance on the basis of the last disposition. The parties may extend time limits by mutual written agreement in advance of a deadline.

1102.4 Procedures

- a) **Step I Informal Resolution with Supervisor:** The employee must first work in good faith to resolve the grievance informally through discussion with his/her immediate supervisor no later than 14 days after the grievant first became aware of the facts or circumstances resulting in the filing of the grievance.
- b) **Step II Department Head:** If the employee believes that the grievance has not been resolved through Step I, the employee may submit a written Statement of the Grievance to his/her department head. The employee must submit the Statement of the Grievance within 28 days after the grievant first became aware that a grievance has occurred. The department head shall consider, discuss the grievance with the grievant, and/or investigate as he/she deems

appropriate, and shall, within 14 days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant.

- c) **Step III Personnel Officer:** If the employee believes that the grievance has not been resolved through Step II, the employee may appeal the grievance decision of the department head to the Personnel Officer. Such appeal must be filed within 14 days of the date of the department head's written decision. The Personnel Officer shall consider, discuss the grievance with the grievant, and/or investigate as he/she deems appropriate, and shall, within 14 days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant. The decision of the Personnel Officer shall be final.

1200 Miscellaneous Policies

1202 Personnel Files

1202.1 Confidential City Files

The City maintains a personnel file on each employee. Files are kept for at least three years after separation of employment. A personnel file will contain only material that the City deems necessary and relevant or that is required by law. Personnel files are the property of the City, and access to the information they contain is restricted to protect employee privacy interests.

1202.2 Notification of Changes

Each employee is responsible to promptly notify the Human Resources Division of any changes in his or her contact and benefits information, including: mailing address; telephone number; persons to contact in emergency; and number and names of dependents.

1202.3 Access to Applicant or Employee Medical Information

All medical information about an employee or applicant is kept in separate medical files and is treated as confidential. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

1202.4 Employee Access to Personnel File

- a) **Inspection of File:** A current employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect his or her personnel records one time per year. A current or former employee and/or his or her representative, who wishes to review his or her personnel file should make a written request to the Human Resources Division. The inspection must occur in the presence of the Personnel Officer or designee, and at a location where the employee works and at a time other than the employee's work time; or 2) at another agreed upon location without loss of compensation to the employee.
- b) **Copies:** A current or former employee is entitled to receive a copy of his or her personnel records within 30 days after the employer receives a written request. A current or former employee who wishes to receive such a copy should contact the Human Resource Department in writing. The City may charge a fee for the actual cost of copying.

- c) **Representative's Inspection:** If the current or former employee wishes to have another person/representative inspect his or her personnel file, he or she must provide the person/representative with written authorization. The Human Resources Department will notify the employee and/or representative of the date, time and place of the inspection in writing.
- d) **No Removal of File Documents:** No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

1202.5 Limitations on Access or Copying of Personnel File

Prior to making a copy of personnel records or allowing inspection, the City may redact the names of nonsupervisory employees. Under no circumstances will the City provide access or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination.

1203 Bulletin Boards

1203.1 Bulletin Boards

The City has bulletin boards located throughout the City facilities for the purpose of communicating with employees. Postings on these boards may contain statutory and legal notices, safety and disciplinary rules, City policies, memos of general interest relating to the City, local operating rules, and other approved items. All postings require the prior approval of the City Manager, Department Head, or Personnel Officer. No postings will be permitted for any other purpose than those approved.

1204 Limitations on Outside Employment

1204.1 No Outside Employment Without Prior Approval

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with his or her City duties, functions, responsibilities, or that of the department in which he or she is employed at the City. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the Personnel Officer prior to undertaking any outside employment as described in this Policy.

1204.2 Authorization and Appeal Process

- a) **Written Request:** Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to his or her department head. The written

request must include: (1) the work hours and/or time required; (2) job title or the nature of the activity; (3) the work location; and (4) the supervisor, manager and name of the employer or activity.

- b) **Analysis and Decision:** The Personnel Officer will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the City. If the Personnel Officer determines such activity is compatible, or would be if any conditions or restrictions applied, he or she will authorize the activity and specify the conditions/ restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.
- c) **One (1) Year Authorization:** An outside employment authorization is valid only up to one (1) year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, he or she must make another request following the process in this Policy.
- d) **Appeal:** If the Personnel Officer denies an employee's outside employment request, the employee may submit a written notice of appeal to the City Manager within 10 days after the date of the denial. The decision on appeal will be put in Writing, provided within 10 days after the receipt of the appeal, and will be final.

1204.3 Prohibited Outside Activities

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

- a) involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of the City or employment at the City;
- b) involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee would be required or expected to render in the regular course of his/her City employment;
- c) involves the performance of an act in other than his/her capacity as a City employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he/she is employed; or
- d) involves time demands that would render the employee's performance of his or her regular City employment less efficient or dangerous to the employee.

1204.4 Changes in Outside Employment Status

The employee must promptly report in writing to the Personnel Officer any of the following changes that may occur during the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties.

1204.5 Revocation / Suspension of Outside Employment Authorization

Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this Policy.

- a) The employee's work performance declines; or
- b) An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the City

1204.6 Use of City Equipment Prohibited

Under no circumstances may an employee use any City equipment, vehicles, tools, supplies, machines, or any other item that is City property while an employee is engaged in any outside employment, activity or enterprise.

1206 Limitations on Political Activity

1206.1 No Solicitation During Work Hours or City Offices

City employees or officers may not solicit or receive political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during the working hours of its officers and employees, or in City offices.

1206.2 No Targeted Solicitation of City Officers or Employees

Officers or employees of the City, or candidates for elective office of the City, may not directly or indirectly solicit political contributions from other officers or employees of the City unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from and employees of the City.

1206.3 No Political Activity in Uniform

No City employee or official shall participate in political activities of any kind while in a City uniform or other City issued clothing.

1206.4 No Political Activity on City Property or Work Hours

City employees and officials are prohibited from engaging in political activity during working hours or on City property.

1208 Prohibitions on Drugs and Alcohol In the Workplace

1208.1 Purpose and Scope

The purpose of this Policy is to promote a drug and alcohol-free workplace and to eliminate drug and alcohol-related inefficiencies and risks. This Policy applies to all City employees, whether they are on City property, or they are performing City -related business elsewhere, except as this Policy is superseded by a memorandum of understanding or federally mandated drug and alcohol policies. Compliance with this Policy is a condition of employment.

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

The City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the essential functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the City's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

1208.2 Policy

It is City policy that employees shall not be under the influence of alcohol or drugs while on duty or on a standby or on-call status. Further, employees shall not consume alcohol or illicit drugs while on City property or at work locations or while on duty; or possess controlled substances or prescription drugs without a prescription while on duty. Employees shall not manufacture, sell, provide, distribute, or dispense prescription drugs or controlled substances to any City employee or other person while on duty unless authorized by law. Neither shall any City employee sell, provide, distribute, or dispense alcohol to any other employee while such employee is on duty. The City provides reasonable accommodations as required by law to those employees whose drug or alcohol problem qualifies them as disabled. While the City will be supportive of those who seek help voluntarily, the City will equally firm in identifying and disciplining those whose continued substance abuse, even if enrolled in counseling or rehabilitation programs, results in performance deficiencies, danger to the health and safety of others and themselves, and/or violations of federal or state laws and/or City policies.

1208.3 Application of Policy

This policy applies to all employees and to all applicants for positions with the City. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

Although California law exempts use of marijuana by individuals with a California Department of Public Health issued medical marijuana identification card and by adults over age 21 under the Adult Use of Marijuana Act, it remains illegal under the federal Controlled Substances Act. Neither of these laws affect an employer's rights and obligations to maintain a drug and alcohol free workplace. Under Health and Safety Code Section 11362.45(f) employers are expressly permitted to enforce federal law and prohibit the use of marijuana, both recreational and medical, in the workplace. Accordingly, the City will continue to enforce a drug free workplace in accordance with federal law. Therefore, both medical use and non-medical recreational use of marijuana that may be legal under state law do not constitute an acceptable explanation or excuse for a positive drug test under this Policy and do not hinder or affect the City's ability to fail or refuse to hire an applicant because of a positive drug test.

No prescription drug shall be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug shall be used only in the manner, combination, and quantity prescribed. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

1208.4 Prohibited Conduct and Employee Responsibilities

Unless otherwise stated, prohibited conduct includes the following on City property, in a City vehicle, or while conducting or performing City business, regardless of location:

- a) The use of illegal drugs or controlled substances is prohibited at all times. Employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, including, but not limited to marijuana (medical and recreational), amphetamines, opiates, phencyclidine (PCP), and cocaine;
- b) Being under the influence of alcohol or any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee, while working or being on standby or on-call status;
- c) Consuming alcohol while on duty. If an on-call employee has consumed alcohol, he or she must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test prior to performance.

- d) Manufacturing, selling, distributing, dispensing, possessing, or otherwise attempting to manufacture, sell, or distribute alcohol, drugs, or controlled substances to any person, including any employee, at any time or while on City premises, or wherever City business is performed, whether directly or through a third party, or using any City property or premises to manufacture, sell, or distribute alcohol, drugs, or controlled substances.
- e) An employee's failure to notify his/her Department Head before beginning work when taking medications or drugs, including but not limited to: prescription drugs, over the counter medications, or illegal drugs or narcotics (including marijuana) which could interfere with the safe and effective performance of duties or operation of City equipment.

An employee must:

- a) Notify his/her supervisor before beginning work when taking medications or drugs, including but not limited to: prescription drugs, over the counter medications, or illegal drugs or narcotics (including marijuana) which could interfere with the safe and effective performance of duties or operation of City equipment. An employee's failure to provide this notice in a timely manner may result in discipline, up to and including termination.
- b) Notify his/her supervisor of any criminal drug statute conviction for a violation occurring in the work place no later than five days after such conviction.

1208.5 Drug and Alcohol Testing

The City has discretion to test applicants and employees for alcohol and drug use under the following circumstances. The City will use an outside laboratory to perform all testing.

- a) **Pre-Employment Testing for External Applicants for Certain Jobs:** Those external applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but is not limited to, the following:
 - 1) Safety sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, enforcing drug laws, and/or operating natural gas pipelines; and
 - 2) Jobs that involve the direct influence over children.
- b) **Reasonable Suspicion Testing:** The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances.
 - 1) "Reasonable suspicion" to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin,

runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, or other evidence of recent drug or alcohol use. If the City suspects drugs or alcohol may have played a role in an accident involving City property or equipment, that will also constitute reasonable suspicion.

- 2) **Document and Analysis:** Supervisors will be trained to recognize objective factors, which a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the Department Head or Human Resources. Any reasonable suspicion testing must be pre-approved by the Personnel Officer.
 - 3) **Testing Protocol:** If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the Personnel Officer has approved, the employee will be relieved from duty, transported to the testing facility and to his or her home after the test. The employee will be placed on sick or other paid leave until the test results are received.
- c) **Random Drug and Alcohol Testing:** Only “covered employees” will be subject to random drug and alcohol testing throughout the year for the purpose of determining the presence of alcohol, illegal drugs or controlled substances. Covered employees are those with safety-sensitive duties, such as heavy equipment operators, street and sewer maintenance workers, tree trimmers, traffic painters, sweeper operators, park caretakers, mechanics and classifications that have responsibilities involving the operation of commercial vehicles (i.e., requiring non-exempt class A or B licenses) for the City. Random testing will be conducted at all times of the day when safety-sensitive functions are performed. Refusal to submit to testing may be considered sufficient grounds for discipline, including termination
- d) **Post-Accident Testing:** Employees will be required to undergo alcohol or controlled substance testing if they are involved in an accident with City equipment or a City vehicle that results in significant damage or personal injury and where drug and/or alcohol use by the employee cannot be ruled out as a contributing factor. This includes all employees who are on duty in the vehicle or equipment in question and any others whose performance could have contributed to the accident. In addition, a post-accident test will be conducted if an accident results in injuries requiring transportation to a medical treatment facility; or where one (1) or more vehicles incurs disabling damage that requires towing from the site; and the employee receives a citation under State or local law for a moving traffic violation arising from the accident and where drug and/or alcohol use by the employee cannot be ruled out as a contributing factor. Following an accident, the safety-sensitive employee will be tested as soon as practicable (generally within two (2) hours), but not to exceed eight (8) hours for alcohol and thirty-two (32) hours for controlled substances. An employee who is subject to post-accident testing must make him or herself readily available for the test, or he or she will be deemed to have refused the test.

- e) **Return to Duty Testing:** All employees who have failed an alcohol test or tested positive for controlled substances, if retained, must be certified as being fit for duty and evaluated and released to duty by the Substance Abuse Professional (SAP) before being allowed to return to duty.
- f) **Consequences of Failing Drug or Alcohol Tests:** Employees who test positive or refuse testing for illegal drugs, alcohol or other controlled substances are subject to disciplinary action, up to and including termination. Employees are also subject to all state and federal law consequences governing these violations.

If a covered employee is not terminated, the employee:

- 1) Must be removed from performing any safety-sensitive function;
- 2) Must submit to an examination by a SAP. Upon a determination by the SAP, the employee may be required to undergo treatment for his or her alcohol or illegal drug abuse. If the employee follows a prescribed course of rehabilitation, he or she may not return to the safety-sensitive position until the SAP determines that he or she has completed the program. The City is not required to pay for this treatment;
- 3) May not be returned to his or her former safety-sensitive position until the employee has been evaluated by a SAP, complied with any recommended treatment, has been re-evaluated by a SAP, has been allowed to return to work by the SAP, and has submitted to a return-to-duty and follow-up testing for controlled substances and/or alcohol test which indicates an alcohol concentration level of less than 0.01 or a negative result on a controlled substance test;
- 4) Must submit to unannounced follow-up testing after he or she has been returned to his or her safety-sensitive position for a period of up to one(1) year; and
- 5) May perform any duties for the City that are not considered "safety-sensitive functions." This may include handling of materials exclusively in a warehouse, regardless of whether the materials are considered hazardous as long as safety-sensitive functions are not performed.

1208.6 Management Responsibilities And Guidelines:

- a) Managers and supervisors are responsible for reasonable enforcement of this policy.
- b) Employees reasonably believed to be under the influence of alcohol, drugs, or controlled substances shall be immediately prevented from engaging in further work and may be detained for a reasonable time until the City can see that they are safely transported from the work site.
- c) No persons shall physically search the person of employees, or shall they search the personal possession of employees without the freely given consent of, and in the presence of, the employee.
- d) Managers and supervisors shall notify their department head or City Personnel Officer when they have reasonable suspicion to believe that an employee may have illegal drugs in his or

her possession, or in an area not jointly or fully controlled by the City. If the Department Head or Personnel Officer concur that there is reasonable suspicion of illegal drug possession, the department head or Personnel Officer shall notify the appropriate law enforcement agency. Any violation of this Personnel Rule that may constitute criminal conduct or violation of the DOT regulations may be reported to the appropriate law enforcement agencies and/or subject the employee to civil penalties.

1208.7 Drug and Alcohol-Free Awareness Program

The City's employee assistance provider offers counseling and treatment of drug- or Alcohol-related problems. The employee assistance provider has information about: (a) the dangers of drug or alcohol abuse in the workplace; (b) the penalties that may be imposed for drug or alcohol abuse violations; (c) the City's Policy of maintaining a drug- and alcohol free workplace; and (d) any available drug or alcohol counseling, rehabilitation or employee assistance programs.

1210 Use of City Equipment or Resources

1210.1 Policy and Applicability

City equipment and resources may only be used to conduct City business, except for incidental personal use that is consistent with this Policy. As a result, City equipment and resources are non-public forums. Every City employee is required to adhere to this Policy.

1210.2 Agency Equipment or Resources

City equipment or resources is any City -owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, City network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through City electronic resources or equipment.

1210.3 No Expectation of Privacy

The City periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through City networks or electronic resources. City employees must provide the agency with the employee's username or password for any City issued equipment or resource. The existence of passwords or delete functions does not restrict the City's access. As a result, City employees have no expectation of privacy in their use of any City equipment or resources.

1210.4 Appropriate Use Only -- No Misuse

Employees may only use City equipment or resources in compliance with City policies. Except as authorized by this Policy, employees are expected to avoid any use or communication which is unrelated to City business, destructive, wasteful, or illegal. The City has discretion to restrict or rescind employee access to City equipment or resources. The following are examples of misuse of City equipment or resources:

- a) Any use that violates applicable law and/or City policies, rules or procedures.
- b) Exposing others to material which is offensive, harassing, obscene or in poor taste. This includes information, which could create an intimidating, offensive or hostile work environment.
- c) Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law.
- d) Communication of confidential City information to unauthorized individuals within or outside of City.
- e) Unauthorized attempts to access or use City data or break into any City or non-City system.
- f) Theft or unauthorized transmission or copying of paper or electronic files or data.
- g) Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication.
- h) Misrepresentation of one's identity for improper or illegal purposes.
- i) Personal commercial or business activities (e.g. "for sale" notices, personal ads, etc.).
- j) Transmitting/accessing obscene material and/or pornography.
- k) E-Commerce.
- l) Online gambling.
- m) Installing or downloading unauthorized software or equipment.
- n) Violating terms of software licensing agreements.
- o) Using City equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- p) Any unauthorized access to City equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to his or her email or other electronic resources; or making City equipment or resources available to others who would otherwise have no authorized access.
- q) Using City equipment or resources to speak on the City's behalf without authorization.

1210.5 City Email Address Must be Used for City Business

The City's email system is an official communication tool for City business. The City establishes and assigns official email addresses to each employee as the City deems necessary. Employees must send all City communications that are sent via email to and from his or her official City email address.

Employees are prohibited from using their private email address when communicating City business via email. Should an email related to City business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's City email account and responded to accordingly.

1210.6 Incidental Personal Use of City Communications Equipment Permitted

Employees may use City telephones, cell phones, internet access, and e-mail for incidental personal communications provided that the use:

- a) Is kept to a minimum and limited to break times or non-working hours;
- b) Does not interfere or conflict with City operations or the work performance of any City employees;
- c) Allows the employee to more efficiently perform City work;
- d) Is not abusive, illegal, inappropriate, or prohibited by this Policy (for example, no social media use, no electronic dating, no gaming); and
- e) Clearly indicates it is for personal use and does not indicate or imply City sponsorship or endorsement.

1212 Policy Against Violence in the Workplace

1212.1 Safe and Secure Workplace

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

1212.2 Prohibited Behavior

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

1212.3 "Workplace Violence"

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

- a) Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.

- b) The destruction of, or threat of destruction of City property or another employee's property.
- c) Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
- d) Striking, punching, slapping, or assaulting another person.
- e) Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
- f) Harassing or threatening phone calls.
- g) Surveillance.
- h) Stalking.
- i) Possessing a weapon(s) during work hours unless the City issues the weapon(s) for performance of the job. "Weapon" is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

1212.4 Incident Reporting Procedures

- a) Employees must immediately report to their supervisor or department director whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department director will immediately report the matter to the Personnel Officer.
- b) The Personnel Officer or designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.
- c) The Personnel Officer or designee will take appropriate steps to provide security, such as:
 - 1) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
 - 2) Asking any threatening or potentially violent person to leave the site; or
 - 3) Immediately contacting an appropriate law enforcement agency.

1212.5 Investigation

The Personnel Officer will see that reported violations of this Policy are investigated as necessary.

1212.6 Prevention

Each Department Director has authority to enforce this Policy by:

- a) Training supervisors and subordinates about their responsibilities under this Policy;
- b) Assuring that reports of workplace violence are accurately and timely documented and addressed;
- c) Notifying the Personnel Officer and/or law enforcement authorities of any incidents;
- d) Making all reasonable efforts to maintain a safe and secure workplace; and

- e) Maintaining records and follow up actions as to reports of workplace violence.

1214 Appearance Standards

1214.1 Basis for Standards

These dress code, tattoo, and body piercing appearance standards are designed to promote the City's legitimate and non-discriminatory goals to promote workplace safety and a professional image that is consistent with the employee's job duties and level of public contact.

1214.2 Dress Code

Employees are required to dress appropriately for the jobs they are performing. The following dress code regulations shall apply to all City employees. If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

- a) All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed.
- b) Prescribed uniforms and safety equipment must be worn.
- c) Hair must be neat, clean and well-groomed.
- d) Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion.
- e) Jewelry that does not pierce the skin is acceptable except where it constitutes a health or safety hazard.
- f) Good personal hygiene is required.
- g) Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work.

1214.3 Tattoos

Employees are expected to project a professional appearance while at work and must abide by the standards below. If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

- a) No tattoos are allowed anywhere on the head, face, or neck.
- b) Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang-related.
- c) No visible tattoos shall be larger than 4 by 6 inches.
- d) Any non-conforming tattoos will be covered with clothing, bandage or makeup while at work, or removed.

1214.4 Piercing

Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing. If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

- a) No objects, articles, jewelry or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth except that one set of reasonably-sized pierced earrings may be worn in each lobe.
- b) Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

1215 Travel and Expense Reimbursement

1215.1 General Policy

Generally, the City reimburses all officers and employees for all necessary travel expenses incurred while acting for and on behalf of the City and within the scope of his/her duties, including costs incurred for transportation, lodging, meals and incidental expenses.

1215.2 Reimbursement

All claims for reimbursement for travel expenses incurred by an officer or employee of the City shall be submitted to the Finance Director within ten calendar days following the last date of travel where expenses were incurred. Said claims shall be itemized and submitted on forms prepared and supplied by the City; such officer or employee shall also file receipts showing money paid to a common carrier as a traveling expense and receipts for payment of expenses for lodging. It shall be necessary for the officer or employee to file receipts for his/her meal expenses, and all said meal expenses shall be itemized on the form to be filed by the officer or employee.

1215.3 Payment

All claims for traveling expenses shall be submitted to the Finance Director for approval and after such claims have been approved, payment shall be made in the same manner as other claims against the City are paid.

1215.4 Private Automobile Use

It is standard policy for officers and employees of the City to use their own private automobiles, provided adequate insurance coverage is maintained. In return, the City will reimburse the officer or employee as set forth by City Council resolution, miles actually and necessarily traveled.

1215.5 Advance Payments

Any officer or employee of the City receiving an advance of money from the City for travel expenses shall file with the Finance Director a full and complete report and accounting of the money spent by him/her for travel expenses out of such advances within ten calendar days after the termination of such travel. Such officer or employee shall return all monies advanced to him/her by the City in excess of such travel expenses and such monies shall be returned to the City account from which it was originally drawn.

1217 Teleworking Policy

1217.1 Purpose

The purpose of the policy is to allow certain employees, subject to their execution of a Teleworking Agreement, to Telework from an Alternative Worksite for some or all of their regularly scheduled work hours and to ensure that, for the duration of such Telework, employees perform their job duties, and in so doing provide quality work in a timely manner, and to the benefit of the public.

1217.2 Definitions

“Alternative Worksite” means the employee’s home, place of residence or from another location approved by the City other than the employee’s normal workplace at a City worksite or facility.

“Telework(ing)” means a work arrangement under which an employee works from their home, place of residence or from another location other than the employees’ normal workplace at a City worksite or facility (“Alternative Worksite”) for all or a portion of their regularly scheduled work hours.

“Work Schedule” means the days and hours determined by supervisors or managers during which non-exempt, overtime eligible employees should be in attendance at the Alternative Worksite. The Work Schedule shall provide for and include the rest and meal breaks required under applicable federal and state law as well as under contract.

1217.3 Scope of Policy

This policy covers Teleworking voluntarily requested by a City employee and provided by the City, subject to certain conditions and requirements.

1217.4 Voluntary Teleworking Arrangements

The City may allow Teleworking for certain eligible employees who request to Telework.

1217.4.1 Eligibility Criteria

The City Manager or their designee, possesses the discretionary authority to determine the job classifications, positions, and employees who are eligible to telework under this policy.

The City Manager or their designee, may make such determination using criteria including, but not limited to, the following:

- 1) The operational needs of the City and employee's Department and Division;
- 2) The disruption of or potential for disruption to the agency's functions;
- 3) The ability of the employee to perform their job duties (both essential and marginal) from an Alternative Worksite without diminishing the quantity or quality of the work performed;
- 4) The degree to which the employee's job functions require face-to-face interaction with other agency employees, contractors and members of the public;
- 5) The employee's job performance, as determined by their last performance review;
- 6) The employee's length of service with the agency, department or division;
- 7) The portability of the employee's work, including the employee's ability to remotely access tools, equipment, and materials necessary to perform their job functions;
- 8) The availability of or ability to create a functional, reliable, healthy, safe, and secure Alternate Worksite for the employee at a reasonable cost;
- 9) The risk factors associated with performing the employee's job duties from a location other than the employee's normal workplace at an agency worksite;
- 10) The City's capacity to monitor and measure the employee's work performance at the Alternate Worksite;
- 11) The employee's supervisory responsibilities;
- 12) The employee's need for supervision; and
- 13) Other considerations deemed necessary and appropriate by the agency, including tax and other legal implications of teleworking.

1217.4.2 Process for an Employee to Request to Telework

To make a request for a Teleworking arrangement, employees must complete a Voluntary Telework Request Form and file the completed request form with their supervisor or manager. The employee's supervisor or manager will provide the request form to the Department Head, or their designee, and will discuss the employee's request with the Department Head, or their designee.

In consultation with or based on information provided by the employee's supervisor or manager, the Department Head, or their designee, will make a determination regarding the employee's request to telework.

The Department Head will consider Teleworking requests on a case-by-case basis consistent with the criteria above and other factors relevant to the employee's request to telework.

1217.4.3 Final Determination; No Right to Appeal

The decision of the Department Head regarding an employee's Teleworking request is final and binding. Neither the employee nor the employee's employee organization possesses any right to appeal or grieve the decision.

1217.4.4 Approval of Requests; Voluntary Telework Agreement

An eligible and qualified employee who has requested and been granted the opportunity to Telework, must execute a Voluntary Teleworking Agreement ("Agreement") prior and as a precondition to the employee teleworking.

The Agreement shall provide the mutual understanding of the employee, the employee's supervisor or manager, and the Department Head concerning the teleworking arrangement.

1217.5 Mandatory Teleworking Arrangements during Exigent Circumstances

Where an exigent circumstance exists, the City may direct City employees to remain at their homes or places of residence and the City adopt and implement a short-term teleworking arrangement for such employees in order to provide for the continuity of essential services provided by the City.

Exigent circumstances means a situation in which there is an imminent threat of extreme peril to life, property and resources. Exigent circumstances may include, but are not limited to, war, public health emergencies, power failures, natural and man-made disasters, and other states of emergency.

Where such an exigency exists and necessitates the adoption and implementation of a short-term mandatory teleworking arrangement for City employees, the City Manager is expressly authorized to suspend some or all provisions of this policy and adopt and implement alternative provisions necessary to provide for the continuity of essential services.

1217.6 Duties, Obligations and Responsibilities for Teleworking Employees

Teleworking employees must adhere to the provisions set forth in these policies, including, but not limited to the following:

1217.6.1 General Duties, Obligations, and Responsibilities

- 1) All existing duties, obligations, responsibilities and conditions of employment remain unchanged. Teleworking employees shall abide by all City and departmental policies and procedures, rules and regulations.

- 2) All of the Teleworking employees' existing supervisory relationships, lines of authority and supervisory practices remain in effect.
- 3) Teleworking employees authorized to perform work at an Alternate Worksite must meet the same standards of performance and professionalism expected of City employees in terms of job responsibilities, work product, timeliness of assignments, and contact with other City employees and members of the public.
- 4) Teleworking employees are required to be accessible in the same manner as if they are working at a City worksite or facility during the established teleworking Work Schedule, regardless of the designated location for teleworking, or Alternate Worksite. Teleworking employees must be accessible via telephone, email, and/or network access to their supervisor and other City employees while Teleworking, as if working at the City. Teleworking employees shall check their City-related business phone messages and emails on a consistent basis, as if working at their City worksite.

1217.6.2 Miscellaneous

- 1) Teleworking employees must notify their supervisor or manager promptly when unable to perform work assignments because of equipment failure or any other unforeseen circumstances.
- 2) Teleworking employees must have access to an Alternate Worksite that is quiet and free of distractions and which has reliable and secure power, internet and/or wireless access.
- 3) Teleworking employees shall ensure that all official City documents are retained and maintained according to the normal operating procedures in the same manner as if working at a City.
- 4) Teleworking employees must ensure dependent care will not interfere with work responsibilities.

1217.6.3 Work Schedule, Overtime, Leave, Benefits

- 1) For non-exempt employees, the City will either provide such employee: (1) a work schedule that will be included in the Agreement, and which will include meal and rest breaks ("Work Schedule"); or (2) authorization to work on an intermittent basis.
- 2) For non-exempt employees assigned a Work Schedule, any deviation from the Work Schedule must be approved in advance, in writing, by the employee's supervisor or manager and the Department Head.
- 3) Non-exempt employees may not Telework outside their normal work hours without prior written authorization from their supervisor or manager and the Department Head. A non-exempt employee who fails to secure written authorization before Teleworking outside their normal work hours may face discipline in accordance with the City's policy for working unauthorized overtime.

- 4) Non-exempt employees, regardless of whether assigned a Work Schedule or authorized to work intermittently, must take meal and rest breaks while Teleworking as required under applicable law and/or under applicable contract or City policy.
- 5) For non-exempt employees assigned a Work Schedule, all periods of Teleworking employees' unavailability must be approved in advance by their supervisor or manager and the Department Head in accordance with City policy and documented on the appropriate leave request form. For non-exempt employees authorized to work intermittently, all periods of Teleworking employees' unavailability lasting longer than 30 minutes must be approved in advance by their supervisor or manager.
- 6) Non-exempt employees, regardless of whether assigned a Work Schedule or authorized to work intermittently, are required to report in a timely manner all hours worked at the Alternate Worksite and make that record available to their supervisor upon request. Employees shall record all non-productive work time on their timesheet.
- 7) Employees shall continue to abide by City policies and procedures for requests of sick, vacation and other leaves of absences. If an employee becomes ill while working under the Agreement, they shall notify their supervisor or manager immediately and record on their timesheet any hours not worked due to illness and/or incapacitation.
- 8) Non-exempt employees, regardless of whether assigned a Work Schedule or authorized to work intermittently, are required to request to work overtime in advance of doing so and such requests must be pre-approved in writing by the employee's supervisor or manager.
- 9) Teleworking employees' salary and benefits remain unchanged during the Teleworking arrangement.
- 10) Workers' Compensation benefits will apply only to injuries arising out of and in the course of employment as defined by Workers' Compensation law. Teleworking employees must report any such work-related injuries to their supervisor or manager immediately. The City shall not be responsible for injuries or property damage unrelated to such work activities, including injuries to third-persons when said injuries occur at the Alternate Worksite.

1217.6.4 Space and Equipment, Information Security, Confidentiality

- 1) Teleworking employees will either receive approval to use personal computer equipment or will be provided with City-issued equipment at the discretion of the City Manager.
- 2) If the City provided any City-issued equipment, teleworking employees agree to follow the City's policy for the use of such equipment. Teleworking employees must report to their supervisor any loss, damage, or unauthorized access to City owned equipment, immediately upon discovery of such loss, damage, or unauthorized access.
- 3) Where, in response to a request to Telework, the City allows an employee to Telework, the City shall not be responsible for Teleworking costs, including, but not limited to, the employee's use of their home or place of residence, their personal computer, utilities, internet, data, network costs, home maintenance, workspace furniture, ergonomic equipment, or any other incidental costs, unless expressly provided for in the Agreement.

- 4) Employees must take reasonable precautions to ensure their devices (e.g., computers, laptops, tablets, smart phones, etc.) are secure before connecting remotely to the City's network and must close or secure all connections to City desktop or system resources (e.g., remote desktop, VPN connections, etc.) when not conducting work for the City. Employees must maintain adequate firewall and security protection on all such devices used to conduct City work from the Alternate Worksite.
- 5) Teleworking employees shall exercise the same precautions to safeguard electronic and paper information, protect confidentiality, and adhere to the City's records retention policies, especially as it pertains to the California Public Records Act ("CPRA"). Teleworking employees must safeguard all sensitive and confidential information (both on paper and in electronic form) relating to City work they access from the Alternate Worksite or transport from their City worksite to the Alternate Worksite. Teleworking employees must also take reasonable precautions to prevent third parties from accessing or handling sensitive and confidential information they access from the Alternate Worksite or transport from their City worksite to the Alternate Worksite. Teleworking employees must return all records, documents, and correspondence to the City at the termination of the Agreement or upon request by their supervisor or manager, Department Head or Human Resources.

1218 Reasonable Expenses for Certain Teleworking Employees

1218.1 Purpose

In conjunction with the Teleworking policy, the purpose of this policy is to provide the conditions and requirements for reimbursements for certain expenses incurred by employees who are subject to mandatory teleworking arrangements.

1218.2 Applicability of Policy to City Employees

This policy covers and applies to all Teleworking employees who are directed by the City to work from a location other than a City worksite.

1218.3 Teleworking Expenses Subject to Reimbursement

The City will reimburse covered Teleworking employees only for those expenses incurred which are necessary for the Teleworking employee to perform the job duties assigned to the Teleworking employee by the City from their home, place of residence, or location other than a City worksite as determined at the sole discretion of the City. Such expenses may include the following:

- 1) Computer, if the employee does not have such a device and the City does not have such a device to lend to the employee;
- 2) Computer monitor, if the employee does not have such a device and the City does not have such a device to lend to the employee;

- 3) Keyboard and mouse, if the employee does not have such devices and the City does not have such a device to lend to the employee;
- 4) Teleconferencing equipment (i.e., a video camera and microphone), if the employee does not have such a device and the City does not have such equipment to lend to the employee;
- 5) A desk and desk chair, if the employee does not have such furniture and the City does not have such furniture to lend to the employee;
- 6) Internet; and
- 7) Utilities

1218.3.1 Process for Requesting Reimbursement for Teleworking Expenses Not Covered Above

An employee that believes that other equipment, furniture or supplies are necessary in order for the employee to perform the job duties assigned by the City from their home, place of residence, or location other than a City worksite may request that the City provide reimbursement for such expense(s). In order to request reimbursement for an expense not enumerated above, the employee may file with their Supervisor or Manager, an Expense Reimbursement Request form. An employee organization may file with the Personnel Officer a Teleworking Expense Reimbursement Request Form. The manager or supervisor will discuss the request with the Department Head who will make a determination as to the expense at issue. The determination of the Department Head be final and not subject to appeal or grievance.

1218.4 Amount of Reimbursement for One-Time and Recurring Expenses

One-time and recurring expenses of covered Teleworking employees may be reimbursed by the City at amounts to be determined at the sole discretion of the Personnel Officer.

1218.5 Amount of Reimbursement for Covered Teleworking Employees Who Do Not Telework on a Full-Time Basis

For covered teleworking employees who are Teleworking on a part-time basis, the reimbursement amounts provided above will be provided on a pro rata basis to be determined at the sole discretion of the Personnel Officer to reflect the amount of time that the employee is working from their home, place of residence, or location other than a City worksite.

1218.6 Requirement that Employee Request Prior Approval for Reimbursable Expenses

If a covered Teleworking employee expects to incur an expense that is subject to reimbursement as identified in this policy, that employee is required to file with their manager or supervisor, a Teleworking Expense Reimbursement Form. The manager or supervisor will discuss the request with

the Department Head who will make a determination as to the expense at issue. The determination of the Department Head shall be final and not subject to appeal.