




REPORT TO CITY COUNCIL

DATE: JULY 10, 2019
TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: GREG RAMIREZ, CITY MANAGER 
BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER 
CELESTE BIRD, ADMINISTRATIVE ANALYST 
SUBJECT: ADOPT RESOLUTION NO. 19-1907; AMENDING THE EMPLOYEE HANDBOOK

Periodically, the Employee Handbook is reviewed to assure its compliance with current federal and state legislation. The proposed amendments include a clarification of wording, correction of grammar, and typographical errors where necessary. Amendments also account for updates in the City's workforce and operations. Below is a list of the proposed amendments:

Amendments to the Employee Handbook include:

Section 1: Personnel Rules

1. Amendments to Rule I Definition of Terms, Rule VI Leaves, includes the term and definition of a "regular three-quarter employee", and revises the wording within the referenced rules to include the use of "regular three-quarter employee" as it applies to the respective rule.
2. Amendments to Rule V Overtime Compensation, Section 4, Items A-D includes overtime compensation for exempt employees in the event of a declared emergency.

Section 14: Harassment, Discrimination, Retaliation Policy

1. Amendments to the Harassment, Discrimination & Retaliation Policy contains revised wording to include recent legislative changes to the standard for sexual harassment.

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. 19-1907, amending the Employee Handbook.

Attachments: Resolution No. 19-1907
Exhibit A Redlined Personnel Rules
Exhibit B Redlined Harassment, Discrimination & Retaliation Policy

RESOLUTION NO. 19-1907

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING THE EMPLOYEE HANDBOOK 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 Employee Handbook as amended in Exhibit A, Personnel Rules, and Exhibit B, Harassment, Discrimination and Retaliation Policy. The effective date of these amendments will be July 10, 2019.

PASSED, APPROVED, AND ADOPTED this 10th day of July 2019, by the following vote to wit:

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

Linda L. Northrup, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

Exhibit A

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 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 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 overtime compensation or compensatory time off in accordance with the federal Fair Labor Standards Act.

SECTION 15 - PART-TIME EMPLOYEE: An employee regularly scheduled to work less than ~~forty~~ thirty (4030) 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. A regular employee is eligible to receive PERS health benefits, vision, dental, short and long-term disability, life and accidental death and dismemberment insurance consistent with and to the extent provided in the applicable plan document. PERS health benefits and eligibility will also be subject to applicable rules, regulations and statutes under the Public Employees Medical Health Care Act (PEMHCA). To the extent that these Rules conflict with the plan document or PEMHCA.

requirement, the latter will prevail. Regular employees are separated into two categories:

(A) REGULAR FULL-TIME EMPLOYEE: An employee who is scheduled to work 40 hours per week.

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(B) REGULAR THREE-QUARTER EMPLOYEE: An employee who is scheduled to work between 30 and 39 hours a week. A regular three-quarter employee shall accrue and may use prorated vacation sick leave benefits, as provided elsewhere in these rules.

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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 twelve (12) 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.

SECTION 4 – ADDITIONAL PAY IN THE EVENT OF A DECLARED EMERGENCY:

- (A) Eligibility. In the event of a declared State of Emergency, exempt employees (as defined under the Fair Labor Standards Act) of the City who perform essential services may be required to work hours in excess of their regular schedule, as deemed necessary by the City Manager or his/her designee. Under this Declaration of Emergency, exempt**

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employees may be compensated for emergency duty hours assigned in excess of their by-weekly work schedule.

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(B) Authorization. The City Manager may authorize compensation for exempt employees for all hours in excess of their regular bi-weekly work schedule that are spent performing essential services during a declared state of emergency. Only employees performing related emergency work and are approved to perform such work by the City manager or his/her designee shall receive compensation.

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(C) Payment. Compensation for these excess hours shall be paid at a straight time rate that is calculated by dividing the employees bi-weekly salary amount by his/her bi-weekly scheduled hours. There will be no substitution of compensatory time for payment of excess hours.

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(D) Record Keeping.

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1. All hours worked in excess of the employees' regular bi-weekly schedule shall be documented to define duties performed and hours of work to assist in the Federal Emergency Management Agency (FEMA) or California Disaster Recovery Act (CDRA) reimbursement process.

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2. All hours worked in excess of the regular bi-weekly schedule shall be entered on time sheets and identified by codes determined by the Finance Department.

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RULE VI

LEAVES

SECTION 1 - MANAGEMENT LEAVE:

(A) Regular full-time eEmployees designated as management employees earn management leave as set by City Council resolution. Regular three-quarter employees designated as management employees earn 75% of 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) Regular full-time eEmployees designated as administrative employees earn administrative leave as set by City Council resolution. Regular three-quarter employees designated as administrative employees earn 75% of administrative leave as set by City Council resolution.

(B) A regular n-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. Regular three-

quarter employees will accrue vacation at a rate of 75% of the rate applicable to regular full-time employees.

<u>Length of Continuous Employment</u>	<u>Hours of Vacation</u>
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. Employees designated as regular three-quarter employees may accumulate 75% of the maximum hours applicable to regular full-time employees or management employees, whichever applies. 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.

A regular three-quarter employee may convert fifteen (15) hours of accumulated vacation to cash equivalent.

2) 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. At the time a regular three-quarter employee exercises the option to convert fifteen (15) hours of accumulated vacation to a cash equivalent, the regular three-quarter employee -must have at least one hundred and five (105) hours of vacation leave remaining for immediate use following the conversion.

3) The option to convert vacation hours to an equivalent amount of cash may be exercised only once during any calendar year.

4) The regular 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.

5) Payment for the conversion of twenty (20) hours vacation leave for a regular full-time employee, and fifteen (15) hours vacation leave for a regular three-quarter employee 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. Regular eEmployees shall submit a written request to schedule vacation leave to the City Manager at least two (2) weeks prior to the desired date.

(F) Regular eEmployees 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 and regular three-quarter employees shall be paid accrued vacation leave (not to exceed the maximum accrual provided above).

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. A regular three-quarter employee accrues sick leave at the rate of six (6) 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 and regular three-quarter 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 for regular full-time employees and to a maximum of seven hundred and twenty (720) hours for regular three-quarter employees. ~~After reaching this maximum, unused sick leave will be given to the employee at the rate of one half (1/2) of accrued leave. Once a regular employee reaches the maximum sick leave accrual, the employee shall cease to accrue any further sick leave until the amount of accumulated leave falls below the maximum.~~

(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 regular full-time employee may convert a maximum of sixty (60) sick leave hours may be converted into cash or cash and vacation leave each year. A regular three-quarter employee may convert a maximum of forty-five (45) sick leave hours into cash and vacation leave each year.
- (2) At the time the regular full-time employee exercises the option to convert up to sixty (60) sick leave hours to an equivalent amount of cash or cash and vacation leave, or the regular three-quarter employee exercises the option to convert up to forty-five (45) sick leave hours to an equivalent amount of cash or cash and vacation leave, the regular full-time employee must have at least eighty (80) sick leave hours remaining for use immediately following the conversion, and the regular three-quarter employee must have at least sixty (60) 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. Of the forty-five (45) sick leave hours that a regular three-quarter employee can convert annually, only fifteen (15) 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 for regular full-time employees and the total annual maximum conversion amount of forty-five (45) hours for a regular three-quarter

employee.

- (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, regular full-time 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. Regular three-quarter employees designated as management employees may convert a maximum of ninety (90) sick leave hours annually into cash, provided that the regular three-quarter employee will have at least sixty (60) 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) An employee must give reasonable advance notice for foreseeable leave such as doctors' appointments, and notice as soon as practicable where the need for leave is not foreseeable. 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) Regular eEmployees 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) Regular eEmployees 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. Part-Time and 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 part-time and 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 and temporary 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 and temporary part-time employees may begin using accrued sick leave on the 90th calendar day of employment.

(D) A part-time and temporary 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 and temporary part-time employees can use a maximum of 24 hours of sick leave annually after anniversary of employment date or annually on July 1st, whichever applies (refer to Section 4 Item II (B)).

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

(G) 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.

(H) ~~In order receive paid sick leave, An employee must give reasonable advance notice for foreseeable leave such as doctors' appointments, and notice as soon as practicable where the need for leave is not foreseeable. 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. 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.~~

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

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

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

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

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

(N) 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 and regular three-

quarter employees 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 a ~~a regular~~ n-employee's accumulated management leave, administrative leave, vacation leave, holiday leave, compensatory time and/or sick leave at the discretion of the employee. The regular 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) Regular full-time eEmployees and regular three-quarter 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 for regular full-time employees, and up to the maximum of sixty (60) hours in a twelve (12) month period for regular three-quarter employees. Except as otherwise provided in these Rules, regular 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 a regularn employee requires time in excess of ~~eighty (80) hours~~ time granted for non-medical leave of absence, and the City Council 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 the time granted. ~~eighty (80) hours.~~

(B) A leave of absence shall be granted only to an employee who desires to return 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) A regular 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 for regular full-time employees, and for a maximum of sixty (60) hours within one twelve (12) month period for regular three-quarter employees. Regular exempt full time employees and regular exempt three-quarter 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 regular employee shall request that the jury commissioner permit the regular employee to remain at work and be available on one (1) hour telephonic notice.

(E) The regular employee shall continue to report for work on those days when excused from jury duty, and on which the regular 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 other 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 regular 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 regular employee's failure to so advise the City's personnel department in writing, may be considered as the regular 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 regular 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 regular 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 regular 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 regular 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 regular 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 regular 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 regular 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 regular employee's leave commences. Regular 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~~ regular employees (with the exception of temporary part-time employees) will be paid in accordance with their regularly scheduled hours for the holidays 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 24th or December 31st fall on a Saturday or Sunday, the Friday before is the observed holiday.

(B) If July 4th, or November 11th falls on a Saturday or Sunday, the Federal holiday will be observed. If January 1st or December 25th fall on a Saturday, then holiday hours will be accrued. If January 1st or December 25th fall on a Sunday, then the Federal holiday will be observed. 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 regular employee must work the last scheduled workday before and the first scheduled workday after the holiday, unless the regular 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~~ their normal work schedule. The employee will not be charged vacation leave for this time.

(E) Regular eEmployees 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

hours worked.

(H) If a holiday falls on a day that a regular ~~full-time~~ employee is normally scheduled to be off, the regular 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.~~ their normal rate of pay. This compensatory holiday time will be accumulated to a maximum of (thirty) 30 hours. Once an regular employee reaches the maximum compensatory holiday time accrual, the regular employee shall cease to accrue any further compensatory holiday time, until the amount of accumulated leave falls below the maximum. Regular eEmployees 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 regular employee is normally scheduled to be off, the regular 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 REGULAR PART-TIME THREE-

QUARTER EMPLOYEES:

Where specified leave benefits are expressly made applicable on a pro-rata basis to regular ~~part-~~
~~time~~ three-quarter 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.

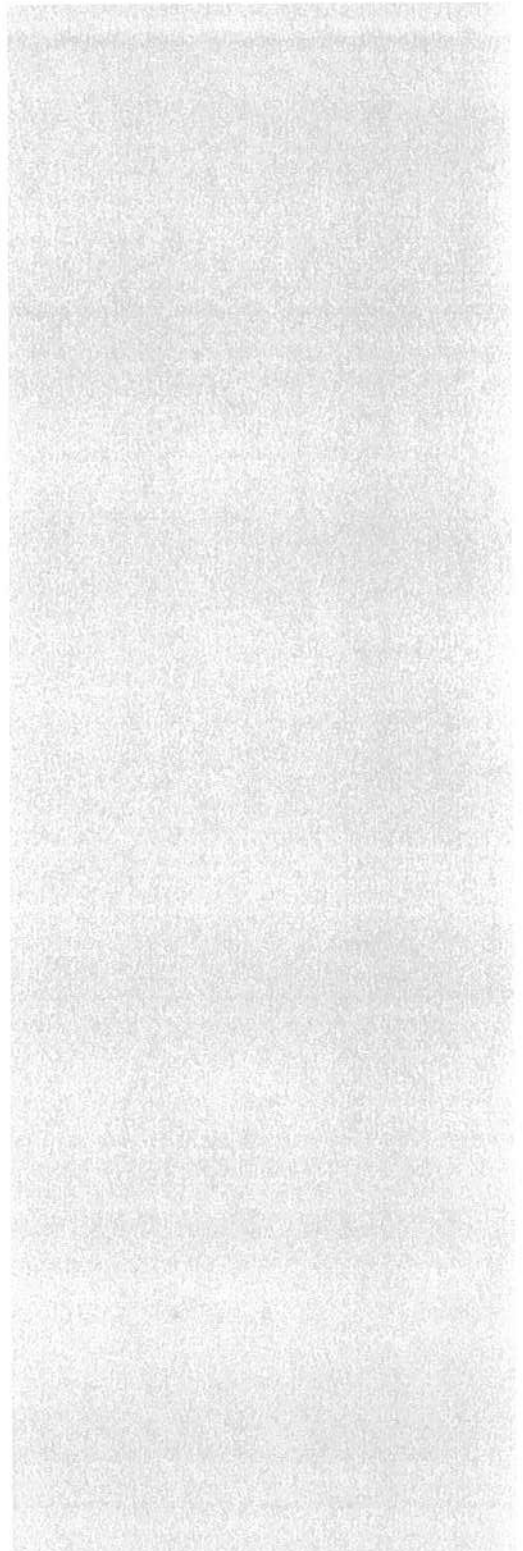
If an employee's grievance is with his or her immediate supervisor or the supervisor's immediate superior and such employee reasonably believes that such grievance will not be resolved

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

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 XVI
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 XV
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.

Recreational/Adult Use and Medical Cannabis: The City recognizes that the State of California has legalized the use of cannabis for recreational and certain medical uses. However, in accordance with federal and state law, the City treats cannabis the same as any other drug that is subject to regulation under this policy. Moreover, although the use of cannabis is legally permissible in the State of California, it remains a prohibited and controlled substance under federal law. The City reserves the right to take disciplinary action under this policy when cannabis or cannabis products are involved, whether it is used for medical or non-medical purposes, and whether or not it has been prescribed for the employee's use.

Consistent with federal law and the provisions of the California Adult Use of Marijuana

Act, Proposition 64, the City does not permit the use, consumption, possession, transfer, display, sale or growth of marijuana on City owned or controlled property (including but not limited to buildings, parking lots, parks and recreation facilities) or during City sanctioned or sponsored activities or events, regardless of the location. This is true even if the use of marijuana is for medical purposes authorized and permitted under the California Compassionate Use Act, Proposition 215. Employees are also prohibited from having any measurable amount of marijuana (including THC and metabolites) in their system while on duty, subject to minimum cutoff levels published by the Substance Abuse and Mental Health Services Administration in the Mandatory Guidelines for Federal Workplace Testing Programs or any successor standard, as determined by the City.

1 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'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 XVI
PART TIME EMPLOYEES

A. REGULAR PART-TIME EMPLOYEES

SECTION 1 - DEFINITION: A regular 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 regular part-time employee shall serve a probationary period of 52 weeks (1 year) before he/she is confirmed to be a regular part-time employee.

SECTION 3 - PERFORMANCE EVALUATION: A regular part-time employee will receive an interim performance evaluation at the end of his/her initial 26-week period of employment and a regular 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 regular 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 regular 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 regular part-time employee is eligible for City-paid PERS retirement benefits at the end of his/her 26th continuous week of employment, or as otherwise required by PERS.

SECTION 6 - INSURANCE BENEFITS:

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

(1) A regular 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 regular 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 regular part-time employee is eligible for vision, dental, 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.

SECTION 7 - LEAVE BENEFITS: A regular part-time employee shall accrue and may use pro-rated vacation and sick leave benefits, as provided below and elsewhere in these rules. regular 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 regular part-time employee starts accruing vacation and sick leave the day he/she is hired as a regular 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 regular 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.

Exhibit B

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HARASSMENT, DISCRIMINATION, AND RETALIATION POLICY

I. PURPOSE

The City of Agoura Hills ("City") is committed to providing a work environment that is free from unlawful discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting discrimination, harassment (including sexual harassment), and retaliation.

The purpose of this Policy is to define and forbid discriminatory, harassing, or retaliatory conduct, to prohibit the condoning or perpetuating of such conduct, and to provide an efficient means for reporting and resolving complaints of discrimination, harassment, or retaliation against any individual who reports discrimination, harassment, or retaliation or who participates in an investigation of such reports.

State and/or federal law expressly prohibit discrimination and/or harassment of employees or applicants based upon race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, medical conditions related to pregnancy, childbirth, breastfeeding, military and veteran status, sexual orientation, marital status, sex (including gender identity, gender expression), genetic information or age (40 years or older) in addition to any other category protected by law.

Discrimination, harassment, and retaliation are misconducts that can decrease work productivity, decrease morale and cause emotional and physical damage. Incidents of discrimination, harassment, and/or retaliation can result in serious economic implications such as high turnover, ineffective use of time during working hours, costly salaries paid for nonproductive work hours, and employee absences due to hearings and meetings related to discrimination, harassment, and/or retaliation complaints.

II. POLICY

The City's policy strictly prohibits unlawful discrimination or harassment on the basis of race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, medical conditions related to pregnancy, childbirth, breastfeeding, military and veteran status, sexual orientation, marital status, sex (including gender identity, gender expression), genetic information, age

(40 years or older) or any other category protected by law. City policy also prohibits retaliation against a person who engages in activities protected under this policy. Reporting, or assisting in reporting, suspected violations of this policy and cooperating in investigations or proceedings arising out of violations of this policy are protected activities under this policy.

The City considers discrimination, harassment, or retaliation to be a serious offense and is firmly committed to the philosophy that every employee has the right to work in an environment free from discriminatory intimidation, ridicule, and insult, and to be treated with courtesy, dignity, and respect. Employees are expected to adhere to a standard of conduct that is respectful to all persons within the work environment.

The City maintains and follows a strict policy prohibiting unlawful discrimination, harassment, or retaliation, in any form, including verbal, physical, and visual harassment, coercion, or reprisal. This policy applies to all employees, vendors, and visitors. The City does not tolerate sexual or other harassment of employees at the work place or in any work-related situation by anyone. If, after a prompt and thorough investigation, an employee has been determined to have engaged in discrimination, harassment, or retaliation, that employee will be disciplined, up to and including discharge.

III. DEFINITIONS

- A. **Discrimination:** Discrimination is action or conduct by which an employee or applicant is treated differently or less favorably than other similarly situated employees or applicants in any aspect of employment for the reason that he or she is a member of a legally protected category such as race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, medical conditions related to pregnancy, childbirth, breastfeeding, military and veteran status, sexual orientation, marital status, sex (including gender identity, gender expression), genetic information, age (40 years or older), or any other category protected by law. Discrimination includes unequal treatment based on the employee or applicant's association with a member of a protected classification.
- B. **Harassment:** Unlawful harassment is verbal or physical conduct based on an employee's membership in a protected category such as race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, medical conditions related to pregnancy, childbirth, breastfeeding, military and veteran status, sexual orientation, marital status, sex (including gender identity, gender expression), genetic information, age (40 years or older) or any other category protected by law, that is ~~sufficiently severe or pervasive to affect~~ to unreasonably interfere with an employee's work performance ~~negatively or alter the conditions of employment and create an~~

intimidating, hostile or otherwise offensive working environment. Unlawful harassment can occur between employees and co-workers, supervisors, managers, and third parties. It can occur between parties of the same or opposite sex and regardless of sexual identity. City policy prohibits the harassment of and seeks to protect employees, applicants, unpaid interns and volunteers and persons providing services pursuant to a contract in the workplace, as those terms are applied in the California Fair Employment and Housing Act.

- C. Sexual Harassment: Sexual harassment is action that constitutes an unwelcome sexual advance or request for sexual favors, or any verbal or physical conduct of a sexual nature that is:
1. Related to or conditional to the receipt of employee benefits, including, but not limited to, hiring and advancement.
 2. Related to or forms the basis for employment decisions affecting the employee.
 3. ~~Sufficiently severe or pervasive so as to affect~~unreasonably interfere with an employee's work performance ~~negatively or alter the conditions of employment~~ and create an intimidating, hostile, or offensive working environment.

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

- a. Verbal Harassment: Epithets, derogatory comments or slurs, graphic commentaries about an individual's body or other suggestive comments made on the basis of a legally protected category, such as race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, childbirth or related medical conditions, veteran status, sexual orientation, marital status, sex (including gender identity), sexual orientation, or age over 40 years
- b. Physical Harassment: Assault, impeding or blocking movement, interference with normal work movement, massages, sitting on laps, or unwanted touching of any type based upon a legally protected category, such as race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, medical conditions related to pregnancy, childbirth, breastfeeding, military and veteran status, sexual orientation, marital status, sex (including gender identity, gender expression), genetic

information, age (40 years or older), or any other category protected by law.

- c. **Visual Forms of Harassment:** Leering, making derogatory gestures, derogatory posters, notices, bulletins, cartoons, drawings, e-mails, faxes or other depictions based on a legally protected category, such as race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, medical conditions related to pregnancy, military and veteran status, sexual orientation, marital status, sex (including gender identity, gender expression), genetic information age (40 years or older), or any other category protected by law.
- d. **Sexual Conduct:** Unwelcome sexual advances, requests for sexual favors, propositions, and other verbal or physical conduct of a sexual nature which is made a condition of an employment benefit or unreasonably interferes with an individual's work performance and creates an offensive work environment. A single incident of harassing conduct can be sufficient to constitute a violation of this policy. In addition, a discriminatory remark or "stray remarks" not made in connection with an employment decision or made by a non-decision maker may be considered among the circumstances when evaluating an alleged violation of this policy.

- D. **Retaliation:** Taking adverse action against an employee because of (1) the employee's opposition to a practice the employee believes to constitute employment discrimination, harassment, or retaliation or (2) because of the employee's participation in an employment discrimination, harassment, or retaliation investigation, proceeding, or hearing.

Examples of protected conduct (1 & 2) and adverse actions that can constitute unlawful retaliation (3) when based on protected conduct include, but are not limited to, the following:

- 1. Protected opposition to perceived discrimination, harassment, or retaliation such as threatening to file a complaint with any federal or state agency, or court, or complaining or protesting about alleged discrimination, harassment, or retaliation to a supervisor, manager, co-worker, or other official. Protected opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative. Opposition not made in good faith, disrupts the workplace or constitutes an unlawful activity, or includes badgering or threatening of employees or supervisors is not protected.

2. Protected participation such as filing a charge, testifying, assisting, or participating in an investigation, proceeding, hearing or litigation under federal or state statutes or at other hearings regarding protected employee rights. It also includes making a complaint and participating in an investigation under this policy.
3. Adverse actions such as disciplinary actions, negative performance evaluations, undesirable transfer, undesirable assignments, negative comments, unwarranted criticism, actions that harm the employee outside the workplace, undesirable change in benefits, undesirable change in work schedule, unwarranted exclusion from meetings or events, or undesirable change in work duties or any action that is taken because of the employee's opposition to harassment or discrimination, or because of the employee's participation in an employment discrimination or harassment investigation, proceeding, or hearing:

Contact your supervisor, the Assistant City Manager, the City Manager or other supervisory employee if you have questions regarding these definitions or you are uncertain what constitutes discrimination, harassment, sexual harassment, retaliation, or prohibited conduct under the City Policy.

- E. Supervisor: an employee with the authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or has the responsibility to direct them, or to adjust their grievances, or to effectively recommend that action, if, in connection with the foregoing, the exercise of that authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

IV. REPORTING DISCRIMINATION, HARASSMENT, OR RETALIATION

The City encourages reporting of all perceived incidents of discrimination, harassment, or retaliation.

If you believe comments, gestures or actions of a co-worker, supervisor, vendor or visitor to be discriminatory, harassing, retaliatory, or offensive, you should immediately communicate to that person that such behavior is unwelcome. However, failure to do so does not prevent you from filing a complaint nor does it in any way exonerate the discriminating, harassing, or retaliating party.

City management is readily available and receptive to complaints of discrimination, sexual or other harassment, or retaliation. If you feel you are being discriminated against or harassed by, or retaliated against by another employee, a vendor, a visitor, or other individual, you should immediately report the facts of the incident and the names of the individuals involved to your immediate supervisor, or to another supervisor. If you do not feel that the matter can be discussed with your

immediate supervisor or another supervisor, you should contact the Assistant City Manager and arrange for a meeting to discuss your complaint. If you do not feel that the matter can be discussed with the Assistant City Manager, you should contact the City Manager and arrange for a meeting to discuss your complaint. Employees are never required to report harassment to a party they believe to be involved in the harassment and can always make the report to another supervisor or manager.

It is recommended, but not required, that complaints be made as soon as possible or no later than fifteen (15) working days after the incident. A written and signed statement of the complaint should be submitted to your supervisor, the Assistant City Manager or the City Manager within 10 days of the initial report. Employees in need of assistance in filing the complaint will be provided such. While a written statement provides the most reliable basis for conducting an investigation, all complaints will be investigated, including those that made orally.

Complaints should include the following information:

- A. The employee's name, department, and position title.
- B. The name of the person or persons committing the discrimination, harassment, or retaliation, including their titles if known.
- C. The specific nature of the discrimination, harassment, or retaliation, how long it has gone on, and any employment action such as demotion, failure to promote, dismissal, refusal to hire, or transfer taken against the victim as a result of the discrimination, harassment, or retaliation, or any other threats made against the victim as a result of the discrimination, harassment, or retaliation.
- D. All complaints of discrimination, harassment, or retaliation reported to the City will be investigated immediately, thoroughly, objectively, completely and as confidentially as possible. The City will make every attempt to interview all individuals with information relative to the complaint in the investigation.
- E. Any investigation related to a complaint under this policy will be conducted with as much confidentiality as possible and with respect for the rights of all individuals involved. Information related to the investigation will be provided on a "need to know" basis.
- F. The purpose of this provision is to protect the confidentiality of the employee who files a complaint, to encourage the reporting of any incidents of discrimination, harassment, and/or retaliation, and to protect the reputation of any employee wrongfully charged with discrimination, harassment, and/or retaliation.

- G. The confidential nature of the complaint and the investigation is vital in protecting the privacy rights of all parties involved. It is a violation of this policy for the complaining party, the accused party, and all persons interviewed as witnesses during the investigation to discuss any investigation with other employees or to conduct your own investigation at any time. If you have information to assist the City, you are to contact the person conducting the investigation. Failure to follow this policy may subject you to discipline. However, this limitation does not prevent an employee from conferring with a designated representative or from engaging in exercising protected legal rights, such as first amendment rights or the right to engage in concerted activity. If you have questions on these issues, please contact the Assistant City Manager or City Manager.
- H. The City will make its determination and communicate that determination to the complaining employee and to the accused party. You are not entitled to copies of any notes or other written materials regarding the investigation, as we consider these confidential documents. If it is determined that the accused party has violated City policies, appropriate corrective action will be taken in accordance with established City disciplinary procedures, up to and including termination. As part of the City's attempt to remedy the complaining employee's concerns, the complaining employee will be informed of remedial measures and disciplinary actions imposed against the violator. As noted above, if discrimination, harassment or retaliation are established, disciplinary action, up to and including termination will be taken. In addition, remedial action will also be implemented in appropriate circumstances and interim measures may be implemented, as warranted.
- I. Employees who believe they have been discriminated, harassed, or retaliated against may, within one year of the conduct, also file a complaint of discrimination with the California Department of Fair Employment and Housing ("DFEH"), or to the federal Equal Employment Opportunity Commission ("EEOC"). The DFEH and/or the EEOC may also investigate and process the complaint. Violators are subject to penalties and remedial measures that may include sanctions, fines, injunctions, reinstatement, back pay and damages. Current contact information for the DFEH and EEOC is available on employee bulletin boards.
- J. While the City vigorously defends its employees' right to work in an environment free of discrimination, harassment, or retaliation, it also recognizes that false accusations of discrimination, harassment, or retaliation can have serious consequences. Any employee who is found, through the City's investigation, to have deliberately and falsely accused another person of discrimination, harassment, or retaliation will be subject to appropriate disciplinary action, up to and including discharge.

K. Witnesses to the discrimination, harassment, or retaliation.

L. Whether the victim has previously reported such discrimination, harassment, or retaliation, and, if so, when and to whom.

Your notification to the City is essential. You will not be penalized for good faith reporting of discrimination, sexual or other harassment, or retaliation problems. It is unlawful for an employer to retaliate against employees who oppose practices prohibited by state and federal law, file complaints, or otherwise participate in an investigation, proceeding, or hearing conducted by the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission. Similarly, the City will not tolerate employees who interfere with internal investigations and complaint procedures.

Employees are reminded that the City protects employees from sexual or other harassment by non-employees such as vendors or visitors. Any employee who is the victim of harassment by a non-employee or observes this conduct toward another City employee should report such harassment to his or her immediate supervisor and appropriate action will be taken.

Employees who observe or are advised about the sexual or other harassment of another employee are encouraged to follow these reporting procedures. A supervisor will be subject to discipline for failing to report offensive conduct that potentially constitutes discrimination, harassment, or retaliation if the supervisor knew or should have known of the offensive conduct in the normal course and scope of their supervisory duties. Supervisors must promptly report potential discrimination, harassment, or retaliation to the Assistant City Manager, or to the City Manager. A Supervisor or Manager who receives a complaint of discrimination, harassment, or retaliation shall promptly report the complaint to the Assistant City Manager. If the Assistant City Manager is unavailable or alleged to be involved, the report shall promptly be made to the City Manager. The Assistant City Manager or City Manager, as applicable, shall be responsible for assuring that a timely and proper investigation is completed.

The City cannot resolve discrimination, harassment, or retaliation problem unless it knows about it. Therefore, it is your responsibility to bring those kinds of problems to the attention of the City so that necessary steps can be taken to correct the problem, and we encourage you to do so.

V. ANONYMOUS COMPLAINTS

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Knowing the identity of a complainant can be important to asking follow-up questions and getting details that are crucial to a fair and complete investigation. For this reason, the City encourages complainants to reveal their identity. However, any employee who wishes to make a complaint of discrimination, harassment, or retaliation, but is uncomfortable disclosing his or her identity, may do so by following the above complaint procedure and filing the complaint anonymously with the Assistant City Manager, or City Manager.

Employees should know, however, that anonymity in the complaint procedure may compromise the City's ability to complete a thorough investigation or to adequately address concerns raised.

VI. THE CITY 'S RESPONSE TO COMPLAINTS OF DISCRIMINATION, HARASSMENT, OR RETALIATION

The City trusts that employees will act responsibly to establish a pleasant working environment free of discrimination, harassment, or retaliation. The City encourages you to raise questions regarding discrimination, harassment, or retaliation with your immediate supervisor, your department head, the Assistant City Manager or the City Manager.

VII. TRAINING

In accordance with AB 1825, the City requires supervisory employees be trained on preventing sexual harassment in the workplace every two years. In addition, all persons appointed or promoted to supervisory positions shall be trained within six months of the appointment or promotion, if the supervisory employee is a new hire or was promoted from a non-supervisory position. Supervisory training shall last for a minimum of two hours.

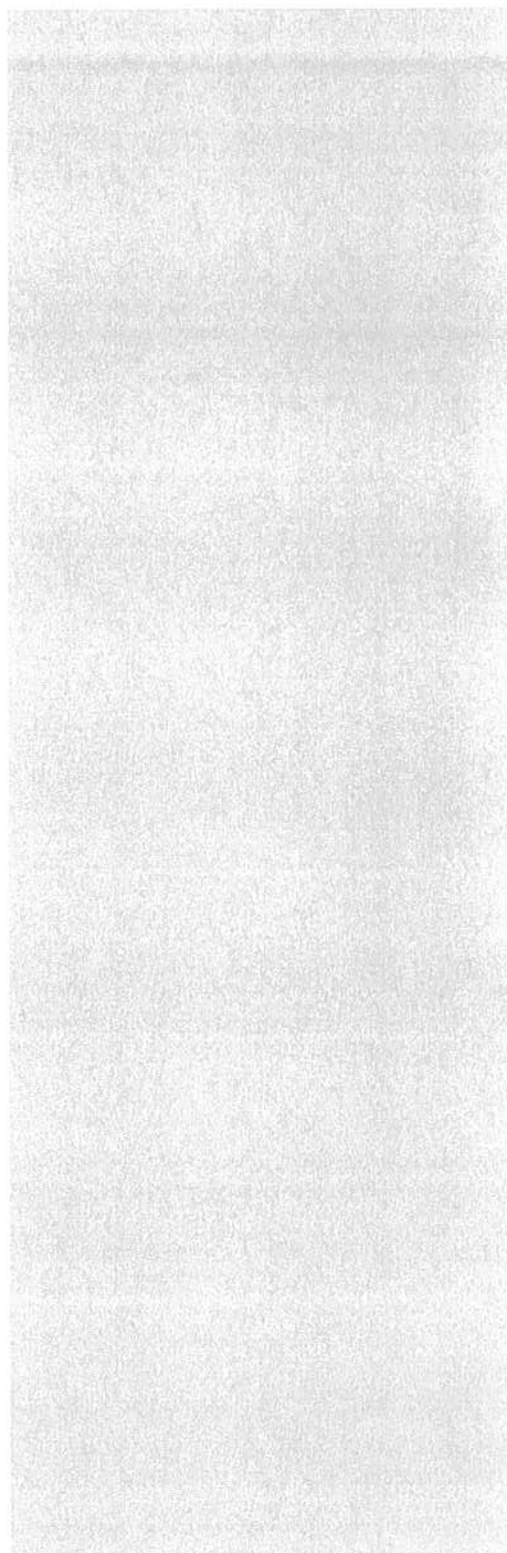
~~The City shall also require that non-supervisory employees be trained on preventing sexual harassment in the workplace every four years.~~ Non-supervisory employees, including seasonal and temporary employees, will be trained within the time limits required by law.

In addition, all employees shall be given a copy of this policy as part of their initial orientation with the City, and shall be given a copy in conjunction with any training they attend.

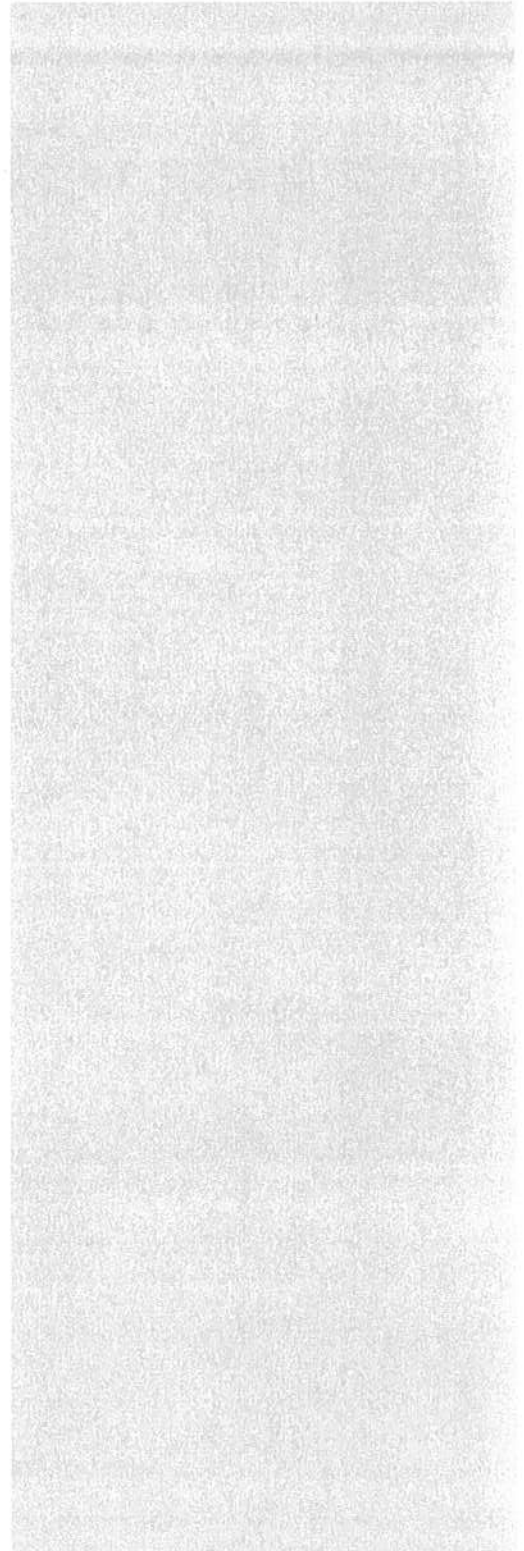
VIII. REFERENCES

California Department of Fair Employment & Housing (DFEH); Equal Employment Opportunity Commission (EEOC)

**Fair Employment and Housing Act (FEHA), Title VII of the Civil Rights Act of 1964,
Americans with Disabilities Act (ADA), Age Discrimination in Employment Act
(ADEA)**



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APPENDIX A

**EMPLOYEE ACKNOWLEDGMENT OF RECEIPT OF
POLICY AGAINST DISCRIMINATION, HARASSMENT,
AND RETALIATION POLICY**

This will acknowledge that I have received my copy of the City Policy Against Discrimination, Harassment, and Retaliation ("Policy") and that I have read the Policy and understand my rights and obligations under the Policy.

I understand that this Policy represents only current policies, procedures, rights and obligations and does not create a contract of employment. Regardless of what the Policy states or provides, the City retains the right to add, change or delete provisions of the Policy and all other working terms and conditions without obtaining another person's consent or agreement.

My signature below further signifies that I have read this Policy and that I accept and will abide by all of its provisions. I understand that if I have questions or need clarification regarding this policy I may contact my supervisor or the Assistant City Manager, or City Manager.

PRINT FULL NAME _____

SIGNED _____

DATE _____

[RETAIN IN EMPLOYEE PERSONNEL FILE]

