

## REPORT TO CITY COUNCIL

**DATE:** JUNE 23, 2015

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER *GR*

**BY:** NATHAN HAMBURGER, ASSISTANT CITY MANAGER  
CELESTE BIRD, ADMINISTRATIVE ANALYST *CB*

**SUBJECT:** ADOPT RESOLUTION NO. 15-1791; AMENDING THE PERSONNEL RULES AND REGULATIONS

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Periodically the Personnel Rules and Regulations are reviewed to assure that they are in compliance with current federal and state legislation. With the enactment of the new Healthy Workplace Healthy Families Act of 2014 (Paid Sick Leave Law), effective July 1, 2015, staff determined that this would be an appropriate time to review and update all of the Personnel Rules. The revisions made include clarification of wording, correction of grammar and typographical errors, and the addition of language that brings rules in compliance with current legislation. Some examples include:

1. The words "Permanent Part-time" has been changed to "Regular Part-Time", which is the more current and accurate use of the words.
2. The definition of "immediate family" has been updated to reflect current legislation.
3. The inclusion of the new rule for paid sick leave for temporary part-time employees that reflects the new Healthy Workplace Healthy Families Act of 2014.
4. Clarification of the days on which City holidays are observed.

The resolution has been reviewed and approved as to form by the City Attorney.

### RECOMMENDATION

It is respectfully recommended the City Council approve Resolution No. 15-1791, amending the Personnel Rules and Regulations.

Attachments: Resolution No. 15-1791  
Exhibit A (Personnel Rules)

**RESOLUTION NO. 15-1791**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING THE PERSONNEL RULES AS AMENDED**

**THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:**

**SECTION 1.** The City Council of the City of Agoura Hills hereby approves the Personnel Rules as amended in Exhibit A.

**PASSED, APPROVED, AND ADOPTED** this 23<sup>th</sup> day of June, 2015, by the following vote to wit:

AYES: (0)  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

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Illece Buckley, Mayor

ATTEST:

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Kimberly M. Rodrigues  
City Clerk

**EXHIBIT "A"**  
**PERSONNEL RULES**

**RULE I**  
**DEFINITION OF TERMS**

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

**SECTION 1-ACTUAL SERVICE/CONTINUOUS EMPLOYMENT/ LENGTH OF**

**SERVICE/SENIORITY**: Total time spent in the employ of the City, including all days of attendance at work, and approved leaves of absence whether paid or unpaid, but shall not include unauthorized absences, time spent between employment with the City, suspensions or layoffs. For ~~permanent~~regular part-time employees, such time shall be pro-rated based on actual time worked. For example, an employee working 30 hours per week for one year shall have time of three-quarters (3/4) of one year toward the terms defined under this Section. However, no employee shall receive more than one year of credit for any rolling one year period. Temporary part-time employees, temporary employees, volunteers or any person with similar status shall not be credited with time under this section while in such status, even if such person is later appointed to a ~~permanent~~regular ~~or~~ regular position.

**SECTION 2 - ANNIVERSARY DATE**: The date on which an employee is initially appointed to the City's employ, or a date adjusted as required for any break in service.

**SECTION 3 - APPOINTMENT**: The offer of and the acceptance by a person of a position in the City's employ in accordance with the provisions of these Rules.

**SECTION 4 - BUSINESS DAY**: Any day on which the City offices are open.

**SECTION 5 - CITY**: The City of Agoura Hills.

**SECTION 6 - CITY MANAGER:** The duly appointed City Manager of the City of Agoura Hills or his/her designee.

**SECTION 7 - CLASSIFICATION:** A position or positions assigned to the same job title.

**SECTION 8 - DAY:** Eight (8) hours, ~~nine (9) hours~~, ten (10) hours or other flexible schedule with the approval of the City Manager.

**SECTION 9 - DISCHARGE:** The cessation of employment with the City for disciplinary reasons such as, but not limited to, failure to perform or to adequately perform job duties, or violation of these Personnel Rules.

**SECTION 10 - EMPLOYEE:** A person appointed to a job position set forth in the classification plan, and compensated through the City payroll. Employee does not include elected officials, independent contractors or volunteers.

**SECTION 11 - EXEMPT EMPLOYEE:** An employee whose duties and salary exempt him/her from the overtime pay provisions of the federal Fair Labor Standards Act. Such employees are generally executive, administrative, supervisory or professional employees.

**SECTION 12 - FULL-TIME EMPLOYEE :** An employee regularly scheduled to work forty (40) hours or more per week.

**SECTION 13 - IMMEDIATE FAMILY:** An employee's spouse, ~~domestic partner, cohabitant, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, great grandparent, brother, sister, half-brother, half-sister, stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin.~~

**SECTION 14 - NONEXEMPT EMPLOYEE:** An employee who is subject to ~~the~~ overtime ~~compensation or compensatory time off in accordance with pay provisions of~~ the federal Fair Labor Standards Act.

**SECTION 15 - PART-TIME EMPLOYEE:** An employee regularly scheduled to work less than forty (40) hours per week.

**SECTION 16 - PERSONNEL DIRECTOR:** A person designated by the City Manager to serve as the Personnel Director.

**SECTION 17 - PROBATIONARY EMPLOYEE:** An employee who is employed by the City during his/her initial-hire or promotional probationary period.

(A) An initial-hire probationary employee is an employee who (a) has not previously been employed by the City, or (b) has previously been employed by the City but who is re-employed after a break in service. An initial-hire probationary employee is an at-will employee, and may be terminated or discharged at any time, with or without cause, and without a hearing or right of review or appeal.

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

**SECTION 18 - PROBATIONARY PERIOD:** A period of time which is an integral part of the examination, recruiting, testing and selection process for employment. During the probationary period, an employee is required to demonstrate his/her fitness for the position to which he/she is tentatively appointed including promotional appointments by actual performance of the duties of the position.

**SECTION 19 - REGULAR EMPLOYEE:** An employee covered by these Personnel Rules who

has successfully completed the probationary period as hereinafter provided in these Rules.

**SECTION 20 - MANAGEMENT EMPLOYEE:** An employee who is designated to receive management benefits.

**SECTION 21 - TEMPORARY EMPLOYEE:** An employee who is appointed to fill a position for a limited period of time, generally not exceeding ninety (90) calendar days. (Please reference Rule XVII)

**SECTION 22 - TERMINATION:** The cessation of employment with the City for non-disciplinary reasons such as, but not limited to, layoff, resignation, or failure to successfully complete the initial-hire probationary period.

**SECTION 23 - VOLUNTEER:** A person providing voluntary service to the City for which he or she is not compensated. This may include both elected and appointed officials.

**SECTION 24 - WORKING DAY:** Any day on which an employee is scheduled to work.

**RULE II**  
**EXCLUSIONS**

The positions of City Manager and City Attorney are excluded from these Rules. Such positions shall be governed by written agreements approved by the City. In addition, independent contractors are excluded from these Personnel Rules.



**RULE III**  
**CLASSIFICATION PROCEDURES**

**SECTION 1 - PREPARATION OF CLASSIFICATION PLAN:** The City Manager shall prepare, maintain, and amend the classification plan. The classification plan shall contain job specifications for classifications in the City Service.

**SECTION 2 - ALLOCATION OF POSITIONS:** The City Manager or his/her designee shall allocate every position in the City Service to one of the classifications established by the classification plan and shall allocate all positions substantially similar to the same classification. Each department head shall promptly report to the City Manager or his/her designee any material changes in the duties of any position so that the classification plan shall be current.

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

## **RULE IV**

### **PROBATIONARY PERIOD AND PROCEDURES**

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

**SECTION 2 - DURATION OF PROBATIONARY PERIOD:** All initial-hire and promotional appointments shall be tentative and subject to a probationary period of not less than six (6) months actual service. The City Manager or his/her designee may extend a probationary period up to six (6) additional month's actual service. The City Manager or his/her designee shall endeavor to give the probationary employee written notice of the extension of the probationary period ten (10) days before its expiration. The written notice shall state the reason for the extension. Failure to give the probationary employee notice of regular appointment or confirmation of promotion prior to the expiration of the initial probationary period shall automatically extend the period. The length of the extension shall be for six (6) months unless a shorter extension period is determined by the City Manager.

**SECTION 3 - DISCHARGE OR TERMINATION OF INITIAL-HIRE PROBATIONARY EMPLOYEE:** During or at the conclusion of the initial-hire probationary period, or any extension thereof, the City Manager may discharge or terminate an initial-hire probationary employee without cause, and without a hearing or right of appeal.

**SECTION 4 - PROCEDURES - REGULAR APPOINTMENT FOLLOWING PROBATIONARY PERIOD:** The Personnel Director shall notify the City Manager in writing

fourteen (14) days prior to the expiration of any probationary period. After consultation with the probationary employee's Department Head and immediate supervisor, the City Manager shall determine whether (A) the initial-hire probationary employee shall become a regular employee, (B) the initial-hire probationary employee shall be terminated or discharged, (C) the promotional probationary employee's promotion shall be confirmed, (D) a promotional probationary employee's promotion shall be rejected, or (E) the employee's initial probationary period shall be extended. The City Manager shall notify the probationary employee, in writing, as to the decision. If such notice is not given to the employee whose initial-hire probationary period has been extended, extended probationary period shall automatically extend the probationary period for an additional six (6) months unless a shorter extension is determined by the City Manager. If such notice is not given to an employee whose promotional probationary period has been extended, his/her promotion shall be rejected, and the provisions of Section 5 of this Rule shall apply. Such notice shall then be served after the expiration of the probationary period.

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

**RULE V**

**OVERTIME COMPENSATION**

**SECTION 1 - WORK SCHEDULE:** With the prior written approval of the City Manager and when necessary to perform essential work, employees may be required to work at any time in addition to and/or other than during regular scheduled hours until such work is accomplished.

**SECTION 2 - OVERTIME COMPENSATION:** Nonexempt employees shall receive overtime compensation or compensatory time off in accordance with the federal Fair Labor Standards Act, as amended. Accordingly, a nonexempt employee shall be paid one and one-half (1½) times his/her regular hourly rate of pay or receive compensatory time off at one and one-half (1½) hours for all hours worked in excess of forty (40) in the workweek.

**SECTION 3 - COMPENSATORY TIME:** For nonexempt employees, all compensation for overtime hours will be in the form of compensatory time off (CTO). Cash may be substituted for CTO at the discretion of the City Manager or his designee. Such CTO will be at the rate of one and one-half (1½) hours for each hour of overtime worked. CTO shall be taken as earned and shall not be accumulated to exceed one hundred twenty (120) hours. The taking of all CTO shall first be approved by the City Manager or his designee and shall be granted in accordance with the work force needs of the City.

**RULE VI**

**LEAVES**

**SECTION 1 - MANAGEMENT LEAVE:**

(A) Employees designated as management employees earn management leave as set by City Council resolution.

(B) An employee shall be entitled to take such leave as it accrues.

(C) Management leave may be accumulated to a maximum amount equal to two (2) years accrued leave. Upon discharge or termination of employment, management employees shall be paid accrued management leave to a maximum of two years accrual.

**SECTION 2 - ADMINISTRATIVE LEAVE:**

(A) Employees designated as administrative employees earn administrative leave as set by City Council resolution.

(B) An employee shall be entitled to take such leave as it accrues.

(C) Administrative leave may be accumulated to a maximum amount equal to two (2) years accrued leave. Upon discharge or termination of employment, administrative employees shall be paid accrued administrative leave to a maximum of two years accrual.

**SECTION 3 - VACATION LEAVE:**

(A) Effective July 1, 1995, regular full-time employees are entitled to the following paid vacations. No vacation accrues during an unpaid leave of absence or while on disability salary continuation. Vacation accruals recommence when the employee returns to work.

Length of Continuous Employment

Hours of Vacation

1 through 5 years	80 per year
6 through 10 years	120 per year
11 years and more	160 per year

(B) An employee shall be entitled to take such leave upon one (1) year's continuous employment as a regular full-time employee. However, upon successful completion of the first six (6) months of continuous employment, and written approval of the City Manager, an eligible employee may utilize accrued vacation time.

(C) Vacation time may be accumulated to a maximum of two hundred (200) hours, except that employees designated as management employees may accumulate to a maximum of four hundred (400) hours. Once an employee reaches the maximum vacation leave accrual, the employee shall cease to accrue any further vacation leave until the amount of accumulated leave falls below the maximum.

1) Pursuant to the provisions and limitations set forth below, a regular full-time employee may convert twenty (20) hours of accumulated vacation to a cash equivalent.

2) ~~To be eligible for this conversion the employee must be on the payroll as of November 1 in the calendar year in which the conversion is made.~~

3) At the time the employees exercises the option to convert twenty (20) vacation hours to an equivalent amount of cash, the employee must have at least one hundred and forty (140) hours of vacation leave remaining for immediate use following the conversion ~~current vacation accrual of at least one hundred and sixty (160) hours.~~

4) The option to convert vacation hours to an equivalent amount of cash may

be exercised only once during any calendar year.

5) The employee must exercise the option in writing to the City Manager at least two (2) weeks prior to the date the employee desires to exercise the option.

6) Payment for the conversion of twenty (20) hours vacation leave into an equivalent amount of cash shall be included in the employee's pay check on the payday for the next pay period after the option is exercised and approved by the City Manager. If the employee leaves City employment after electing the option to convert vacation hours, but before receipt of the equivalent amount of cash, Section 2(g) of this rule shall apply.

(E) The scheduling of vacation must be approved by the City Manager. Employees shall submit a written request to schedule vacation leave to the City Manager at least two (2) weeks prior to the desired date.

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

(G) Upon discharge or termination of employment, regular full-time employees shall be paid accrued vacation leave (not to exceed the maximum accrual provided above), ~~to a maximum of two hundred (200) hours.~~

#### **SECTION 4 - SICK LEAVE**

##### **I. Full-Time Employees**

(A) Regular full-time employees accrue paid sick leave at the rate of eight (8) hours for each full calendar month of continuous employment with the CITY including time served in probationary status. Initial hire full-time probationary employees shall be entitled to eight (8)

hours of sick leave for each month of continuous employment during their probationary period.

(B) A regular full-time employee may use the amount of accrued sick leave per calendar year allowed for by federal and state statutes, for an absence for the illness of members of the immediate family.

(C) Unused sick leave may be accumulated to a maximum of nine hundred and sixty (960) hours. After reaching this maximum, unused sick leave will be given to the employee at the rate of one-half (1/2) of accrued leave.

(D) Pursuant to the provisions and limitations set forth below, a regular full-time employee may convert accumulated sick leave to cash or cash and vacation equivalent.

- (1) A maximum of sixty (60) sick leave hours may be converted into cash or cash and vacation leave each year.
- (2) At the time the employee exercises the option to convert up to sixty (60) sick leave hours to an equivalent amount of cash or cash and vacation leave, the employee must have at least eighty (80) sick leave hours remaining for use immediately following the conversion.
- (3) Of the sixty (60) sick leave hours that an employee can convert annually, only twenty (20) sick leave hours may be converted to vacation leave.
- (4) The option to convert sick leave hours to any equivalent amount of cash or cash and vacation leave, may be exercised twice during any calendar year not-to-exceed the total annual maximum conversion amount of sixty (60) hours.
- (5) The employee must exercise the option in writing to the City Manager at



least two (2) weeks prior to the date the employee desires to exercise the option.

- (6) Payment for the conversion of up to sixty (60) sick leave hours into an equivalent amount of cash shall be included in the employee's pay check on the payday for the next pay period after the option is exercised and approved by the City Manager.
- (7) The foregoing limitations of this sub-section (D) notwithstanding, employees designated as management employees may convert a maximum of one hundred and twenty (120) sick leave hours annually into cash, provided that the employee will have at least eighty (80) sick leave hours remaining for use immediately following the conversion. Except as provided in this paragraph (7), the other provisions of this Section 4 will continue to apply to employees designated as management.

(E) In order receive paid sick leave, an employee must notify his or her supervisor within at least one half hour of the employee's regularly scheduled reporting time. Failure to provide reasonable notice may be cause for denial of sick leave with pay for the period of the absence. Written verification of the absence may be required by the City Manager.

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

(G) Abuse of sick leave will result in employee discipline, which may include discharge.

(H) Sick leave may be used for medical appointments.

(I) Sick leave may be used for an employee who is a victim of domestic violence, sexual assault, or stalking, as provided by law.

(J) Employees absent from work due to illness and who have no accumulated sick leave, may use accumulated management leave, vacation leave, administrative leave, holiday leave, and/or compensatory time in place of sick leave.

(K) Upon discharge or termination of employment, accrued sick leave will not be paid to full-time employees.

## **II. Temporary Part-Time Employees**

(A) Employees who are not covered by the sick leave benefit -above will receive paid sick leave subject to the minimum requirements of California's Healthy Workplaces, Healthy Families Act of 2014 (HWHFA, California Labor Code Sections 245 – 249). Any questions regarding this benefit that are not addressed in this section will be resolved by reference to the minimum requirements of the law.

(B) As per the HWHFA, a temporary part-time employee working for the City in California, on or after July 1, 2015, for 30 or more calendar days within a year is entitled to paid sick leave. Part-time employees accrue paid sick leave at the rate of one hour per every 30 hours worked during employment for the CITY. Accrual begins on the first day of employment or July 1, 2015, whichever is later.

(C) Part-time employees may begin using accrued sick leave on the 90<sup>th</sup> calendar day of employment.

(D) A part-time employee may use accrued sick leave as allowed by federal and state statutes, for an absence for the illness of a family member. This covers diagnosis.

care or treatment of an existing health condition or preventive care for an employee's family member. A "family member" for purposes of the benefit in this section includes parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandchild or grandparent. Status as a child applies regardless of age or dependency status.

(E) Part-time employees can use a maximum of 24 hours of sick leave per year.

(F) A minimum of two (2) hours is required for each use of sick leave.

(F) Accrued sick leave will be carried over to the following year and can be accumulated to a maximum of forty eight hours (48) hours. After reaching this maximum, part-time employees will stop accruing sick leave until unused sick leave drops below the maximum accrual amount.

(G) If the need for sick leave is foreseeable, the employee shall provide reasonable advance notice. If the need for sick leave is unforeseeable, the employee shall provide notice of the need for leave as soon as practicable. A request for use of sick leave may be oral or written. Based on normal City practice, "reasonable advance notice" is generally satisfied when an employee notifies his or her supervisor within at-least one hour of the employee's regularly scheduled reporting time.

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

(I) Abuse of the sick leave will result in employee discipline, which may include discharge.

(J) Sick leave may be used for medical appointments.

(K) Sick leave may be used for an employee who is a victim of domestic violence, sexual assault, or stalking, as provided under the HWHFA.

(L) Upon discharge or termination of employment, accrued sick leave will not be paid to part-time employees.

(M) An employee rehired within one year of the date of separation will have previously accrued but unused paid sick days reinstated. The rehired employee will be entitled to use those sick days and to accrue additional sick day upon hire, subject to the applicable limits. An employee who has not satisfied the 90 day requirement to begin using paid sick leave must satisfy the balance of the 90 day requirement following rehire, before becoming eligible to use paid sick days.

**SECTION 5 - BEREAVEMENT LEAVE:** A regular full-time employee may take a maximum of five (5) days in any one (1) calendar year when a death occurs within an employee's immediate family. Any bereavement leave so taken may be charged against an employee's accumulated management leave, administrative leave, vacation leave, holiday leave, compensatory time and/or sick leave at the discretion of the employee. The employee may also elect to take bereavement leave as a leave of absence without pay.

**SECTION 6 - NON-MEDICAL LEAVE OF ABSENCE WITHOUT PAY:**

(A) Employees with accumulated management leave, vacation leave and/or compensatory time are not eligible for Non- Medical Leave of Absence Without Pay. The City Manager may grant non-medical leave of absence without pay up to a maximum of eighty (80) hours in any twelve (12) month period. Except as otherwise provided in these Rules, employees will continue to accrue benefits while on a leave of absence without pay for eighty (80) hours or less. Such leaves of absence without pay involving more than eighty (80) hours will not be granted

without the express consent of the City Council. The City Council shall state the conditions of such leave and accrual of benefits. If due to an emergency an employee requires time in excess of eighty (80) hours for non-medical leave of absence, and the City cannot meet in sufficient time to determine the matter, the City Manager in the exercise of his discretion may grant a reasonable time in excess of eighty (80) hours.

(B) A leave of absence shall be granted only to an employee who desires to return ~~there~~ ~~from~~ to the City's employ, and, who at the time the leave is requested, has a satisfactory service record. Emergency And Unanticipated Non-Medical Leaves of Absence will be handled on a case by case basis by the City Manager.

**SECTION 7 - JURY DUTY:**

(A) An employee called for jury duty shall give the City Manager reasonable advance written notice of the obligation to serve.

(B) Regular full-time employees will be paid their regular wages less jury duty pay (other than travel, parking and other expenses) for a maximum of eighty (80) hours within one twelve (12) month period. Regular exempt full time employees will be paid their regular wages less jury duty pay (other than travel, parking and other expenses) for a maximum of ten (10) days in any twelve (12) month period.

(C) Written evidence of jury duty attendance shall be presented to the City Manager.

(D) To the extent permitted by law, at the City Manager's request, the employee shall request that the jury commissioner permit the employee to remain at work and be available on one (1) hour telephonic notice.

(E) The employee shall continue to report for work on those days when excused from jury

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duty, and on which the employee can work at least two (2) hours during his/her regular work day.

**SECTION 8 - MEDICAL LEAVE OF ABSENCE:** Upon written request, a regular full-time or part-time employee who is temporarily disabled and unable to work due to a medical condition will be granted a leave of absence without pay for each incident of disability in accordance with the provisions set forth below. The term "medical condition" as used herein includes pregnancy, childbirth, bonding, and related medical conditions. As soon as the employee becomes aware of the need for a medical leave of absence he/she must prepare a written leave of absence request on a form provided by the City, and return the form to the Personnel Director. The request must set forth the reason the leave is requested, the anticipated dates the leave will begin and end, and shall include a written statement from the employee's physician or other licensed health care practitioner confirming the exact nature and length of the disability, and the anticipated date the employee will be able to return to work.

During the leave, the employee shall advise the City's personnel department in writing at least every fourteen (14) calendar days as to the employee's status, expected date of return, and continued desire to return to work upon expiration of the leave. The employee's failure to so advise the City's personnel department in writing, may be considered as the employee's statement that he/she does not desire to return to the City's employ upon expiration of the leave.

The City reserves the right to have its physician examine the person prior to the person returning to work.

An employee granted a medical leave of absence may utilize any accrued sick leave benefits and thereafter accrued vacation leave, management leave or compensatory time benefits during the

period of the leave. Any portion of a leave that occurs after all sick and other leave benefits are exhausted shall be without pay. Vacation, sick leave benefits and any other benefits tied to length of service will not accrue during the leave period. Should a paid holiday fall during the leave period, the employee will not receive holiday pay. Receipt of payments pursuant to any disability plan, workers compensation plan, retirement plan or similar plan shall not affect leave without pay status nor convert leave without pay status to paid.

An employee on a medical leave of absence for 30 calendar days or less shall be reinstated to his/her former position. Subject to applicable legal restrictions, upon conclusion of a medical leave of absence in excess of 30 calendar days, the person will be reinstated to his or her former position if that position is available. If the person's former position is not available, the City will make reasonable efforts to place the person in a comparable position for which he/she is qualified. If the person's former position is not available, the City will offer the person the first available opening in a comparable position for which he/she is qualified. An employee who does not accept the position offered will be considered to have voluntarily terminated his/her employment.

The City will continue coverage, including employer contributions, under its group health plan (including medical, dental and vision), group disability plan(s), accidental death and dismemberment (AD&D) plan and life insurance plan at the level and under the conditions coverage that would have been provided if the employee had continued in employment continuously during any unpaid medical leave of absence. Except as otherwise required by law, such coverage shall be limited to not more than 90 days in any rolling twelve month period. Upon expiration of such 90 days of unpaid leave, the employee is responsible to pay the entire cost of the health, dental, vision, disability, AD&D and life insurance premiums except as otherwise required

by law. The employee must make written arrangements with the payroll department to pay for the costs of such coverage. No other benefits will accrue during any period of unpaid leave.

Not less than seven (7) calendar days prior to expiration of a medical leave of absence, the employee must submit a physician's statement certifying that the employee is able to return to work and the date that the employee desires to return. If the person accepts other employment or fails to return to work the first day following the expiration of the leave, the employee shall be considered to have voluntarily terminated his/her employment.

The provisions of this policy shall be interpreted and applied in accordance with applicable California and federal law. In this regard and for all leaves involving the California Family Rights Act (CFRA) and the Family Medical Leave Act (FMLA), the 12 month period in which the 12 weeks of entitlement occurs shall be applied on the basis of a rolling twelve month period measured backward from the date the employee's leave commences. Employees must otherwise meet all of the eligibility and minimum requirements of applicable law and these Rules to be eligible for any legally required leave.

For purposes of this policy a "regular full time employee" is an employee who has successfully completed the probationary period and a "regular part-time employee" is an employee who has successfully completed the probationary period and who works less than 40 hours per week.

**SECTION 9 - HOLIDAY PAY:**

(A) Subject to the restrictions described below, part-time and full-time employees (with the exception of temporary part-time employees) will be paid in accordance with their regularly scheduled hours for the holidays listed below. ~~nonexempt regular and probationary full-time~~



~~employees and nonexempt full-time employees serving a promotional probationary period will receive nine (9) hours pay at their straight-time hourly rate for holidays listed below and eight (8) hours pay at their straight-time hourly rate for holidays that fall on Fridays listed below:~~

- (1) New Year's Day, January 1st;
- (2) Martin Luther King Jr's Birthday, the third Monday in January;
- (3) President's Day, the third Monday in February;
- (4) Memorial Day, the last Monday in May;
- (5) Independence Day, July 4;
- (6) Labor Day, the first Monday in September;
- (7) Veterans Day, November 11;
- (8) Thanksgiving Day, the fourth Thursday in November;
- (9) Friday after Thanksgiving Day;
- (10) Christmas Eve, December 24;
- (11) Christmas Day, December 25;
- (12) New Years Eve, December 31;

(A) If ~~December 24<sup>th</sup> or December 31<sup>st</sup>~~ falls upon a Saturday or Sunday, the Friday before is the observed holiday.

(B) If ~~January 1<sup>st</sup>, July 4<sup>th</sup>, or November 11<sup>th</sup> or December 25~~ falls upon a Saturday or Sunday, the Federal holiday will be observed. ~~If January 1<sup>st</sup> or December 25<sup>th</sup> fall on a Saturday, then holiday hours will be accrued, the Friday before is the observed holiday, and if January 1<sup>st</sup> or December 25<sup>th</sup> fall on a Sunday, then the Federal holiday will be observed, the dates fall upon a Sunday, the Monday following is the observed holiday.~~ When such holidays fall on any other day, the day the holiday is observed shall be designated in writing by the City Manager.

(C) In order to be eligible for holiday pay, a non-exempt employee must work the last scheduled workday before and the first scheduled workday after the holiday, unless the employee is: (i) taking approved vacation leave, management leave, administrative leave or compensatory time off; (ii) receiving regular wages while on jury duty or; (iii) is on paid sick leave and, at the discretion of the City Manager, the City Manager approves holiday pay.

(D) If a holiday falls during an employee's approved vacation period, the employee will be paid for nine (9) hours at their normal pay rate for the holiday or eight (8) hours for employees who work the eight (8) hour work schedule. The employee will not be charged vacation leave for this time.

(E) Employees on an un-paid leave of absence for any reason are ineligible for holiday benefits for holidays that are observed, during the period they are on leave of absence.

(F) Holiday pay shall not be considered hours worked.

(G) Nonexempt regular full-time employees who work on a holiday shall receive holiday pay as defined in Rule VI, Section 9 (A), and be paid their regular hourly rate of pay for all

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hours worked.

(H) If a holiday falls on a day that a regular full-time employee is normally scheduled to be off, the employee will be credited with nine hours (9) with the exception of Friday for which the employee will be credited with eight (8) hours. Employees working a standard eight (8) hour day schedule will be credited with eight (8) hours. Employees working ten (10) hour days will be credited with ten (10) hours. This compensatory holiday time will be accumulated to a maximum of (thirty) 30 hours. Once an employee reaches the maximum compensatory holiday time accrual, the employee shall cease to accrue any further compensatory holiday time, until the amount of accumulated leave falls below the maximum. Employees are strongly encouraged to use holiday compensatory time within one (1) pay period in which it was accrued. Holiday compensatory time off is compensable (may be cashed out) at the time of termination of employment (in good standing) with the City but may not be converted to vacation, sick leave, or other forms of compensatory time off.

(I) If a holiday falls on a day that is a management designated or exempt employee is normally scheduled to be off, the employee will be credited with nine (9) hours of compensatory holiday time off. This compensatory holiday time off must be used as time off within the current fiscal year (July 1 – June 30) or unused holiday compensatory time will return to a zero balance on July 1 of the new fiscal year. Holiday compensatory time off is compensable (may be cashed out) at the time of termination of employment (in good standing) with the City but may not be converted for vacation, sick leave, or other forms of compensatory time off.

(J) Employees will not be permitted to accumulate a negative balance of holiday compensatory time. If an employee has a zero balance of holiday compensatory time, vacation time

will be used as necessary.

**SECTION 10 - LEAVE CALCULATIONS FOR PERMANENTREGULAR PART-TIME EMPLOYEES:**

Where specified leave benefits are expressly made applicable on a pro-rata basis to permanentregular part-time employees, all benefits, time limits and changes in benefit levels shall be calculated based on the proportion of the actual hours worked compared to normal full-time employment. The City Manager may adopt procedures and interpretations consistent with these rules for the implementation of this section.

**RULE VII**  
**WORKERS' COMPENSATION**  
**AND UNEMPLOYMENT INSURANCE**

**SECTION 1 – WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE:**

The City provides Workers' Compensation and Unemployment Insurance to all employees in accordance with California Law. Volunteers shall be eligible for Workers' Compensation coverage.

**SECTION 2 - ON-THE-JOB ACCIDENTS:** All injuries suffered during working hours must be reported, in writing, immediately. Unless there is an emergency, a referral slip must be obtained from the City Manager or designee before visiting a doctor. Upon returning to work from all on-the-job injuries, an employee must have an approval slip signed by the attending doctor.

**RULE VIII**  
**EMPLOYEE EXPENSES**

**SECTION 1 - MILEAGE EXPENSE:** Any employee, including a volunteer, who is required to use his or her private automobile for City assignments, shall be reimbursed at the standard mileage rate set by the Internal Revenue Service (IRS). All claims for mileage reimbursement shall first be approved in writing by the City Manager, and shall be filed on forms and in accordance with the procedures established by the City Manager.

All persons using their personal car for City business shall supply the City Manager with a Certificate of Insurance stating that their personal automobile is covered for business purposes by public liability and property damage insurance of not less than the amount required by the City Manager.

**SECTION 2 - AUTOMOBILE ALLOWANCE:** The City may offer an employee an automobile allowance in the amount determined by the City from time to time for the use of his/her personal automobile in the conduct of all City business. Persons receiving a mileage allowance are not required to file monthly mileage reports, but shall provide the Certificate of Insurance in the amount required by the City Manager.

**RULE IX**  
**TERMINATION PROCEDURES**

**SECTION 1 - RESIGNATION:**

(A) In order to resign in good standing, an employee shall inform the City Manager in writing of the effective date of the resignation at least fourteen (14) calendar days in advance. This time limit may be waived, in writing, by the City Manager. Failure to give notice as required by this Rule shall be cause for the City to deny future employment.

(B) An employee who is absent from work voluntarily or involuntarily without written authorization for forty (40) consecutive working hours or more shall be considered as having voluntarily resigned from the City Service as of the last day worked. Such employee may, within five (5) days, file a written request with the City Manager for reinstatement to the position for which the employee resigned by reason of the unauthorized absence. If the City Manager finds an explanation contained in the written request to be acceptable, the employee may be reinstated to his/her former position. Reinstatement shall be at the sole discretion of the City Manager or that person's designate.

**SECTION 2 - LAYOFF:**

(A) The City may lay off employees due to reduction of work or lack of work, technological change, lack of funds, abolition of a position; or any other appropriate reason as determined by the City Council. The following procedures shall be followed when layoffs are to occur.

The City Council shall determine whether the layoff shall be implemented on a City-wide

basis; or in one or more departments, work groups or job classifications. When the City determines the scope of the layoff, affected employees shall be selected for layoff based on classification and length of service; however, those employees with a current employee performance review with an overall evaluation of unsatisfactory shall be laid off before any other employee in their job classification or job series. Where the City Council determines the length of service with the City is equal the City shall determine which employee or employees will be retained based upon the needs of the City. Regular employees shall not be laid off until all temporary and probationary employees in the affected classifications have been terminated.

(B) Whenever possible, the City Manager shall notify those employees to be laid off thirty (30) calendar days prior to the effective date of any such layoff.

(C) The City Council may demote an employee in lieu of layoff.

(D) An employee laid off, displaced as a result of a layoff or demoted in lieu of layoff shall not have the right to a pre-termination hearing or an administrative appeal.

(E) If an employee is demoted in lieu of layoff, the City Manager may assign the employee to the pay rate in the pay range for the class that least reduces the pay rate the employee was receiving immediately prior to the demotion.

(F) Employees laid off from higher paid classifications shall have the option, if qualified, to displace employees in lower paid job classifications in the same job series who have less seniority. In addition, such employees shall have the option, if qualified, to demote to vacancies in equal or lower paid job classifications outside the job series provided they have greater seniority than the employees outside the job series they seek to displace.

(G) The City Manager shall determine whether an employee affected by a layoff is



qualified to displace or demote another employee.

**SECTION 3 - RETIREMENT:** An employee may retire in good standing by separating from the City Service in compliance with the provisions of any City approved retirement plan.

**RULE X**  
**DISCIPLINE PROCEDURES**

**SECTION 1 - LEGITIMATE REASONS FOR DISCIPLINE ACTION:**

(A) Discipline consists of discharge, involuntary demotion (excluding involuntary demotion or displacement as a result of a layoff), suspension of an employee, or a written reprimand or oral warning given to an employee.

(B) A written reprimand is a written criticism of an employee's conduct and/or work performance issued to an employee by the City Manager or his designee informing the employee of performance or conduct deficiencies. The written reprimand shall also advise the employee of corrective action he/she should take to improve conduct and/or performance.

(C) An oral warning is a formal conference between an employee and the City Manager or his designee at which the employee is informed of deficiencies in performance and/or conduct and advised as to corrective action which should be taken to improve the performance or conduct in question. A written record shall be made of any conference regarding an oral warning.

(D) In order for the City to fulfill its obligations to the public and for the benefit and protection of the rights and safety of all employees of the City, employees are expected to meet acceptable standards of conduct and work performance. Failure to meet acceptable standards of conduct and work performance will result in discipline which may include immediate discharge. Although it is not possible to provide an exhaustive list of all types of impermissible conduct and work performance, the following are some examples:

- (1) Failure to perform or properly perform assigned duties;

- (2) Violation of administrative policies and procedures or these Rules;
- (3) Insubordination;
- (4) Tardiness;
- (5) Unauthorized absence from employment;
- (6) Abuse of leave privileges;
- (7) Acceptance of money or favors from anyone for the performance of any act which is required or expected during the performance of regular City duties;
- (8) Falsification of an application for employment or of any other information provided to the City;
- (9) Use of employee's official position or of the City's time, facilities, equipment or supplies for personal gain or advantage;
- (10) Disclosure of confidential information acquired by or available to the employee in the course of employment with the City, or use of confidential information for personal gain;
- (11) Reporting for work, or being at work under the influence of or in possession of alcohol or non-prescribed controlled substances;
- (12) Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
- (13) Theft or improper use of City funds or property;
- (14) Failure to satisfactorily work with other employees or the public; or
- (15) Sexual harassment or other unlawful harassment of another employee.

(E) A copy of any written reprimand, written record of an oral warning or other

disciplinary action shall be given to the employee. The employee shall respond in writing within ten (10) days to the disciplinary action taken. The written record including the employee's response shall be included in the employee's personnel file, and may form the basis of subsequent disciplinary action.

**SECTION 2 - DISCIPLINING AUTHORITY:** The City Manager or his designee shall have the responsibility to institute disciplinary action, if warranted, to schedule and conduct any pre-disciplinary conference and to impose disciplinary action.

**SECTION 3 - PRE-DISCIPLINE PROCEDURES:** Prior to discharging, involuntarily demoting (as defined in Section 1(A) of this Rule X) or suspending an employee, the City Manager shall notify the employee in writing of the nature of the proposed disciplinary action and its proposed effective date; the reason for the proposed disciplinary action; any specific charges against the employee; the employee's right to review written documents and materials upon which the proposed disciplinary action is based (if practicable, the employee shall be supplied with a copy of these documents); and the employee's right to respond, orally and in writing, to the charge.

**SECTION 4 - REPRESENTATION:** If an employee is required to meet with the City Manager or any supervisor and such meeting involves the possible imposition of disciplinary action against the employee, the employee, upon written request, shall be entitled to have a representative present at such meeting.

## **RULE XI**

### **APPEAL PROCEDURES FOR DISCIPLINARY ACTION**

**SECTION 1 - APPEAL RIGHTS:** A regular employee shall have the right to appeal his or her discharge, involuntary demotion (as defined in Section 1(A) of Rule X) or suspension. Such appeal shall be in writing, signed by the employee, and shall request that a hearing be held. Such request shall be presented to the City Manager in writing within fourteen (14) calendar days after the effective date of the imposition of the disciplinary action. Any such request shall be addressed to the City Manager and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the employee. All disciplinary hearings shall be conducted in private unless the employee requests, in writing, a public hearing. If the employee fails to request a disciplinary hearing within the prescribed time, the employee shall have waived the right to a hearing and all rights to further appeal of the disciplinary action. Discipline and appeal procedures (Rules X and XI) do not apply to at-will employees, such as the City Manager, Assistant City Manager, Deputy City Manager, Department Heads and temporary part-time employees.

**SECTION 2 - SCHEDULING OF DISCIPLINARY HEARING:** The City Manager shall schedule any disciplinary hearing within a reasonable time after the filing of the employee's request. In scheduling the disciplinary hearing, the City Manager shall consider the availability of a hearing officer and the convenience of the employee and all witnesses.

**SECTION 3 - HEARING OFFICER:** The City Manager may be the hearing officer for a disciplinary hearing, or the City Manager may designate any third party as the hearing officer.

**SECTION 4 - REPRESENTATION AT DISCIPLINARY HEARING:** At the disciplinary

hearing, the employee may appear personally and may be represented by counsel or other representative.

**SECTION 5 - BURDEN OF PROOF AND EVIDENCE:** The City shall have the burden of proof at the disciplinary hearing and shall have to prove the charges against the employee by a preponderance of the evidence. The disciplinary hearing shall not be conducted according to the technical rules of evidence.

**SECTION 6 - CONDUCT OF DISCIPLINARY HEARING:** The conduct of the disciplinary hearing shall be under the control of the hearing officer with due regard for the rights and privileges of the parties. The City Manager shall promulgate reasonable rules and regulations governing the conduct of the disciplinary hearing. The rules and regulations promulgated shall be available to employees. The employee and the City shall have the right to produce and confront witnesses, and to present any relevant oral and documentary evidence. During the examination of a witness, the hearing officer may exclude from the hearing room any and all other witnesses. The hearing officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of documents at the hearing.

**SECTION 7 - HEARING OFFICER'S DECISION:** Within a reasonable time after the disciplinary hearing, the hearing officer shall issue a written decision containing findings and conclusions. The hearing officer shall have the authority to affirm, revoke or modify the action taken. The hearing officer's decision constitutes a final resolution of any disciplinary action unless the City or the employee appeals the decision as set forth in Section 8 below.

**SECTION 8 - APPEAL OF HEARING OFFICER'S DECISION:** The City or the employee may appeal the hearing officer's decision to the City Council. If the employee fails to appeal the

hearing officer's decision within the prescribed time and in the prescribed form, the employee shall have waived the right to further appeal of the disciplinary action.

**SECTION 9 - APPEAL TO THE CITY**: The appeal to the City Council shall be in writing, signed by the appealing party and filed with the City Council within fourteen (14) calendar days after receipt of the hearing officer's decision. A copy of the appeal shall be served on the City Manager at the same time it is filed with the City Council. The appeal shall be addressed to the City Council, and shall identify the decision appealed from, the grounds for the appeal and the relief requested by the employee. The City Council may decide the matter without a hearing based on the written appeal and the evidence presented to the hearing officer, or the City Council may schedule a hearing. All appeal hearings shall be conducted in private unless the employee requests in writing that the hearing be open to the public. The City Council shall schedule and conduct any appeal hearing within thirty (30) calendar days after the filing of the appeal.

**SECTION 10 - REPRESENTATION AT APPEAL HEARING**: At any appeal hearing, the employee may appear personally and may be represented by counsel or other representative. The employee and the City shall have the right to present oral and written arguments to the City Council.

**SECTION 11 - CITY'S DECISION**: The decision of the City Council shall be issued in writing within thirty (30) calendar days following the hearing. The City Council may affirm, revoke or modify the decision of the hearing officer. The decision of the City Council shall constitute a final resolution of any appealable disciplinary action.

**RULE XII**  
**GRIEVANCE PROCEDURES**

**SECTION 1 - PURPOSE OF GRIEVANCE PROCEDURE:**

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

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

- (1) Improper application of rules, regulations and procedures;
- (2) Unfair treatment, including coercion, restraint or reprisal;
- (3) Improper procedures utilized in employee layoff;
- (4) Discrimination because of race, religion, color, creed, sex or national origin; or because of any other statutorily or constitutionally impermissible basis;
- (5) Alleged sexual harassment or other illegal harassment;
- (6) Any matter affecting an employee's:
  - a. Working schedule;
  - b. Fringe benefits;
  - c. Holidays;
  - d. Vacation;
  - e. Sick leave;



- f. Retirement;
  - g. Performance evaluation; or
  - h. Change in classification or salary; or
- (7) Any other matter regarding terms and conditions of employment.

**SECTION 2 - GENERAL PROCEDURES:**

(A) The employee and the City have the right to the representation at any step in the grievance procedure.

(B) Any grievance not filed or appealed by the aggrieved employee to the next step within the specified time limits shall be deemed settled on the basis of the last decision, and not subject to further appeal or reconsideration. By mutual agreement and for good cause, reasonable extensions of time may be given to either party in writing at any step in the grievance procedure.

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

**SECTION 3 - INFORMAL DISCUSSION OF GRIEVANCE:** When an employee has a grievance, the employee shall first informally discuss the matter with the employee's immediate supervisor within seven (7) calendar days from the date of the incident or decision generating the grievance. If after a discussion with the immediate supervisor, the grievance has not been satisfactorily resolved, the employee shall have the right to informally discuss the grievance with the supervisor's immediate superior. The informal discussion with the supervisor's immediate superior shall occur within fourteen (14) calendar days from the date of the incident or decision generating the grievance. If after such a discussion, the grievance has not been satisfactorily resolved, the employee shall have the right to file a formal grievance.

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

**SECTION 4 - FORMAL GRIEVANCE PROCEDURE:** The formal grievance shall be used to resolve an employee's grievance not satisfactorily resolved by informal discussion.

(A) An employee shall have the right to present a formal grievance in writing to the City Manager within twenty one (21) calendar days from date of the incident or decision generating the grievance. All formal grievances shall state the reasons for the complaint and the employee's suggested solution.

(B) A formal grievance shall be timely presented to the City Manager. When the employee presents a formal grievance to the City Manager, the City Manager shall discuss the grievance with the employee. Within twenty one (21) calendar days after receipt of the formal grievance, the City Manager shall render a written decision. The decision of the City Manager shall resolve the grievance and no further review of the subject matter of the grievance shall be permitted within the City's administrative process.

## RULE XIII

### NON-DISCRIMINATION POLICY

#### SECTION 1 - EQUAL EMPLOYMENT OPPORTUNITY STATEMENT:

(A) Equal Employment Opportunity. The City is committed to a policy of equal employment opportunity and prohibits the unlawful discrimination of applicants and employees. The City will not unlawfully discriminate against qualified applicants or employees with respect to any terms or conditions of employment based on race, color, national origin, ancestry, sex (including pregnancy, childbirth, related medical conditions or breastfeeding), gender, gender identity, gender expression, sexual orientation, age (40 and over), religion (including religious dress and grooming practices) and religious creed, physical or mental disability, legally protected medical condition (including ARC or HIV positive, cancer and genetic characteristics), marital status, citizenship status, military service or veteran status, or other basis protected by law. Please see the Policy Against Harassment and Complaint Procedure, below, for additional information. ~~Consistent with this commitment and California and federal law, the City does not discriminate against employees or applicants because of genetic information, race, color, religion, sex, pregnancy, national origin, ancestry, age, marital status, disability, sexual orientation, gender including gender identity and gender expression, alienage, citizenship status or medical condition. Equal employment opportunity will be extended to all persons in all aspects of the employer-employee relationship, including hiring, training, promotion, transfer, discipline, layoff, recall discharge and termination.~~

(B) Disability Accommodation. When necessary, the City will reasonably accommodate employees and applicants with disabilities if the person is otherwise qualified to safely perform all of the

essential functions of the position. Employees or applicants who require accommodation to perform the essential functions of the job should contact their supervisor or the management employee who manages human resources matters to request an accommodation. Employees should specify in what way they are limited in their ability to perform the job and, if possible, what accommodation they believe is needed. The City will review the situation and engage in the interactive process with the employee in an effort to identify possible reasonable accommodations. If a reasonable accommodation can be identified that will not impose an undue hardship, the City will make the accommodation. If there is more than one possible accommodation the City will decide which one will be provided. Where there is more than one possible accommodation, the employee's preference will be one of the factors considered by the City. The City will also provide reasonable accommodation for pregnancy, childbirth or related medical conditions if requested by the employee upon advice and medical certification of her health care provider. Reasonable accommodation may include a temporary transfer to a less strenuous or hazardous position, if requested, supported by proper medical certification and otherwise qualifying.

C. Retaliation Prohibited. The City prohibits retaliation against employees for making a complaint, opposing unlawful discrimination and harassment or cooperating in an investigation.

**SECTION 2 - POLICY AGAINST HARASSMENT:**

(A) It is the City's policy that unlawful harassment, including sexual harassment, in the work place is unacceptable and will not be tolerated. The policy applies to all City agents and employees, including managers, supervisors, or co-employees. The City's policy also prohibits and seeks to protect employees from unlawful harassment in work related situations by non-employees.

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Finally, the City prohibits unlawful harassment of non-employees by employees in connection with any administrative, enforcement, business or professional relationship with the City.

(B) Sexual harassment is defined generally as verbal or physical conduct consisting of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature whenever: (1) submission to the conduct is either an explicit or implicit term or condition of employment; (2) an employee's reaction (submission or rejection) to the conduct is used as a basis for employment decisions affecting that employee; or (3) the conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating or offensive working environment.

(C) No employee should be subjected to unsolicited and unwelcome sexual overtures. Nor should any employee be led to believe that an employment opportunity or benefit will in any way depend upon "cooperation" of a sexual nature.

(D) Sexual harassment is not limited to express demands for sexual favors. It also may include such actions as: (1) sex-oriented verbal "kidding," "teasing" or jokes; (2) repeated offensive and unwelcome sexual flirtations, advances, or propositions; (3) continued or repeated verbal abuse of a sexual nature; (4) graphic or degrading comments about an individual or his or her appearance; (5) the display of sexually suggestive objects, pictures, cartoons, or drawings; (6) subtle pressure for sexual activity; and (7) unwelcome physical contact such as patting, touching, pinching or brushing against another individual's body.

(E) Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior which is not welcome, which is personally intimidating, hostile, or offensive, which debilitates morale, and which therefore interferes with work effectiveness.

(F) The prohibitions of this policy are not limited to sexual harassment. Harassment based on race, religion, national origin or any other prohibited basis set forth in applicable federal and California law is not acceptable and will not be tolerated. Examples of such harassment include, but are not limited to: (1) verbal harassment, e.g., racial, religious or national origin epithets, derogatory comments or slurs; (2) physical harassment, e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on a basis enumerated in applicable federal or California nondiscrimination laws; or (3) visual forms of harassment, e.g., derogatory posters, cartoons, or drawings based on race, religion or national origin.

(G) Employees who violate this policy are subject to discipline, up to and including termination.

(J) In addition to the provisions of this policy, California and federal laws bar employment related harassment, and provide employees with statutory rights and remedies.

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**SECTION 3 - COMPLAINT PROCEDURE:**

(A) Any City employee who feels that he or she has been the victim of harassment or prohibited discrimination has the right and the responsibility to notify his or her supervisor, or department head, or the City Manager, of the incident or incidents of harassment or prohibited discrimination and provide the names of the individuals involved.

(B) If the person to whom the harassment or prohibited discrimination is to be reported is him/herself thought to be engaged in the improper conduct, the employee may contact the City Manager directly. In the event the City Manager is thought to be involved, the employee may contact the City Attorney. An employee is never required to present a complaint to a party alleged

to be involved in the improper conduct.

(C) Any supervisor, manager or official receiving or aware of a complaint shall report the complaint promptly-immediately to the Personnel Director who shall assure that an appropriate investigation is started promptly and completed. In the event the Personnel Director is thought to be involved in the improper conduct, the complaint shall be reported to the City Manager or City Attorney, who shall be responsible for assuring an appropriate investigation.

(D) While written complaints are encouraged and provide the best opportunity for a proper investigation, complaints may also be verbal or anonymous. All complaints will be investigated promptly, objectively and thoroughly. Investigations will be conducted in a confidential manner, with information about the complaint being released only on a need-to-know basis.

(E) If the City concludes that prohibited harassment or discrimination occurred, appropriate corrective action will be taken, including action to stop further harassment or discrimination. Disciplinary action, up to and including termination, may be imposed on employees who violate this policy.

(F) The party presenting the complaint will be notified of the results of the investigation and will be advised if disciplinary action is taken. If the allegations of the complaint cannot be supported or are found to lack merit, the parties will be notified. Consistent with the policy of confidentiality, employees are not entitled to copies of notes, an investigation report or similar confidential documents, except as required bylaw.

(G) It shall also be a violation of this policy for any employee to retaliate against another employee for making a complaint, cooperating in the investigation of a complaint, or for testifying

or making a statement as part of the investigation or discipline process.

(H) Any employee who witnesses harassment or prohibited discrimination directed at or perpetrated by a City employee has a duty to report it through the process identified above.



## **RULE XIV**

### **MISCELLANEOUS PROCEDURES**

**SECTION 1 - CONFLICT OF INTEREST:** Each year certain designated employees are required to file "Disclosure Statements" or "Declaration of No Reportable Interest" forms. All forms must be completed and filed with the City Clerk within the time period provided by law for each class of report. Failure to comply with the law may be cause for disciplinary action by the City Manager.

**SECTION 2 - TRANSFERS:** Transfers are permitted, subject to the written consent of the Community Service Directors involved and the City Manager. Such changes are authorized only from one (1) position to another in the same class or to a position in another class having the same maximum salary limit and involving the performance of similar duties and requiring substantially the same qualifications.

**SECTION 3 - RECLASSIFICATION:** The duties of positions which have changed materially may be allocated to a more appropriate class. An incumbent meeting the new qualifications of the reclassified position shall move with the position.

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

**SECTION 5 - WRITTEN NOTICE:** Any written notice required to be given by the provisions of

this resolution, unless herein otherwise specifically provided, may be given either by personal service or by mail. In the case of service by mail, the notice must be deposited in the United States mail, in a sealed envelope, with postage prepaid; addressed to the person on whom it is to be served; at the address in any notice given by him or at his last known address, and, if there be no last known address, then addressed to him at the appropriate City facility. Service by mail shall be deemed complete at the time of the deposit in the mail.

**SECTION 6 - OUTSIDE EMPLOYMENT:** All employees having or accepting a second job of any type shall have such employment approved in writing by the City Manager. No employee shall be allowed to hold a second job which may interfere with the performance of his City employment.

**SECTION 7 - Y RATES:** A "Y-Rate" is a salary rate established by Resolution of the City which entitles a person to receive a salary higher than that provided for in the top step of the salary range for the position the employee holds. An employee compensated at a "Y Rate" shall not receive a salary increase of any kind until the top step of the employee's salary range exceeds the "Y Rate".

Upon promotion, an employee compensated at a "Y Rate" in the prior position shall be paid:

(A) the salary rate of the lowest step in the new position which provides an increase in salary over the "Y Rate" or; (B) the "Y Rate" the employee received in the prior position, whichever is greater.

**RULE XV**

**MANAGEMENT PREROGATIVES**

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

## **RULE XVI**

### **DRUG-FREE WORKPLACE**

**PURPOSE:** It is the intent of this personnel rule to eliminate substance abuse and its effects in the workplace. While the City has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol off the job can impact job performance and employee safety. The concern of the City is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers, the public, as well as the employee.

This policy applies to all employees (including all part-time, temporary or volunteer employees.) and to all applicants for positions with the City.

This policy applies to alcohol and all substances, drugs, or medications (legal or illegal) which could impair an employee's ability to perform the functions of the job effectively and safely.

The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

#### **SECTION 1 - EMPLOYEE RESPONSIBILITIES:**

(A) An employee must not report to work or be on-call while his/her ability to perform the job duties is impaired due to on duty or off duty alcohol or drug use.

(B) An employee must not report to work with alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) in their systems or possess or utilize such substances while they are on duty or on-call or during meal periods or breaks.

(C) An employee must not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during work hours or while on-call, on breaks, meal

periods or at any time while on City property.

(D) An employee must not directly or through a third party sell, purchase or provide drugs or alcohol to any person, including any employee, while either employee, or both employees, are on duty or on-call.

(E) An employee must submit immediately to an alcohol or drug test when reasonable suspicion exists that the employee is in violation of this rule and when requested to submit to the test(s) by a responsible City representative.

(F) An employee must notify his/her supervisor, before beginning work, when taking any medications or drugs (prescription or non-prescription) which may interfere with the safe and effective performance of duties or operation of City equipment.

(G) An employee must provide to the City, or its designated Medical Review Officer, within twenty four (24) hours of a request or, if the request is made on a Friday or the day before a holiday by the close of the next business day, a bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the ~~employee~~employee's name.

**SECTION 2 - MANAGEMENT RESPONSIBILITIES AND GUIDELINES:**

(A) Managers and supervisors are responsible for reasonable enforcement of this rule.

(B) Managers and supervisors may request through the Personnel Office that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or on-call. "Reasonable suspicion" is based on objective facts sufficient to lead a reasonably prudent supervisor to suspect is under the influence of drugs or alcohol so that the employee's ability to

perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

The items listed below include, but are not limited to, objective conditions which alone, or in combination, could lead to a reasonable suspicion that an employee was under the influence of drugs or alcohol.

- (1) Slurred speech
- (2) Alcohol odor on breath
- (3) Unsteady walking and movement
- (4) An accident involving City property
- (5) Physical altercation
- (6) Verbal altercation
- (7) Unusual behavior
- (8) Possession of alcohol or drugs
- (9) Information obtained from a reliable source with personal knowledge

NOTE: The foregoing list is not intended to be exhaustive. Other factors will be considered by a supervisor or manager in determining that there is a reasonable suspicion that the employee is under the influence of, of his/her fitness for duty is impaired by drugs and/or alcohol.

(C) Any manager or supervisor requesting an employee to submit to a drug and/or alcohol test must work with the Personnel Director and document, in writing within reasonable time, the facts constituting reasonable suspicion that the employee in question is under the influence of drugs and/or alcohol.

(D) Any manager or supervisor encountering an employee who refuses an order to

submit to a drug and/or alcohol analysis/test shall, with the assistance of the Personnel Director remind the employee of the requirements to comply and the disciplinary consequences of failing to comply with this rule. Where there is reasonable suspicion that the employee is then under the influence of drugs and/or alcohol the manager or supervisor should monitor the employee for a reasonable time until the employee can be safely transported home or to some other appropriate destination.

(E) The City reserves the right to lawfully search, without employee consent, all areas and property in which the City maintains control or joint control with the employee, including but not limited to, desks, filing cabinets or other furnishings, vehicles or facilities.

Managers and supervisors shall not physically search the person of the employee(s) without the freely given consent of, and in the presence of, the employee(s) and his/her representative(s) if so desired.

(F) Managers and supervisors shall notify the Personnel Director and their Department Director or the City's designated Medical Review Officer when they have reasonable suspicion to believe that an employee may have illegal drugs in his/her possession or in an area not jointly or fully controlled by the City. If the Personnel Director concurs that there is reasonable suspicion of illegal drug possession, the Personnel Director shall notify the appropriate law enforcement agency.

**SECTION 3 - ENFORCEMENT:** Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be monitored for a reasonable time until he or she can be safely transported from the work site. In no event should the individual be allowed to operate a vehicle or other City equipment while under the influence of alcohol or drugs, including driving him/herself home from work.

Refusal to submit immediately to an alcohol or drug analysis when requested by City management or law enforcement personnel shall constitute insubordination and may be grounds for disciplinary action up to and including termination.

**SECTION 4 - PHYSICAL EXAMINATION AND PROCEDURE:** A drug and/or alcohol test may be administered by a medical facility chosen by the City for any substance which could impair an employee's ability to perform the functions of his/her job effectively and safely.

All testing (including the sample collection, chain of custody and laboratory) shall be conducted in accordance with the National Institute on Drug Abuse and Department of Health and Human Services procedures.

**SECTION 5 - RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS:**

(A) Post-Employment Offer Medical Examination

- (1) A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standard, duties or responsibilities.
- (2) If a drug screen/test is positive as a result of a post-employment offer medical examination, the applicant must provide within twenty four (24) hours of the request or, if the request is made on a Friday or the day before a holiday by the close of the next business day, a bona fide verification of a valid prescription for the drug identified in the drug screen/test to the Personnel Office. If the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

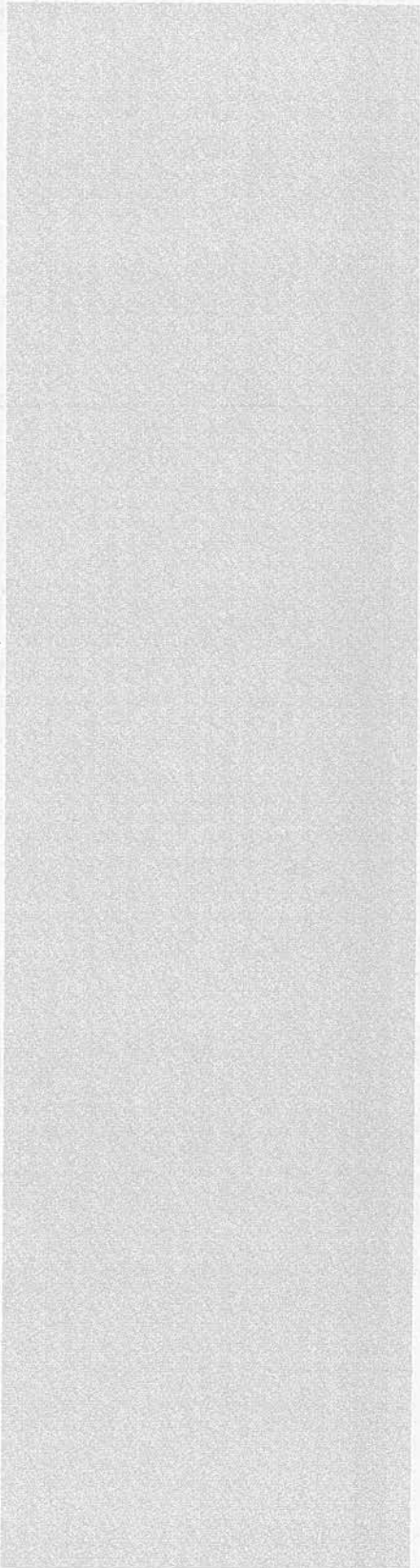


(B) **Medical Examinations or Alcohol/Drug Tests for Current Employees**

- (1) A positive result from a drug and/or alcohol analysis/test may result in disciplinary action, up to and including termination.
- (2) If the drug analysis/test is positive, the employee must provide within twenty four (24) hours of the request bona fide verification of a valid current prescription for the drug identified in the drug analysis/test to the Personnel Director or the City's designated Medical Review Officer. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his /her supervisor, as provided under Section 1, Paragraph (F) of these rules, the employee will be subject to disciplinary action up to, and including, termination.
- (3) If an alcohol and/or drug analysis/test is positive, the City shall conduct an investigation to gather all pertinent facts. The decision to discipline and the severity of discipline will be in conformance with the City's Personnel Rules and Regulations.

**SECTION 6 - CONFIDENTIALITY:** Laboratory reports or test reports shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential file that will be kept securely under the control of the Personnel Director. The reports or tests results may be disclosed to City management on a strictly need-to-know basis, to the tested employee upon requests or in response to a valid subpoena, a valid search warrant, a valid court

order or other similar legal orders.



## RULE XVII

### PART TIME EMPLOYEES

#### A. PERMANENTREGULAR PART-TIME EMPLOYEES

**SECTION 1 - DEFINITION:** A permanentregular part-time employee is one whose position is allocated in the budget and is scheduled to work and actually works a minimum of twenty (20) hours a week for a continuous 26-week period.

**SECTION 2 - PROBATIONARY PERIOD:** In addition to the time specified in Section 1, above, a permanentregular part-time employee shall serve a probationary period of 52 weeks (1 year) before he/she is confirmed to be a permanentregular part-time employee.

**SECTION 3 - PERFORMANCE EVALUATION:** A permanentregular part-time employee will receive an interim performance evaluation at the end of his/her initial 26-week period of employment and a permanentregular performance evaluation at the end of his/her 52-week probationary period, and at each anniversary date thereafter. Anniversary dates are established in accordance with the policy provided for full time employees.

#### **SECTION 4- MERIT REVIEW ELIGIBILITY:**

(A) A permanentregular part-time employee who is regularly scheduled to work a minimum of twenty (20) hours a week up to, but not including, thirty (30) hours a week is eligible for a merit review at the end of his/her 52-week probationary period and every 104-week (2-year) period thereafter.

(B) A permanentregular part-time employee who is regularly scheduled to work a minimum of thirty (30) hours a week up to, but not including, forty (40) hours a week is eligible

for a merit review at the end of his/her 52-week probationary period and every 78-week (1½-year) period thereafter.

**SECTION 5 - RETIREMENT BENEFITS:** A ~~permanentregular~~ part-time employee is eligible for City-paid PERS retirement benefits at the end of his/her 26<sup>th</sup> continuous week of employment, or as otherwise required by PERS.

**SECTION 6 - INSURANCE BENEFITS:**

(A) A ~~permanentregular~~ part-time employee is eligible to apply for City-paid PERS health benefits at the end of his/her 26<sup>th</sup> continuous week of employment, or as otherwise required by PERS.

(1) A ~~permanentregular~~ part-time employee who is regularly scheduled to work a minimum of twenty (20) hours a week up to, but not including, thirty (30) hours a week will receive the PERS health benefit based on 60% of the regular full-time employee benefit., or as otherwise required by PERS.

(2) A ~~permanentregular~~ part-time employee who is regularly scheduled to work a minimum of thirty (30) hours a week will receive the PERS health benefit based on 100% of the regular full-time employee benefit, or as otherwise required by PERS.

(B) A ~~permanentregular~~ part-time employee is ~~not~~ eligible for vision, ~~and dental,~~ ~~insurance or for~~ short and long term disability, life, and accidental death and dismemberment insurance, ~~consistent with and to the extent provided in the applicable plan document.~~ City contributions may be prorated as provided in the applicable salary and benefits resolution. The City reserves the right to modify or discontinue group insurance benefit programs at any time and no benefit will be considered vested.

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**SECTION 7 - LEAVE BENEFITS:** A permanentregular part-time employee shall accrue and may use pro-rated vacation and sick leave benefits, as provided below and elsewhere in these rules. Permanentregular part-time employee shall not be eligible for any other leave, or for holiday pay, except as expressly provided in these rules or as required by law.

A permanentregular part-time employee starts accruing vacation and sick leave the day he/she is hired as a permanentregular part-time employee and is eligible to begin using the leave when he/she has satisfied his/her 52-week probationary period. Vacation and sick leave hours are accrued in proportion to the hours worked. Time served as a temporary part-time employee, temporary employee, volunteer or any similar status shall not apply toward benefits under this section.

Please refer to Rule VI, Section 9 for further clarification.

**B. TEMPORARY PART-TIME EMPLOYEES**

**SECTION 1 - DEFINITION:** Temporary part-time employees may be hired on a seasonal basis and are limited to working less than 520 hours in any continuous 26-week period and less than 1000 hours in a fiscal year (July 1 to June 30). All -part-time employees are temporary part-time employees, except those who meet the requirements of permanentregular part-time employees.

**SECTION 2 - APPLICATION OF PERSONNEL RULES:** Temporary part-time employees do not have a probationary period, anniversary date or regularly scheduled performance evaluations or merit reviews and they are not eligible for retirement, insurance or leave benefits, except as otherwise required by law.

Except as otherwise provided in these rules, or as required by law, these rules do not

apply to temporary part-time employees. However, Rules VI Section 4 II (Sick Leave for Temporary Part-Time Employees), XIII (Non-Discrimination Policy), XV (Management Prerogatives) and XVI (Drug-Free Workplace) shall apply to temporary part-time employees.