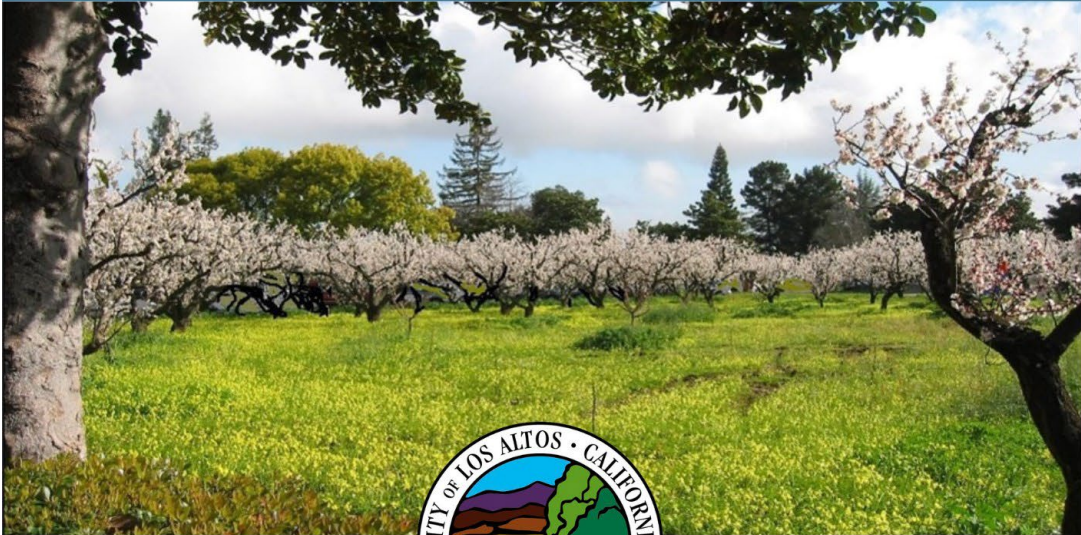


City of Los Altos

# PERSONNEL REGULATIONS

Revised December 2023



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## 10.00 GENERAL

### 10.01 NO CONTRACT RIGHT; DISCRETION TO MODIFY RULES

These Personnel Rules (“Rules”) do not create any contract right, or any express or implied contract of employment. The City of Los Altos retains all discretion to modify these Rules at any time in accordance with the law.

### 10.02 APPLICABILITY

These Rules apply to all categories of employees of the City of Los Altos unless a specific section or provision excludes them. Independent contractors, volunteers, Commissioners, and City Council members are not City employees, and therefore are not covered by the Rules included herein.

### 10.03 CONFLICT BETWEEN THESE RULES AND A MEMORANDUM OF UNDERSTANDING

If a provision of these Rules conflicts with any provision of a valid Memorandum of Understanding (“MOU”) between the City and a recognized employee organization, the provision of the MOU that is in conflict with the provision of these Rules shall apply to employees that are covered by that MOU.

### 10.04 EMPLOYEE ACCEPTANCE OF RULES AND REVISIONS TO RULES

As a condition of employment, the City requires that each employee read, and, if necessary, request clarification regarding these Rules.

Each employee must sign a statement of receipt acknowledging the following: (1) they have received a copy, or have been provided access to the Rules; and (2) they understand that they are responsible for reading and becoming familiar with the contents of these Rules as they are currently drafted, as well as all subsequent revisions to the Rules.

### 10.05 DEFINITION OF TERMS

The following terms whenever used in these rules, shall be construed as follows:

**Advancement:** A salary increase of one or more steps within the limits of the pay range established for a class.

**Allocation:** The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

**Appointing Power:** The Chief Administrative Officer, herein referred to as the City Manager of the City.

**Class:** All positions sufficiently similar in duties, authority, responsibility, and working conditions to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion, and salary.

**Municipal Service:** All positions and employments which are not specifically exempt by the Personnel Ordinance.

**Demotion:** The movement of an employee from one position to another having a lower maximum rate of pay.

**Eligible:** A person whose name is on an Eligibility List.

**Emergency Appointment:** An appointment of temporary duration made solely to avert civil disaster, or imminent danger to persons or property, or due to incapacity or death of an employee.

**Eligibility List:** A list of names of persons who have taken an examination for a class in the municipal service and passed and are ranked on the list in the order of the ranking score received.

**Full-Time Equivalent (FTE) Employee:** Position listed on Council Authorized Full-Time Equivalent Position List. Full-time means the employee is regularly scheduled to work forty hours per week.

**Part-Time (FTE) Employee:** An employee whose position is budgeted as a percentage of a FTE (Full-Time Equivalent) position and who is eligible to accrue vacation and sick leave. A part-time FTE employee serves at will and has no right to disciplinary appeal procedures. Part-time means the employee is regularly scheduled to work less than forty hours per week.

**Open Examination:** An examination for a particular class open to internal and external qualified applicants.

**Closed or Closed Promotional Examination:** An examination for a particular class, open to internal qualified applicants.

**Personnel Officer:** The City Manager.

**Personnel Ordinance:** Ordinance No. 260 and amendment 2011-361.

**Position:** Any office or employment in the municipal service, whether occupied or vacant.

**Probationary Period:** A working test period during which an employee is required to demonstrate his fitness for the position by actual performance of the duties.

**Promotion:** The movement of an employee from one position to another having a higher maximum rate of pay.

**Promotional List:** An eligible list resulting from a promotional examination.

**Promotional Examination:** An examination for a particular class, admission to the examination being limited to qualified employees in the municipal service.

**Reduction:** A salary decrease within the limits of the salary range established for a class.

**Regular Employee:** An employee who has successfully completed their probationary period and has been retained by regular appointment as a FTE budget position.

**Reinstatement:** The re-employment without examination of a former regular employee following his/her resignation from the municipal service. Such action must have the approval of the City Manager.

**Suspension:** The temporary separation from the service of an employee without pay, for disciplinary purposes.

**Temporary Appointment:** An appointment of a person to a position of limited duration of service. Part-time and seasonal employees are considered as temporary appointees, including reserve police officers. Rule 17.02 allows for the temporary appointment by the City Manager.

**Transfer:** A change of an employee from one position to another position in the same class or another class having essentially the same maximum salary limits, involving the performance of similar duties and requiring substantially the same basic qualifications

## **11.00 ADMINISTRATION**

The City Manager shall be responsible for the administration of these rules.

## **12.00 CLASSIFICATION PLAN**

### **12.01 PREPARATION OF PLAN**

The City Manager or designee shall prepare a plan of classification to all positions in the municipal service according to similarity of authority, responsibility and duties, and according to similarity of required training, skills and experience. Class specifications shall include:

- (a) Class title and brief description.
- (b) A summary of typical duties and responsibilities assigned to the class.
- (c) A statement of the training, experience, and other qualifications required of the class.

### **12.02 ADOPTION OF PLAN**

The classification plan shall be approved in whole or in part, or may be modified by the City Manager or designee. The classification plan may be amended, and the City Manager or designee may create new classes, or abolish existing classes in the same manner.

### **12.03 ALLOCATION OF POSITIONS**

Following the approval of the classification plan, the City Manager or designee shall allocate every position in the municipal service to one of the classes established by the plan.

### **12.04 NEW POSITIONS**

Before a newly created position is filled, the Department Head shall notify the City Manager, and, except as otherwise provided by ordinance or these rules, no person shall be appointed or employed to fill the position until the classification plan is amended to provide therefor.

## **12.05 RECLASSIFICATION**

Positions, the duties of which have changed materially so as to require reclassification, shall be allocated by the City Manager or designee to a more appropriate class, whether new or already created, in the same manner as originally classified and allocated.

## **13.00 COMPENSATION PLAN**

### **13.01 PREPARATION OF PLAN**

The City Manager or designee shall prepare a pay plan covering all classes of positions in the municipal service, showing the minimum, intermediate and maximum rates of pay.

The purpose of establishing salary steps for the salary ranges is to provide inducement for individuals to improve their contributions to results. Therefore, individual salary increases, within the established salary steps, shall be awarded primarily in recognition of improvement in performance.

In arriving at such salary ranges, consideration shall be given to prevailing rates of pay for comparable work in other public and private employment in the City's geographic region, including consideration of conditions of work as well as basic pay; to current costs of living; to suggestions of Department Heads and employees; and to the City's financial condition and policies, and such other sources of information as the City Manager deems necessary. The City Manager or designee shall thereafter make such further studies of the compensation plan as may be requested by the City Council, or as the City Manager considers desirable.

### **13.02 ADOPTION OF PLAN**

The City Manager shall submit the proposed pay plan to the City Council. The City Council shall, in its discretion, adopt or amend and adopt the proposed plan in the same manner as the adoption of the classification plan. Thereafter, no position shall be assigned a salary higher than the maximum or lower than the minimum salary provided for that class of position unless the salary schedule for the class is amended in the same manner as herein provided for its adoption.

### **13.03 CHARACTERISTICS OF PAY PLAN**

- 1) Each salary range consists of a minimum rate, a maximum rate and three intervening rates.
- 2) The increase from one step to the next step in each range shall be a uniform percentage.
- 3) The plan may provide for half ranges.
- 4) The basic plan includes salary ranges with lower and higher minimum rates and maximum rates. These are included to make it possible to shift the entire plan upward or downward as economic conditions change, with each employee being adjusted to the same relative step in the new range.

### **13.04 ADMINISTRATION OF PAY PLAN**

Pay increases within the established pay range shall not be automatic but shall depend upon increased service value of an employee to the City as shown by recommendations of the supervisor, performance, length of service, special training taken, or other pertinent evidence.

The first [A] Step is the minimum rate and should normally be the hiring rate for the class. The City Manager may hire above this step in case of an unusually well-qualified person or in a tight labor market, or when such action in the City Manager's opinion clearly appears to be in the best interests of the City.

The second [B] Step is an incentive adjustment to encourage an employee to improve their work. An employee shall be eligible for consideration of a merit increase to second step after six months of continuous service. Such merit increase shall be given only if recommended by the Department Head and approved by the City Manager. Normally, an employee whose performance does not justify a merit increase to the second step should be released prior to the expiration of the employee's probationary period.

The third [C] Step is the rate at which an employee should be paid after satisfactory performance in a given class with not less than one full year's service at Step B.

A merit increase to third step shall be granted only upon recommendation of the Department Head and approval of the City Manager.

The fourth [D] Step should be granted only after the employee has served a minimum of one year at the third step and upon recommendation by the Department Head that the employee's work is fully satisfactory and upon the recommendation of the City Manager.

The fifth [E] Step is the rate for a fully qualified and experienced employee. An employee should be eligible for consideration for adjustment to this step only after serving a minimum of one year at the fourth step and upon recommendation of the employee's Department Head and the City Manager.

This step shall be considered maximum pay for competent performance of all the duties assigned to the individual position by an experienced and qualified employee.

The City Manager may temporarily authorize additional compensation to an employee who is required to perform duties substantially beyond their regular duties. Ending such additional compensation is at the discretion of the City Manager and may not be appealed, grieved, or challenged.

City Manager may, in his or her discretion, grant a merit bonus and/or up to 40 additional hours of time-off to full-time regular FTE employees.

### **13.05 SALARY REVIEW DATE**

If an employee is appointed at Step A, the next salary review date shall be the date of completion of six month's continuous full-time service at the first step.

If an employee is appointed at Step B or higher, the next salary review date shall be the date of completion of twelve [12] month's continuous full-time service.

An employee's salary rate shall be reviewed annually on the salary review date, which date shall be changed under one of the following conditions:

- a) **Transfer.** The salary review date of an employee transferred to a position of similar duties, responsibilities and salary range shall not be altered.
- b) **Promotion.** The salary review date of an employee promoted to a position which involves either an increase in responsibilities or a change in duties and an increase in salary range, shall be altered to coincide with the effective date of such promotion.
- c) **Demotion.** The salary review date of an employee demoted to a position which involves either a reduction in responsibilities or a change in duties and a reduction in salary range shall be altered to coincide with the effective date of such demotion.
- d) **Leave of Absence.** The salary review date of an employee whose service is interrupted by a leave of absence without pay, for whatever reason, for more than thirty [30] calendar days shall be adjusted by the total number of days. Provided, however, that the adjustment of the salary review date of an employee subject to military leave shall be consistent with Section 395 of the Military and Veterans Code of the State of California.

## **14.00 RECRUITMENT**

### **14.01 ANNOUNCEMENT**

The City Manager or designee shall recruit for municipal positions by such methods as the City Manager considers necessary, such as by posting on electronic media, public bulletin boards, and advertising in professional trade journals and other mass media.

Announcements shall briefly specify the title and pay range of the position and class, the nature of the work to be performed, qualifications necessary or desirable for the performance of the work in the class, the dates, time, place and manner of taking applications and examination and other pertinent information.

### **14.02 GENERAL STANDARDS**

Applicants for employment shall meet such standards of education, experience, skills, abilities and personal and physical characteristics as are required for acceptable performance of the duties of the positions to which appointments are to be made.

### **14.03 MINIMUM STANDARDS**

- (a) Applicants shall, prior to appointment, meet the minimum standards prescribed by applicable class specifications and shall:



- (b) Provide acceptable documentation that the employee is authorized to work in the United States;
- (c) Subscribe to the Oath of Office prescribed by the State of California;
- (d) Receive livescan fingerprinting through the Department of Justice depending on job classification.

Employees using City vehicles or personal vehicles for City business are required to pass a Department of Vehicle (DMV) license check and to register in the DMV Pull Program and maintain a valid driver's license.

Appointment to certain positions may be made contingent upon the applicant passing a drug/alcohol test, a job-related medical and/or psychological examination, and/or a criminal background check.

#### **14.04 CRIMINAL CONVICTION CHECK**

After the City makes a conditional offer of employment, the City Manager or designee may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, the City will not deny employment to any applicant solely because they have been convicted of a crime. The City may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position. This policy does not apply to applicants for the following positions: peace officers, POST-certified dispatchers, employees who oversee minors, or employees involved in childcare services.

#### **14.05 DISQUALIFICATION OF APPLICANTS**

The City Manager or designee may reject any application which is not properly completed or is incomplete; received after the application deadline; or indicates that the applicant does not meet the minimum qualifications for the position.

### **15.00 EXAMINATIONS**

#### **15.01 ADMINISTRATION**

The City Manager or designee will determine the manner and methods of administering employment examinations. Examinations may consist of: written tests; oral tests; performance tests; evaluations of prior training and performance, experience and/or education; interviews; working style assessments; practical exercises; file review; or any combination thereof. The content of all examinations will be job-related and designed to test knowledge, skills or abilities that help predict successful completion of job duties.

## **15.02 CONTENT**

The content of all examinations will be kept confidential prior to the administration of the examination. All applicants who are invited to the examination will be notified of the nature of the examination.

## **15.03 REASONABLE ACCOMMODATION**

An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the City Manager or designee may require additional information, such as reasonable documentation of the existence of a disability and of the need for accommodation.

## **15.04 FAILING EXAMINATION**

Failure in one part of the examination, or the failure to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. Each applicant will be notified by mail whether they will be allowed to continue in the examination process.

## **15.05 BACKGROUND/REFERENCE CHECKS**

Applicants who meet the minimum qualifications and pass all examinations may be subject to a background and/or reference check.

## **16.00 ELIGIBILITY LISTS**

### **16.01 CONTENT**

As soon as possible after the completion of an examination, the City Manager or designee shall prepare and keep available an Eligibility List consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score.

### **16.02 DURATION**

Eligibility lists shall become effective upon certification by the City Manager or designee that the list was legally prepared and represents the relative ratings of the persons whose names appear on it. Eligibility lists shall remain in effect for one year, unless the City Manager or designee approves extending, abolishing, or consolidating the lists sooner .for reasons consistent with the merit principle.

### **16.03 REMOVAL**

An applicant may be removed from a given Eligibility List for any one of the following reasons:

- (a) Refusal to accept appointment to a position for which the list was established;
- (b) Appointment to a position for which the list was established;
- (c) Request of the applicant for removal from the list;

- (d) Substitution of a new Eligibility List;
- (e) Failure to continue to meet any of the minimum standards established for the position for which the Eligibility List was prepared;
- (f) Disqualification for reasons stated in Section 14.05.

#### **16.04 APPOINTMENTS FROM ALTERNATE LISTS**

The City Manager may make an appointment to a position from among the candidates from a recruitment for another classification, provided that the position to which the candidate is to be appointed is 1) an equal or lower level position, 2) within the same job family or occupational category, 3) the qualifications and examination process are such as to ensure that the candidates for the alternate position are fully qualified and 4) the alternate recruitment occurred not more than twelve months prior to the date of the desired appointment.

### **17.00 APPOINTMENTS**

#### **17.01 KINDS OF APPOINTMENTS**

The classes of appointments to positions in the municipal service shall be At-Will, Temporary, Probationary, Regular and Emergency. Appointees to each class shall be subject to the conditions and limitations set forth herein. The City Manager shall make all appointments after consultation with the respective Department Head.

#### **17.02 AT-WILL APPOINTMENTS**

An at-will employee is one who serves at the pleasure of the appointing authority and has no property right in continued employment with the City and is not entitled to any pre- or post-disciplinary procedural due process or evidentiary appeal.

At-will employees include the City Manager, Department Directors, Department Managers, Temporary Employees, Probationary Employees, and Emergency Employees.

Section 34 (Discipline) does not apply to at-will employees.

#### **17.03 TEMPORARY APPOINTMENTS**

In the absence of an applicable Eligibility List, the City Manager or designee may appoint any applicant who meets the minimum training, education, certification, qualification, and experience requirements of the position as a Temporary Employee.

Temporary employees are not entitled to benefits unless the City Manager or designee specifically designates a temporary employee to receive some or all the benefits of a regular employee.

Temporary employees may be part time or full time.

Upon satisfactory performance, and at the discretion of the City Manager or designee, a temporary employee may be given regular appointment after satisfactory full-time service of not less than one year.

Seasonal employees shall be designated as temporary employees.

#### **17.04 PROBATIONARY APPOINTMENTS**

Employees not hired as temporary or emergency appointees are subject to a probationary period to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee has at-will status, serves at the pleasure of the City Manager, and may be rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights set forth under Section 34 (Discipline).

The probationary employee will be notified prior to the expiration of the probationary period that they have been rejected from probation.

The probationary period is 2080 hours of actual service. The probationary period is automatically extended by the length of any absence of one workweek or more. The probation period can also be extended the discretion of the City Manager for up to 1040 additional hours.

#### **17.05 REGULAR APPOINTMENTS**

Regular appointments are for the purpose of providing a regular complement of employees in the municipal service sufficient to discharge the duties and responsibilities assigned to the work force of the City. Employees who successfully complete their probationary appointment shall thereupon be subject to regular appointment by the City Manager upon recommendation of the Department Head. Regular appointments may be part time or full time.

#### **17.06 EMERGENCY APPOINTMENTS**

In case of civil disaster or emergencies involving imminent danger to life or property, or to protect the city's interests, or due to incapacity or death of an employee, any Department Head may appoint any persons available in order to staff the position or address the condition. Emergency appointments shall be terminated as soon as the condition is alleviated.

The Department Head shall notify the City Manager of such action as soon as practicable.

#### **17.07 FULL-TIME / PART-TIME APPOINTMENTS**

Full-time means the employee is regularly scheduled to work forty hours per week. Part-time means the employee is regularly scheduled to work less than forty hours per week.

#### **17.08 ADMINISTRATION**

The City Manager or designee may, when circumstances warrant, appoint at a pay step other than the first pay step. If a qualified applicant cannot be found for a particular position, the City

Manager or designee may create a similar position of lower class and fill that position in accordance with these rules.

When a position is to be filled from a promotional or open eligibility list, the City Manager or designee may choose from the specified list one of the top three candidates on the eligibility list. If no person among the top three candidates indicates a willingness to accept the appointment, the City Manager or designee may make the appointment from among the remaining names on the eligibility list, may request a new examination and establish a new eligibility list, or may fill the position by another method authorized by these Rules.

Appointment to certain positions may be made contingent upon the applicant/employee passing a drug/alcohol test, and/or a job-related medical and/or psychological examination. Such examination shall only be required after a conditional offer of employment has been made.

The person accepting appointment shall report to the City Manager or designee on the date designated by the City Manager or designee. Otherwise, the applicant shall be deemed to have declined the appointment.

#### **17.09 RETIRED ANNUITANTS**

The City Manager or designee may hire retired annuitants as temporary employees but such employees may not be employed for more than 980 hours per calendar year, unless otherwise authorized by law. Generally, CalPERS refers to such employees as “extra help” employees. Any such appointments are required to be permissible by Government Code section 21224.

#### **17.10 PROMOTIONAL PROBATIONARY PERIOD**

An employee who is promoted to a higher job classification (promotional probation) shall serve a probationary period of 2080 hours, which may be extended by the City Manager or designee, upon recommendation of the Department Head, for not more than 1040 additional hours.

During the promotional probationary period, a probationary employee may be demoted to the position held prior to promotion for any reason with no prior notice or other due process right, with no right to appeal or otherwise challenge the demotion.

### **18.00 EMPLOYMENT OF RELATIVES, SPOUSES, DOMESTIC PARTNERS**

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

#### **18.01 DEFINITIONS**

- (a) “Relative” means a child, stepchild, parent, grandparent, grandchild, sibling, half-sibling, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
- (b) “Spouse” means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law (Fam. Code § 297; 300.).

- (c) “Supervisory relationship” means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to their City appointments.

### **18.02 EMPLOYMENT OF RELATIVES**

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

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

### **18.03 SPOUSES OR DOMESTIC PARTNERS**

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

- One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner; or
- Potential conflicts of interest or hazards for married persons or those in domestic partnership which are greater than for those who are not married or in domestic partnerships with each other.

### **18.04 MARRIAGE OR DOMESTIC PARTNERSHIP AFTER EMPLOYMENT**

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

City's interest in the promotion of supervision, safety, security, or morale, then the City Manager retains sole discretion to separate one employee from City employment. Absent the resignation of one employee, the less senior employee will be separated. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

## **19.00 PERFORMANCE EVALUATION**

Each employee's supervisor will prepare and sign a performance evaluation on a City form for each performance evaluation period. The Department Head will review and approve all performance evaluations of subordinates in their department. The City Manager or designee will review and approve all performance evaluations of Department Heads or any other employees under the City Manager's direct supervision. Additional performance evaluations may be prepared at any time the City Manager or Department Head deems necessary.

### **19.01 FREQUENCY OF EVALUATIONS**

Probationary employees will receive a performance evaluation on or about the completion of six (6) months of a probationary period.

Non-probationary employees starting at Step A of the pay plan will also receive a performance evaluation at or about the completion of six (6) months of service.

Non-probationary employees starting at Step B or higher of the pay plan will receive a performance evaluation at or about every twelve (12) months, around their anniversary date.

### **19.02 PERFORMANCE EVALUATION MEETING**

The supervisor will meet with the employee to discuss the evaluation. The employee shall sign the evaluation to acknowledge its contents and that they have met with their supervisor to discuss the evaluation. The employee's signature shall not mean that they necessarily endorse the contents of the evaluation.

Any merit increase will be based on an employee's achievement of "satisfactory" performance.

### **19.03 NO APPEAL RIGHT**

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

### **19.04 PERFORMANCE EVALUATION PLAN FOR UNREPRESENTED EMPLOYEES**

- 1) Rather than have each performance evaluation occur on their anniversary date, performance evaluations for managers will occur in January for the previous calendar year.

- 2) Supervisors must discuss the performance report with the Department Head (or the Department Head's authorized representative) before a discussion is held between the employee and the supervisor rater. When the employee signs the report on completion of the discussion with the supervisor rater, the supervisor will forward it to the Department Head. The Department Head will forward the document to the City Manager or designee for review and signature. If, in the opinion of the City Manager, the evaluation content is not appropriate, the City Manager will discuss the reasons with the Department Head and determine the appropriate future action.
  
- 3) The unrepresented positions included in this subsection can be found on the publicly available pay schedule on the City's website.

## **20.00 HOLIDAYS AND VACATION LEAVE**

### **20.01 HOLIDAYS**

The City observes the following holidays:

- New Year's Day                                January 1
- Martin Luther King, Jr. Day            Third Monday in January
- President's Day                            Third Monday in February
- Cesar Chavez Day                        March 31
- Memorial Day                              Last Monday in May
- Juneteenth                                 June 19
- Independence Day                        July 4
- Labor Day                                    First Monday in September
- Indigenous People's Day                Second Monday in October
- Veterans Day                                November 11
- Thanksgiving Day                        Fourth Thursday in November
- Friday after Thanksgiving              Friday after Thanksgiving Day
- Christmas Eve                             December 24
- Christmas Day                              December 25

Full-time employees are entitled to eight hours of paid leave for each City-recognized holiday.

Holiday Closure – The City will observe a holiday closure on the working days that fall between the day after Christmas Day and before New Year's Eve. The closure will be observed as a paid holiday. The City will maintain limited services for the community.

In addition to the above, full-time employees accrue one (1) nine (9) hour floating holiday in the first full pay period in July unless an employee's labor agreement specifies otherwise.



When a holiday falls on Saturday, the preceding Friday shall be observed. When a holiday falls on Sunday, the following Monday shall be observed.

If one or more holidays falls within an approved vacation leave that an eligible full-time employee is taking, such holiday shall not be charged as vacation leave.

Full-time employees working alternative schedules should consult Section 30.07 (Alternative Work Schedules) for further instructions on holidays.

**20.02 VACATIONS**

All full-time employees (probationary and regular) accrue vacation as follows:

MONTHS OF CONTINUOUS SERVICE ("MOS")	VACATION ACCRUAL PER PAY PERIOD	ANNUAL VACATION ACCRUAL	MAXIMUM VACATION ACCRUAL
0-47 MOS	4.31 hours	112 hours	264 hours
48-59 MOS	5.85 hours	152 hours	384 hours
60-83 MOS	6.15 hours	160 hours	408 hours
84-107 MOS	6.46 hours	168 hours	432 hours
108-131 MOS	6.77 hours	176 hours	456 hours
132-155 MOS	7.08 hours	184 hours	480 hours
156-227 MOS	7.38 hours	192 hours	504 hours
228+ MOS	8.15 hours	212 hours	564 hours

Vacation accrual changes begin on the first pay period beginning after the anniversary date. No vacation hours will accrue after the employee has reached the maximum vacation accrual balance.

Employees must receive prior approval from their Department Head prior to taking vacation.

Holidays falling within an annual vacation leave shall not be charged as vacation leave.

Employees who separate from the City shall be paid their final or then hourly base rate for each unused and accumulated vacation hour.

## 21.00 SICK LEAVE

### 21.01 SICK LEAVE FOR FULL-TIME EMPLOYEES

#### Purposes of Sick Leave

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

- (a) Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child, parent; stepparent, spouse, registered domestic partner; grandparent; grandchild; sibling; designated person (each a "Family Member" and collectively "Family Members"); for purposes of this section "designated person" means a person identified by the employee at the time the employee requests the leave. An employee is limited to one designated person per twelve-month period;

or

- (b) For an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.)

#### Terms of Sick Leave

- 1) **Accrual and Carry-Over for Regular Full Time Employees:** Regular full-time employees accrue 3.69 hours of sick leave for each pay period of paid status. Accrued sick leave carries over from year to year. No accrual limit applies.
- 2) **Sick Leave Use:** An employee may use accrued sick leave beginning on the 90<sup>th</sup> day of employment.
- 3) **Protected Sick Leave:** One-half of a full-time employee's accrued and available annual sick leave is protected and may be used for any of the purposes stated in this Policy.
- 4) **Procedure for Sick Leave Requests and Certification Requirements:** The following procedures and requirements apply to requests for use of sick leave:
  - 1) **Foreseeable Sick Leave:** If the need for sick leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice.
  - 2) **Unforeseeable Sick Leave:** If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable.
  - 3) **Sick Leave Use of More than One Day:** If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor

informed each day as to the date the employee expects to return to work and the purpose of the leave.

- 4) **Certification Required After Five-Days of Leave and Leave Related to Domestic Violence and Abuse:** Regular full time employees must provide a physician's certification for any sick leave absence that occurs after the employee has used 40 hours, or five days, whichever is greater, that involves the illness of the employee or family member. All employees, who use paid leave to address issues related to domestic violence, sexual assault, or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.
  
- 5) **Limitations on Use of Sick Leave to Care for a Family Member and Additional Certification Requirements:** The maximum amount of sick leave that can be used by an employee in any calendar year to care for a Family Member is limited to the hours of sick leave accrued by the employee and is not to exceed one half of the total number of hours that could be accrued by the employee during the calendar year (47.97 hours), *unless* the employee provides a medical certification and/or recertification to support the need for leave in excess of 47.97 hours in advance of taking such leave (in addition to the certification required in paragraph 4 above) in accordance with the additional procedures described below:
  - (a) Employees who request leave to care for a Family Member after using up 47.97 hours of accrued leave must provide written certification from the health care provider of the Family Member requiring care that contains all of the following:
    - i. The date, if known, on which the health condition necessitating care commenced;
    - ii. The probable duration of the health condition;
    - iii. An estimate of the amount of time which the health care provider believes the employee needs to care for the family member; and
    - iv. A statement that the health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the family member. The term "warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care.
  - (b) Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered Family Member, the employer must obtain recertification if additional leave is requested in order for the employee to take the requested leave.

- (c) If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification after the employee has used accrued leave amounting to 47.97 hours, the City may delay the taking of sick leave to care for a Family Member until the required certification is provided or deny sick leave following the expiration of the time period originally estimated by the health care provider.
- (d) To request use of accrued paid leave in excess of 47.97 hours for the purposes of caring for a Family Member, please contact Human Resources for the appropriate physician certification or re-certification form, which must be completed in advance of taking such leave.
- 6) **Sick Leave Reinstatement:** If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of 6 days or 48 hours, whichever is greater, will be reinstated. An employee who worked at least 90 days in the initial employment with the City may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with the City must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave.
- 7) **Discipline for Sick Leave Abuse:** Failure to request sick leave as required by this Administrative Instruction, without good reason, may result in the employee being treated as absent without leave. Violation of the sick leave provisions in this Administrative Regulation will result in disciplinary action.
- 8) **Paid Sick Leave Not Calculated as Overtime:** Paid sick leave and unpaid time off will not be considered hours worked for purposes of overtime calculation.

## **21.02 SICK LEAVE FOR PART-TIME, SEASONAL & TEMPORARY EMPLOYEES**

### **Policy:**

The following policy applies only to part-time, seasonal and temporary employees.

- An employee begins to accrue paid sick leave at the rate of one (1) hour of paid sick leave for every thirty (30) hours worked beginning on the first day of employment. An employee is not eligible to begin using any accrued paid sick leave until after 90 days of employment with City.
- An employee is allowed to use up to a maximum of 5 days or 40 hours, whichever is greater, of paid sick leave in a 12-month period.
- Up to 40 hours, or five days, whichever is greater, of accrued and available sick leave each year is protected and may be used for any of the purposes stated in this Policy. The year is

measured beginning on January 1, or the employee's anniversary of hire date, whichever is later.

- An employee can only accrue paid sick leave up to a cap of ten days or 80 hours ongoing. Any unused accrued paid sick leave is not cashed out at the time of separation.

An employee may use accrued paid sick leave for one of the following reasons:

(a) Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child, parent; stepparent, spouse, registered domestic partner; grandparent; grandchild; sibling; "designated person" (each a "Family Member" and collectively "Family Members"); for purposes of this section "designated person" means a person identified by the employee at the time the employee requests the leave. An employee is limited to one designated person per twelve month period

or

(b) For an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.)

**Procedure:**

- An employee shall provide reasonable advance notification of their need to use accrued paid sick leave to their supervisor if the need for paid sick leave use is foreseeable (*e.g.*, doctor's appointment scheduled in advance). This can be accomplished by completing a sick leave time off request form. If the need for paid sick leave use is unforeseeable, the employee shall provide notice of the need for the leave to their supervisor as soon as is practicable.
- Paid sick leave will not be considered hours worked for purposes of overtime calculation. An employee will not receive compensation for unused accrued paid sick leave upon termination, resignation, retirement or other separation from employment from the City.
- If an employee separates from the City employment and is re-hired by the City within one year of the date of separation, previously accrued and unused paid sick leave hours shall be reinstated to the extent required by law. However, if a rehired employee had not yet worked the requisite 90 days of employment to use paid sick leave at the time of separation, the employee must still satisfy the 90 days of employment requirement collectively over the periods of employment with the City any paid sick leave can be used.

## 22.00 FMLA / CFRA LEAVE

### 22.01 PURPOSE:

The City provides family and medical care leave for eligible employees as required by State and federal law. Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions.

This Policy is supplemented by the Federal Family and Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). Unless otherwise stated in this Policy, "Leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the City will run each employee's FMLA and CFRA leaves concurrently.

### 22.02 DEFINITIONS

- (c) "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuously with each additional leave day taken.
- (d) "Single 12 Month Period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
- (e) "Family member" for FMLA means an employee's child, parent, and spouse. "Family member" for CFRA leave means an employee's child, parent, spouse domestic partner, grandchild, grandparent, sibling, and designated person.
- (f) "Child"
  - 1) Under the FMLA, "child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or stepchild. A child is "incapable of self care" if the child requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
  - 2) Under the CFRA, "child" means a child, including a child who is 18 year of age or older who is capable of self-care. An employee's child means a biological, adopted, foster, stepchild, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.
- (g) "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

- (h) “Spouse” means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below.
- (i) “Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.
- (j) “Grandparent” means a parent of the employee’s parent.
- (k) “Grandchild” means a child of the employee’s child.
- (l) “Sibling” means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.
- (m) “Designated person” means an individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employee is limited to one designated person per twelve-month period for CFRA leave.
- (n) “Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves:
  - 1) Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
  - 2) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
    - a. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
    - b. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
      - i. Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision by a health care provider, or by a

provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or

- ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
  - 3) Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a “serious health condition” only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave.
  - 4) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
    - i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
    - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
    - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
  - 5) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.
  - 6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- (o) “Health Care Provider” means:
- 1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
  - 2) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;



- 3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
  - 4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
  - 5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
  - 6) Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
- (p) "Covered active duty" means: 1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or 2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- (q) "Covered Service Member" means: 1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or 2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- (r) "Outpatient Status" means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- (s) "Next of Kin of a Covered Service Member" means the nearest blood relative other than the covered service member's spouse, parent, or child, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.
- (t) "Serious Injury or Illness" means: 1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered

service member incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating; or 2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

### **22.03 REASONS FOR LEAVE**

Leave is only permitted for the reasons listed below.

- (a) The birth of a child or to care for a newborn of an employee;
- (b) The placement of a child with an employee in connection with the adoption or foster care of a child;
- (c) Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
- (d) Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, or sibling who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA;
- (e) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of their position;
- (f) Leave for a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation
- (g) Under the CFRA only, leave for a variety of "qualifying exigencies" arising out of the fact that an employee's domestic partner is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA; or
- (h) Leave to care for a spouse, child, parent, or "next of kin" who is a covered service member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period.

### **22.04 EMPLOYEES ELIGIBLE FOR LEAVE**

An employee is eligible for leave if:

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

An employee is eligible for 12 weeks of parental leave to bond with a new child within one year of the child’s birth, adoption or foster care placement if:

- (a) The employee has been employed by the City for at least 12 months; and
- (b) The employee has worked for the City for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and

**22.05 AMOUNT OF LEAVE**

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

**22.06 MINIMUM DURATION OF LEAVE**

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

**22.07 PARENTS BOTH EMPLOYED BY THE CITY**

If both parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave, each employee will be entitled to 12 workweeks during any 12-month period.

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

## 22.08 EMPLOYEE BENEFITS WHILE ON LEAVE

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

## 22.09 SUBSTITUTION OF PAID ACCRUED LEAVES

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

To provide a uniform procedure for employees wishing to take a leave of absence because of a qualifying reason in accordance with the provisions of the Federal Family and Medical Leave Act of 1993 (FMLA), the California Family Rights Act of 1994 (CFRA), and Pregnancy Disability Leave (PDL) under the California Fair Employment and Housing Act (FEHA).

## **22.10 EMPLOYEE'S RIGHT TO USE PAID ACCRUED LEAVE CONCURRENTLY WITH FAMILY LEAVE**

An employee may use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical care leave. An employee is entitled to use sick leave concurrently with family and medical care leave for the employee's own serious health condition or that of the employee's family member as that term is defined in this section.

## **22.11 CITY'S RIGHT TO REQUIRE AN EMPLOYEE TO USE PAID LEAVE WHEN USING FMLA/CFRA LEAVE**

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

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

## **22.12 CITY'S RIGHT TO REQUIRE AN EMPLOYEE TO EXHAUST FMLA/CFRA LEAVE CONCURRENTLY WITH OTHER LEAVES**

If an employee takes a leave of absence for any purpose which also qualifies under both the FMLA and CFRA, the City will designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers who are on paid industrial injury leave.

## **22.13 CITY'S AND EMPLOYEE'S RIGHTS IF AN EMPLOYEE REQUESTS ACCRUED LEAVE WITHOUT MENTIONING FMLA OR CFRA**

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose.

However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the City may require the employee to exhaust accrued leave as described above.

## **22.14 MEDICAL CERTIFICATION/ RECERTIFICATION**

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

- (a) ***Employee's Own Serious Health Condition:*** Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the

serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of their position. Upon expiration of the time period the health care provider originally estimated that the employee needed for their own serious health condition, the employee must obtain recertification if additional leave is requested.

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

## **22.15 TIME TO PROVIDE A MEDICAL CERTIFICATION**

When an employee has provided at least 30 days' notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the City within the time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

## **22.16 CONSEQUENCES FOR FAILURE TO PROVIDE AN ADEQUATE OR TIMELY CERTIFICATION**

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

## **22.17 HUMAN RESOURCES DEPARTMENT'S REVIEW OF THE CONTENTS OF MEDICAL CERTIFICATION FOR EMPLOYEE'S OWN SERIOUS HEALTH CONDITION**

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

## **22.18 SECOND AND THIRD MEDICAL OPINIONS FOR EMPLOYEE'S OWN SERIOUS HEALTH CONDITION**

If the City has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. The City must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee.

## **22.19 INTERMITTENT LEAVE OR LEAVE ON A REDUCED LEAVE SCHEDULE**

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

## **22.20 EMPLOYEE NOTICE OF LEAVE**

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

## **22.21 REINSTATEMENT UPON RETURN FROM LEAVE**

- (a) **Reinstatement to Same or Equivalent Position:** Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.
- (b) **Date of Reinstatement:** If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of their readiness to return.



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

## 22.22 REQUIRED FORMS

Employees must complete the applicable forms to receive family and medical care leave. The forms are available from Human Resources.

### A. Employment During Leave

An employee on family care or medical leave may not accept employment with any other employer without the written consent of their Department Head and the Administrative Services Director. An employee who accepts such employment, without such written consent, will be deemed to have resigned from employment from the City. If an employee is deemed to have resigned due to their acceptance of employment with another employer, the City may recover any premiums paid to maintain the employee’s group health insurance coverage, as provided in this policy.

### B. Confidentiality of Records

The City shall keep records related to employees’ medical conditions, and the records of their family members, confidential.

### C. Filing a Complaint

If an employee believes they are a victim of illegal discrimination under the FMLA, the employee can explore filing a complaint with the U.S. Department of Labor by visiting their website at [www.dol.gov](http://www.dol.gov).

If an employee believes they are a victim of illegal discrimination under the CFRA and/or PDL, the employee can explore filing a complaint with the California Civil Rights Department (CRD) by calling 1-800-884-1684 or visiting their website at [www.calcivilrights.ca.gov](http://www.calcivilrights.ca.gov).

## **23.00 LEAVE BECAUSE OF PREGNANCY, CHILDBIRTH, OR RELATED MEDICAL CONDITION**

### **23.01 AMOUNT OF LEAVE**

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

### **23.02 NOTICE AND CERTIFICATION REQUIREMENTS**

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

### **23.03 COMPENSATION DURING LEAVE**

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

### **23.04 BENEFITS DURING LEAVE**

- 1) **Group Health Insurance:** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act.
- 2) **Sick and Vacation Leaves:** Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave.
- 3) **Employee Status during Leave:** The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any

collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

### **23.05 REINSTATEMENT**

- 1) Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave.
- 2) If the employee's original position is no longer available, the employee will be assigned to a comparable, open position.
- 3) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies. (See Section 27, Reasonable Accommodation and Interactive Process.)

## **24.00 OTHER MISCELLANEOUS LEAVES**

### **24.01 BEREAVEMENT LEAVE**

In the event of a death of a family member, employees may take up to five [5] paid working days of bereavement leave. For purposes of bereavement leave, "family member" means spouse, child (including child-in-law and stepchild), parent (including parent-in-law), sibling (including sibling-in-law), grandparent (including grandparent-in-law), grandchild (including grandchild in-law), domestic partner, and parent-in law.

Days of bereavement leave need not be consecutive but the bereavement leave shall be completed within three months of the date of the death of the family member.

If requested by the City, an employee shall provide documentation of the death of the family member within thirty [30] days of the first day of the leave. Satisfactory "documentation" of the death includes, but is not limited to a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency. Any documentation provided to the employer shall be maintained as confidential.

Special circumstances beyond this policy (such as other relatives residing within the employee's household) may be considered on a case-by-case basis and must be approved by the City Manager or designee. If a special circumstance bereavement leave is approved, the leave shall be charged to earned sick leave.

#### **24.02 REPRODUCTIVE LOSS LEAVE**

In the event of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction, employees may take up to five [5] days of unpaid leave. Although reproductive loss leave is unpaid, an employee may elect to use accrued and available sick leave, vacation, compensatory time off, or floating holiday that is otherwise available to the employee.

Days of reproductive loss leave need not be consecutive but the leave shall be completed within three months of the date of the event.

If an employee experiences more than one reproductive loss event withing a rolling 12-month period, the city is not obligated to grant a total amount of reproductive loss leave time in excess of 20 days.

#### **24.03 INDUSTRIAL INJURY LEAVE**

Employees who are injured in the course and scope of their employment shall be entitled to leave as provided by State law.

Non-public safety officer employees absent from work due to industrial injury shall receive full salary for up to 90 calendar days after the injury, provided medical documentation substantiates the industrial injury. After 90 days, if the employee is still absent from work due to industrial injury, he or she may use their accumulated vacation and/or sick leave to receive the difference between full salary and Workers' Compensation benefits. After the 90 days, if the employee is absent or receives medical treatment during the work day, sick or other accrued leave is to be used for the absence.

If a public safety officer is granted a disability retirement, the effective date of the retirement shall be the date on which his or her section 4850 benefits cease (whether at the end of one year or sooner), and the employee shall not be entitled to use accumulated sick leave to extend the date of his or her retirement.

#### **24.04 MILITARY LEAVE**

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

#### **24.05 DISCRETIONARY LEAVE WITH PAY**

City Manager may, in his or her discretion, grant a leave of absence with pay of up to 80 additional hours of time-off to full-time regular FTE employees provided they have exhausted their available leave balances and such additional leave is considered to be in the best interest of the city

## 24.06 DISCRETIONARY LEAVE WITHOUT PAY

The City Manager or designee may grant an employee an unpaid leave of absence for up to one (1) year whenever such leave is considered to be in the best interest of the service.

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

### Procedure

Employees needing more than two (2) weeks off from work for their own serious illness or injury; pre-scheduled surgery or medical procedure; absence due to a serious health condition of their child, spouse or parent; pregnancy disability; birth or adoption of a child; workers' comp injury leave or military leave must be placed on a formal Leave of Absence (LOA). Generally, the City will not place an employee on unpaid leave unless either of the following apply: (1) there is a leave law that requires leave without pay; or (2) the leave is to provide a reasonable accommodation.

Human Resources will provide the information, forms and guide the employee through the following process:

- 1) Provide employee leave of absence letter of explanation with **Request for Leave of Absence** and **Request for Information** forms to complete.
- 2) Employee completes forms and returns to Human Resources per required date on Information form.
- 3) HR reviews Request with employee and determines leave designation and compensation needs/requirements.
- 4) HR completes **Leave of Absence Approval/Conditions** form.
- 5) Leave of Absence Approval/Conditions form is provided to the City Manager or designee for review, signature and date.
- 6) Human Resources meets with employee to go over the Leave of Absence Approval/Conditions form and discuss the details and answer any questions the employee may have.
- 7) Human Resources and employee sign and date. A copy of the LOA paperwork goes to the employee.

Human Resources creates a **Personnel Action Form** indicating LOA designation, duration and what type of paid leave will be used. Copies go to the department, payroll and employee's medical file.

## **24.07 JURY DUTY AND COURT WITNESS LEAVE**

A leave of absence with pay may be granted by a Department Head to a regular employee who is called for jury duty during their regular assigned working hours. Any employee who is summoned to serve on a jury or subpoenaed or ordered to be a witness, must notify their supervisor or Department Head as soon as possible. Any employee who is released from jury service prior to the end of their scheduled work hours must report to work unless otherwise authorized by their supervisor.

An employee who is on an alternative work schedule is not eligible to receive leave of absence pay for jury duty on a non-working day. Any payment except travel pay, meals and lodging received by the employee as a juror shall be deposited in the City Treasury if the employee is on a jury leave of absence with pay. Employee must provide jury certification from the court and attach it to the timecard for the pay period they attended jury duty.

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

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

An employee who has requested to serve as a court witness because of the employee's employment with the City will be permitted to do so with approval from the employee's Department Head. Time spent serving as a court witness is considered work time. Any payment except travel pay, meals, and lodging received by the employee for such service shall be deposited in the City Treasury. Employee must provide certification from the court and attach it to the timecard for the pay period they attended witness duty.

## **24.08 OTHER COURT OR ADMINISTRATIVE PROCEEDING APPEARANCES LEAVES**

### **REGARDING CITY DUTIES**

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

### **REGARDING EMPLOYEE-INITIATED PROCEEDINGS**

Any employee, including a temporary, seasonal, or emergency employee, who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that they initiated, is not entitled to receive compensation for time spent related to those proceedings. An employee may

request to receive time off without pay, or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time.

#### **REGARDING CRIME VICTIM/ VICTIM FAMILY MEMBER COURT ATTENDANCE LEAVE**

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

#### **REGARDING CRIME VICTIM/ FAMILY MEMBER VICTIMS' RIGHTS PROCEEDINGS LEAVE**

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

#### **LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING TO OBTAIN RESTRAINING ORDERS OR INJUNCTIVE RELIEF**

Any employee, including a temporary, seasonal, or emergency employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or their child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee

has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or paid leave, or compensatory time off.

#### **LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING TO OBTAIN MEDICAL ATTENTION OR COUNSELING OR SAFETY PLANNING**

Any employee, including a temporary, seasonal, or emergency employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the City within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or personal leave, or compensatory time off.

#### **24.09 TIME OFF TO VOTE**

If any employee does not have sufficient time outside of working hours to vote, may request up to two (2) hours of paid leave either at the beginning or end of scheduled working hours to enable them to vote. The employee must request time off to vote from their supervisor at least two (2) days prior to Election Day.

#### **24.10 MANAGEMENT LEAVE POLICY**

The City provides 10 days (80 hours) of compensated leave to management personnel in recognition of uncompensated time required to perform the responsibilities of their positions.

Management employees are called upon to commit more time than normal to perform the duties of their position. Management Leave provides these employees with the flexibility of taking additional days off during the year.

The following are the major elements of this program.

- (a) Management Leave is granted to existing exempt employees in the first full pay period of each fiscal year.
- (b) Exempt employees hired or promoted during a fiscal year are eligible for a prorated portion of the annual allotment. The prorated amount will be based on the number of pay dates remaining in the fiscal year at the time of hire and will be rounded to the nearest week.



(c) Employees may cash-out their management leave balance at the end of each fiscal year. Employees must take a minimum of one week (40 hours) off of Vacation or Management Leave to be eligible for cash out. The City Manager may grant an exception to the 40 hours of leave taken requirement for employees hired within 6 months of the cash out date.

(d) Employees who terminate employment will be paid for any remaining management leave balance.

(e) The managers included in this policy are:

Unrepresented Department Head classifications; and

Unrepresented Management classifications; and

Exempt Unrepresented Confidential classifications; and

Exempt LAMEA Classifications; and

Any other FLSA Exempt Classification listed on the City of Los Altos Pay Rate Schedule

## **24.11 SCHOOL-RELATED LEAVES**

### **SCHOOL OR LICENSED DAY CARE ACTIVITY LEAVE**

Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed child care facility, shall be allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to: participate in activities of their child's school or licensed child care facility; find, enroll, or reenroll a child in a school or with a licensed child care provider; or to pick up a child due to notice to their supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, personal leave or compensatory time off. The employee must provide documentation from the school or licensed childcare facility as verification that the employee participated in school or child care facility activities on a specific date and at a particular time. If both parents, guardians or grandparents having custody work for the City at the same City work site, only the first parent requesting will be entitled to leave under this provision.

### **CHILD SUSPENSION LEAVE**

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

## **25.00 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

The City affords equal employment opportunity for all qualified employees and applicants to all terms of employment with the City, including, but not limited to, compensation, hiring, training, promotion, transfer, discipline, and termination.

The City prohibits discrimination against employees and applicants for employment on the basis of the employee or applicant's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or any other basis protected by law.

Any employee, volunteer, or applicant who believes they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the Equal Employment Opportunity Commission ("EEOC"), or the California Civil Rights Department ("CRD").

## **26.00 POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION; COMPLAINT PROCEDURE**

### **26.01 PURPOSE**

The City is committed to preventing discrimination, harassment, and retaliation in the workplace.

The City has zero tolerance for any conduct that violates this policy. Conduct need not violate either federal or state law in order to constitute a violation of this policy.

A single act by a City employee may constitute a violation of this policy and provide sufficient grounds for the City to discipline the City employee.

This policy establishes a complaint procedure by which the City will investigate and resolve complaints of discrimination, harassment, and retaliation by and against City covered individuals. The City encourages all covered individuals to report any conduct that they believe violates this policy as soon as possible.

The City expressly prohibits any retaliation against an employee because they filed or supported a complaint or because they participated in the investigation or complaint resolution process. Individuals found to have retaliated against an employee in violation of this policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

### **26.02 COVERED INDIVIDUALS AND SCOPE OF POLICY**

This policy covers the following individuals: applicants for employment at the City; City employees regardless of rank or title; appointed officials of the City; interns; volunteers; and contractors.

This policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

## **26.03 DEFINITIONS**

### **Protected Classification**

“Protected Classification” includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law.

This policy prohibits discrimination, harassment, or retaliation for the following reasons: (1) an individual’s protected classification; (2) the perception that an individual has a protected classification; or (3) the individual associates with a person who has or is perceived to have a protected classification.

### **Protected Activity**

Protected activity includes, but is not limited to, the following activity: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this policy; (4) opposing violations of this policy; or (5) participating in an investigation under this policy.

### **Discrimination**

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

### **Harassment**

This policy prohibits harassment of a covered individual because of the individual’s actual or perceived classification. Harassment includes, but is not limited to, the following conduct:

- (a) Derogatory, offensive, or inappropriate speech, such as epithets, slurs or stereotypical comments or verbal propositions made on the basis of the individual’s protected classification. This includes, but is not limited to, comments, stories, and jokes about appearance, dress, physical gestures, gender identification, and race.
- (b) Physical acts such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes, but is not limited to, pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- (c) Visual acts, such as derogatory, offensive, or inappropriate posters, cartoons, emails, pictures or drawings related to protected classification.

- (d) Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

#### **26.04 OTHER EXAMPLES OF CONDUCT THAT MIGHT CONSTITUTE HARASSMENT**

Harassment includes conduct that another reasonable individual who is a member of the protected classification would find unwelcome or unwanted. Harassment may include the following:

- (a) Conduct that is not intended to harass. Conduct may violate this policy if the conduct is directed at or implicates a protected classification and the recipient finds the conduct to be offensive or inappropriate, even if its well-intentioned conduct (e.g., gifts, over-attention, endearing nicknames, hugs).
- (b) Conduct to which the recipient appears to have consented. The City does not recognize as a defense that the recipient appeared to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest offensive or inappropriate conduct for many legitimate reasons, including, but not limited to, the need to avoid being perceived as insubordinate or to avoid being ostracized or subject to retaliation.
- (c) Conduct about which no employee previously complained. The fact that no employee previously complained about the same or substantially similar conduct does not mean that the conduct is offensive or appropriate nor does that fact preclude an employee from complaining about such conduct if it is repeated.
- (d) Conduct witnessed by a third party or about which third party learns, even if they did not witness such conduct. Visual, verbal, or physical conduct between two (2) people who do not find conduct to be offensive or inappropriate may constitute harassment if a third party witnesses such conduct or learns about the conduct later and finds the conduct to be offensive or inappropriate. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- (e) Conduct can constitute harassment even if the individual has no intention to harass. Conduct that may be well-intentioned (e.g., gifts, over-attention, endearing nicknames, and hugs) may nevertheless constitute harassment if the conduct is directed at, or implicates a protected classification, and if the individual finds such conduct inappropriate or offensive.

#### **26.05 RETALIATION**

Retaliation occurs when an employer takes adverse action against a covered individual because of the individual's protected activity as defined in this policy.

“Adverse action” may include, but is not limited to, the following actions: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination; (4) spreading rumors about a complaint or about someone who supports or assists the complainant or who participates in the investigation; (5) shunning or avoiding an individual who reports harassment or discrimination; or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

#### **26.06 ABUSIVE CONDUCT**

“Abusive conduct” is malicious conduct that a reasonable person would find offensive, and unrelated to an employer’s legitimate business interests. “Abusive Conduct” may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive conduct, unless especially severe or egregious.

Abusive conduct violates this policy and may subject an employee to discipline.

#### **26.07 COMPLAINT PROCEDURE**

A covered individual who believes they have been subjected to discrimination, harassment or retaliation may make a complaint, either orally or in writing, to any supervisor, manager, their Department Head or the City Manager or designee, without regard to any chain of command.

Any supervisory or management employee who receives a harassment complaint should immediately notify the City Manager or designee. Upon receiving notification of a complaint regarding discrimination, harassment or retaliation, the City Manager or their designee will complete and/or delegate the following steps:

- (a) Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with the following individuals: (1) the complainant; (2) the accused (*i.e.*, the subject of the investigation); (3) witnesses to the conduct at issue in the complaint; and (4) other persons who have relevant knowledge concerning the allegations in the complaint.
- (b) Review the factual information gathered during the investigation to determine whether the alleged conduct violated the policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- (c) Prepare a summary report of the determination as to whether the conduct violated this policy and provide such report to the appointing authority (*i.e.*, City Manager). If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.

- (d) If conduct in violation of this policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- (e) Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

If the City Manager is accused, or is a witness to the events at issue, an individual with higher authority will complete and/or delegate the above enumerated stated.

### **26.08 PROACTIVE APPROACH**

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

### **26.09 RIGHT TO FILE REPORT WITH OUTSIDE ADMINISTRATIVE AGENCIES**

An individual possesses the right to report workplace harassment, discrimination or retaliation to the EEOC and/or the CRD.

These administrative agencies provide a complaint process as well as certain legal remedies where the applicable agency determined that a violation of the law occurred.

The nearest EEOC and CRD offices are listed on <https://www.eeoc.gov/field-office> and <https://www.calcivilrights.ca.gov/locations/>. Employees may also check the posters that are located on City bulletin boards for EEOC and CRD office locations and telephone numbers.

### **26.10 CONFIDENTIALITY**

The City will make every effort to assure the confidentiality of complaints made under this policy to the greatest extent allowed by law. However, complete confidentiality may not be possible because of the City's need to investigate the complaint and the due process rights of the subject of the complaint.

The City expressly prohibits an employee who is interviewed during the course of an investigation from attempting to influence other employees, including employees who may have witnessed the underlying conduct at issue, while the investigation is open and ongoing.

An employee may discuss their interview with a designated representative from the employee's employee organization and/or the employee's legal representative. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

### **26.11 RESPONSIBILITIES**

Each non supervisor or non-manager is responsible for the following:

- 1) Treating all individuals in the workplace or on City worksites with respect and consideration.
- 2) Modeling behavior that conforms to this policy.
- 3) Participating in period trainings on personnel matters.
- 4) Cooperating with the City's investigation pursuant to this policy by responding fully and truthfully and in a timely manner to all questions posed during the investigation.
- 5) Taking no action to influence the complainant or any potential witness while the City's investigation is ongoing.
- 6) Reporting any act they believe in good faith constitutes harassment, discrimination, or retaliation as defined in this policy, to their immediate supervisor or manager, or Department Head, or the City Manager or designee.

In addition to the responsibilities listed above, each manager and supervisor is responsible for:

- 1) Informing employees under their supervision of this policy.
- 2) Taking all steps necessary to prevent harassment, discrimination, and retaliation from occurring, including, but not limited to, monitoring the work environment and taking immediate and appropriate action to stop violations (e.g., removing inappropriate pictures or correcting inappropriate language).
- 3) Receiving and responding to complaints in a uniformly fair and serious manner.
- 4) Documenting the steps taken to resolve such complaints.
- 5) Following up with those who have complained to ensure that the offensive conduct about which they complained has stopped and that there have been no reprisals or retaliation or threats of reprisal or retaliation.
- 6) Informing those who complain about harassment and/or discrimination of their option to contact the EEOC or CRD and file a complaint about such activity.
- 7) Assisting and/or advising employees regarding this policy.
- 8) Assisting in the investigation of complaints involving subordinate employee(s).
- 9) Where a complaint is substantiated, assisting in the development of a recommendation concerning an appropriate corrective or disciplinary action, if requested by superiors or Human Resources, in accordance with these Rules.
- 10) Implementing appropriate corrective or disciplinary actions, if requested by superiors or Human Resources.
- 11) Reporting potential violations of this policy to the City Manager, regardless of whether an employee complained about such conduct.
- 12) Participating in period training and scheduling employees for training.

## **27.00 REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS**

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

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

### **27.01 SUPPORTING DOCUMENTATION OR CERTIFICATION**

#### **Reasonable Medical Documentation of Disability**

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

#### **Medical Certification Indicating the Need for A Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions**

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

#### **Certification of Victim Status**

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

- (a) A written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and



- (b) A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

## **27.02 FITNESS FOR DUTY EXAMINATIONS**

### **Applicants**

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

### **Current Employee**

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

- (a) The employee's ability to perform one or more essential functions of their job has declined; or
- (b) Could cause a reasonable person to question whether an employee is still capable of performing one or more of their essential job duties, or is still capable of performing those duties in a manner that does not pose an unnecessary risk to the health and safety of the employee or others.

### **Role of Health Care Provider**

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

- (a) The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;

- (b) The applicant or employee is fit to perform essential job functions;
- (c) Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- (d) There are any accommodations that would enable the employee to perform essential job functions; and
- (e) The employee's continued employment poses a threat to the health and safety of the employee or others.

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

#### **Authorization for Use of Medical Information**

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

#### **Medical Information from the Employee or Applicant**

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

### **27.03 INTERACTIVE PROCESS**

#### **When to Initiate the Interactive Process**

The City Manager or designee will initiate the interactive process when:

- (a) An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s); or
- (b) The City otherwise becomes aware of the need for an accommodation through a third party (e.g. a doctor's note requesting an accommodation), or by observation of the employee's work; or
- (c) The City becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation; or

- (d) An employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider; or
- (e) An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave; or
- (f) An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for their safety at work; or
- (g) An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
- (h) An employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices.

### **Interactive Communication**

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

### **Potential Accommodations for Applicants or Employees With Disabilities**

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

- Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;
- Job restructuring;
- Part-time or modified work schedules;
- Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;

- Preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system;
- Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or
- Reassignment to a temporary position, if the individual agrees.

### **Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions**

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

- Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
- Change in or restructuring of work duties, such as modifying lifting requirements;
- Providing more frequent breaks;
- providing seating;
- Time off for medical appointments;
- Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. (However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four month pregnancy disability leave entitlement.)

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

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

- Transfer, reassignment, modified schedule;
- Change in work telephone number;
- Change in location of work station;

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

### **Potential Accommodations for Religious Creed, Religious Dress Practice, and Religious Grooming Practice**

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

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

### **Determination**

After the interactive process communications, the City Manager or designee will review the information received, and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without creating unreasonable risk to the health and safety of themselves or others; and if the accommodations would pose an undue hardship on City finances or operations. The City Manager or designee will inform the applicant or employee of the determination in writing. The City Manager or designee will use discretion based upon the particular facts of each case.

### **Access to Medical Information Regarding Fitness for Duty**

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the City Manager or designee, the City's legal counsel, first aid and safety personnel in case of

emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law.

## **28.00 LACTATION BREAKS AND ACCOMMODATION**

### **28.01 LACTATION BREAK TIME AND LOCATION**

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

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

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

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

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

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

### **28.02 LACTATION ACCOMMODATION**

An employee may make a request for lactation accommodation, either orally or in writing, to the City Manager or designee.

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

An employee who does not believe that the City is providing appropriate lactation accommodation should immediately inform the City Manager or designee.

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

### **28.03 STORAGE OF EXPRESSED MILK**

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

## **29.00 WHISTLEBLOWER PROTECTION**

### **29.01 POLICY**

The City prohibits all of the following:

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

### **29.02 POLICY COVERAGE**

This Policy governs and protects City officials, officers, employees, seasonal/temporary/emergency employees, or applicants for employment.

## 29.03 DEFINITIONS

(a) **“Protected activity”** includes any of the following:

- Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation.
- Participating in or cooperating in good faith with a local, federal or state enforcement agency that is conducting an investigation in to alleged unlawful activity.
- Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.
- Associating with another covered individual who has or is engaged in any of the protected activities enumerated here.
- Making or filing in good faith and with reasonable cause an internal complaint with the City regarding alleged unlawful activity.
- Providing informal notice to the City regarding alleged unlawful activity.
- Calling a governmental agency’s “Whistleblower hotline” in good faith.
- Filing a written complaint under penalty of perjury that City has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety.
- Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation.

(b) **“Adverse action”** may include, but is not limited to, any of the following:

- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.
- Refusing to hire an individual because of actual or potential protected activity.
- Denying promotion to an individual because of actual or potential protected activity.
- Taking any form of disciplinary action because of actual or potential protected activity.
- Extending a probationary period because of actual or potential protected activity.
- Altering work schedules or work assignments because of actual or potential protected activity.
- Condoning hostility and criticism of co-workers and third parties because of actual or protected activity.



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

#### **29.04 COMPLAINT PROCEDURE**

An applicant, employee, or seasonal/temporary/emergency employee who feels they have been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in the City’s Policy Against Discrimination, Harassment or Retaliation (Section 26) so that the complaint can be resolved fairly and quickly. Supervisors and Managers have the same responsibilities defined in the Policy Against Discrimination, Harassment or Retaliation.

### **30.00 WORK SCHEDULES, WORK WEEK, OVERTIME**

#### **30.01 CITY HOURS OF OPERATION**

All offices of the City shall be kept open for business from 8:00 a.m. until 5:00 p.m. on all weekdays of the year, except City-recognized holidays.

#### **30.02 WORK SCHEDULES**

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

#### **30.03 WORK WEEK**

The workweek begins at 12:00 a.m. on Saturday and ends at 11:59 p.m. on Friday, except for employees with otherwise designated workweeks, such as employees on 9/80 schedules or sworn police officers.

#### **30.04 OVERTIME**

##### **a) Overtime Defined**

Overtime is all hours an overtime-eligible employee actually works over 40 hours in their designated work week. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating FLSA overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so.

Unless the City Manager or designee specifies otherwise in writing, overtime-eligible employees may not remotely access City equipment, resources, or email.

##### **b) Prior Approval Required for Overtime**

Overtime-eligible employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by the City Manager or

designee. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.

**c) Accurate Time Reporting to Nearest Quarter Hour**

All employees must accurately report all work time to the nearest fifteen (15) minutes.

**30.05 NO VOLUNTEERING OF WORK TIME**

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

**30.06 COMPENSATORY TIME OFF**

An overtime-eligible employee may opt to accrue compensatory time-off ("CTO") in lieu of cash payment for overtime worked if their supervisor agrees prior to overtime work being performed. All accrued and unused compensatory time off shall be paid out in cash at the end of the calendar year in which it is earned.

- (a) **Accrual Rate:** CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of 80 hours at any given time.
- (b) **Employee Request to Use CTO:** The City will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested.
- (c) **Value of CTO Cash Out:** During employment, CTO is cashed out at the employee's then current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays). Employees separating from City service shall be compensated for all accrued, unused compensatory hours at their final FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher.

**30.07 ALTERNATIVE WORK SCHEDULES**

**Policy Overview:**

Upon written request by an employee, the Department Head (or designee) along with the

employee's immediate supervisor/manager shall consider allowing the employee to work an alternative work schedule. This schedule will only be approved if it maintains established levels of service and is transparent to the public. In addition, this scheduling will be subject to the conditions, limitations and procedures outlined in these Rules.

Work schedules have been and will continue to be determined by City Departments based upon the need to provide service to the public. These schedules will continue to be administered by the Department. The Department Head (or his or her designee) will work with the employee's immediate supervisor/manager and the employee to determine the appropriate alternative work schedule, break times, and work schedules.

### **Alternative Work Schedule Options:**

#### **4/10 Work Schedule**

A 4/10 work schedule consists of four (4) workdays of ten (10) hours within a seven (7) day work week. For this schedule, the workweek begins Sunday at 12:00 a.m. and ends Saturday at 11:59 p.m.

#### **9/80 Work Schedule**

A 9/80 is a work schedule of eighty (80) work hours, scheduled over the course of nine (9) workdays during a single biweekly pay period. The typical 9/80 schedule consists of eight (8) workdays of nine (9)-hours, with one eight (8)-hour workday. For this schedule, the workweek shall begin exactly four (4) hours after the start time of the day of the week that the employee's eight (8) hour workday is scheduled and will end the following 8-hour day, four hours after your work shift start time.

Employees shall be entitled to either a thirty minute or a one (1) hour unpaid meal period during each eight (8), nine (9), or ten (10) hour work shift unless an employee's labor agreement or existing policies at the Department level specify otherwise. Whenever possible, this meal period shall be scheduled at the middle of each shift.

Breaks are considered paid time and cannot be combined with the lunch period to shorten the work schedule unless an employee's labor agreement specifies otherwise. Any other schedule modifications will not be permitted without prior approval by the employee's Supervisor/manager.

### **Procedure:**

1. An employee scheduled to work an alternative work schedule or an employee requesting to work an alternative work schedule shall submit an "Alternative Work Schedule Form" to his or her immediate supervisor and to the department director for approval. Human Resources must receive a copy of the approved form.
2. Upon receipt of an employee's written request to work an alternative schedule, the department director will work with the employee's immediate supervisor/manager to determine whether the department can approve the employee's alternative work request.

- a. In determining whether the department can approve the request, the department shall first consider its obligation to the public.
  - b. If the department head determines that the alternative work schedule will not cause harm to the public service, he or she shall next consider whether the department can adequately manage the requested alternative schedule.
  - c. Finally, the department director will consider and allow the requested alternative schedules as long as it does not diminish the quality of the employee's work, the availability of City services, or result in increased costs.
3. In certain circumstances, and depending on workload and department initiatives, the department director (or his or her designee) may take the employee off their alternative work schedule unless an employee's labor agreement specifies otherwise. This may occur due to public service needs, the department's ability to manage the employee, the employee's performance, or productivity, or for any other lawful reasons. In such instances, the department director (or his or her designee) will make an effort to notify the employee ahead of time of any scheduling change.
  4. Employees working an alternative work schedule cannot move their regular day off or "flex" or adjust work hours forward or backward on the alternating regular workday without written approval by their supervisor.
  5. Starting and ending times for the workday for an employee working an alternative work schedule continue to be subject to approval by the employee's supervisor/manager. The supervisor / manager may adjust the employee's start and end times from time to time, as necessary to provide adequate staffing and coverage.
  6. Integration with holidays and paid leave:
    - a. When a holiday falls on an employee's regularly scheduled ten (10) hour workday, the employee shall receive nine (9) hours of paid holiday. When a holiday falls on an employee's regularly scheduled nine (9) hour workday, the employee shall receive nine (9) hours of paid holiday. When a holiday falls on an employee's regularly scheduled eight (8) hour workday, the employee shall receive eight (8) hours of paid holiday.
    - b. When a holiday falls on an employee's non-working day, the employee will observe the holiday the day before the actual holiday and receive nine (9) hours of paid holiday in accordance with the employee's regularly scheduled hours for those days.
    - c. If the observed holiday from section 6b also lands on another holiday (For example during Thanksgiving or Christmas Eve), the employee shall receive nine (9) hours of holiday pay the day before the observed holiday in accordance with the employee's regularly scheduled hours for those days. (For example, if an employee's regular day off is a Friday and Thursday is Thanksgiving and Friday is the Day After Thanksgiving, the employees would maintain their non-working Friday and receive nine (9) hours of holiday pay on Wednesday and Thursday instead of receiving holiday pay on Thursday and Friday).
    - d. If the observed holiday from section 6b lands on a weekend, the employee will observe the

holiday on the last workday of the preceding work week (For example, if an employee's regular day off is a Monday and a holiday falls on that Monday, the employee will maintain their non-working Monday and will observe the holiday the preceding work week and receive nine (9) hours of holiday pay that day.

- e. When an employee's non-working day falls during the city's holiday closure, the day after Christmas and before New Year's Day, no additional observation rules will apply.
- f. Employees on a 4/10 Work Schedule will need to use either floating holiday, vacation, compensatory time, or management leave to cover the difference between their regularly scheduled hours and the compensated time received for holidays unless an employee's labor agreement specifies otherwise. Alternatively, an employee may work for 1 hour to cover the difference if approved by their supervisor.
- g. Employees who take a full day off on a ten (10) hour workday will be charged ten (10) hours of leave. Employees who take a full day off on a nine (9) hour workday will be charged nine (9) hours of leave. Employees who take a full day off on an eight (8) hour workday will be charged eight (8) hours of leave.
- h. To ensure that employees on different work schedules do not receive disproportionate amounts of holiday hours per year, employees on a 9/80 Work Schedule or employees on a 4/10 Work Schedule, will only accrue one (1) nine (9) hour floating holiday in the first full pay period in July unless an employee's labor agreement specifies otherwise.

## 7. Overtime provisions

- a. Overtime if any, must be approved in advance by the immediate supervisor.
- b. Overtime for eligible non-exempt employees will be paid for all hours worked in excess of forty (40) hours in the employee's seven (7) day workweek or as defined in the employee's labor agreement.

## **31.00 SEPARATION FROM EMPLOYMENT FOR REASONS OTHER THAN LAYOFF**

### **31.01 TYPES OF SEPARATION**

Separations of employees from positions in the City employment for reasons other than layoff are designated as one of the following types:

- Probationary Release;
- Release of temporary/seasonal/emergency employee;
- Resignation
- Retirement
- Job Abandonment

- Non-disciplinary separation;
- Disciplinary separation.

### **31.02 PROBATIONARY RELEASE**

Probationary employees serving in their initial probationary period with the City may be released at any time during the probationary period as recommended by the City Manager or designee, regardless of cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance.

### **31.03 RELEASE OF TEMPORARY, SEASONAL, EMERGENCY EMPLOYEES**

A temporary/seasonal/emergency employee may be separated at any time, without cause, and regardless of right to any appeal or grievance.

### **31.04 RESIGNATION**

An employee may resign from municipal service in good standing by giving two [2] weeks written notice to their Department Head, stating the effective date and the reasons for leaving. Failure to do so may be cause for denying future employment by the City. A resignation becomes final when the Department Head accepts the resignation in writing. Once the resignation has been accepted, it is final and irrevocable. A resignation can be accepted by the Department Head even if it is submitted less than two weeks prior to the planned resignation date.

The resignation shall be forwarded to the City Manager with the Department Head's statement as to the employee's performance and other pertinent information concerning the resignation.

### **31.05 RETIREMENT**

An employee planning to retire may provide a written notice to the City Manager prior to the effective date of the retirement. A notice of retirement becomes final when the City Manager or designee accepts the notice of retirement in writing. Once a notice of retirement has been accepted, it is final and irrevocable.

### **31.06 JOB ABANDONMENT**

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

### **31.07 NON-DISCIPLINARY SEPARATION**

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect. Any for cause employee has the opportunity for a post-separation appeal as described in Section 34.01 of these rules, Causes for Discipline and Procedures.

### **31.08 DISCIPLINARY SEPARATION**

A for cause employee may be separated for disciplinary reasons pursuant to the policy and procedures in Section 34.01 of these rules, Causes for Discipline and Procedures

### **31.09 RETURN OF CITY PROPERTY**

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

### **31.10 JOB REFERENCES/VERIFICATION OF EMPLOYMENT**

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

## **32.00 LAYOFF; REDUCTION IN FORCE**

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

### **32.01 ORDER OF LAYOFF**

Employees in a classification selected for layoff will be laid off in the following order: emergency, temporary/seasonal, part-time, probationary and then regular, full-time permanent employees. Regular, full-time permanent employees in a classification selected for layoff will be released in inverse order of seniority. Seniority for purposes of layoff is determined based on the length of employment in the affected classification and in higher classifications within the same department. Length of employment includes all days of employment in attendance at work and on authorized or legally-protected leaves of absence. Length of service does not include unauthorized periods of leave or suspension or layoff. If two or more employees in a classification to be laid off have the same length of employment, the employee to be laid off will be decided by lottery.

### **32.02 RE-EMPLOYMENT LISTS**

The names of probationary and regular employees who have been laid off shall be placed on appropriate re-employment lists in the order of their competence, from highest to lowest. Re-employment lists shall be used as a basis for reinstatement of former employees in accordance with Section 23.05 of these rules and regulations.

### **32.03 NOTIFICATION OF LAYOFF**

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

### **32.04 DISPLACEMENT**

For-cause employees who are noticed for layoff and who have held for-cause status in a lower classification within the same classification series in the same department, may displace employees in the lower classification provided that the employee seeking to displace has greater length of employment in the lower classification than the incumbent in the lower classification. Employees in the lower classification will be displaced in inverse order of their length of employment in the classification. Any employee who seeks to displace another must provide the City Manager or designee with written notice no later than five (5) working days after the date of the notice of layoff.

### **32.05 TRANSFER**

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

### **32.06 APPEAL**

An employee who has been noticed for layoff, and who has any questions or concerns about the layoff decision or process may make an appointment to be heard by the City Manager for an informal pre-layoff review. The employee must request this appeal in writing within five (5) business days from the date of the notice of layoff. The City Manager's decision is final.

## **33.00 GRIEVANCE PROCEDURE**

If a represented employee's memorandum of understanding contains a grievance procedure, their MOU grievance procedure applies. This grievance procedure applies to all other employees.

### **33.01 PURPOSE**

The Grievance Procedure is established to provide a consistent process for the fair and expeditious resolution of grievances.



### **33.02 DEFINITION OF A GRIEVANCE**

A grievance is an allegation by one or more employees that there has been a misinterpretation, misapplication, or violation of these Rules. However, Section 26 (Discrimination) and Section 34 (Discipline) are not within the scope of the grievance procedure.

### **33.03 TIME LIMITATIONS**

Should the grievant fail to appeal a decision within the time limits set forth below, the grievance will be considered resolved and the grievant will have waived all rights to appeal.

### **33.04 STEPS IN THE GRIEVANCE PROCESS**

#### **Step One: Immediate Supervisor**

An employee(s) who alleges a violation of these Rules must present the grievance to their immediate supervisor within ten (10) calendar days of the occurrence giving rise to the grievance or the time within which the grievant knew or should have known of the occurrence.

The supervisor will investigate the alleged grievance. The supervisor shall provide a decision on the grievance within ten (10) calendar days from the date the employee presented the grievance.

#### **Step Two: Department Head**

If the employee(s) is not satisfied with the decision on the Step One grievance, the employee(s) must present the grievance to the Department Head within ten (10) calendar days from the response from the supervisor at Step One.

The Step Two grievance must in writing and must (1) state the section(s) of the Rules alleged to be violated; (2) provide sufficient facts to establish that a violation of the identified section(s) of the Rules has occurred; and (3) state the desired remedy to resolve the grievance.

If the Department Head is unable to address the grievance due to the nature of the grievance, the Department Head may advance the grievance to Step Three by presenting it to Human Resources within five days from receiving the written grievance. Otherwise, the Department Head or designee will investigate the alleged grievance. The investigation will include a meeting with the grievant. The Department Head or designee shall provide a written decision on the grievance to the grievant within ten (10) calendar days from the date the Step Two written grievance was received.

Once a Step Two grievance has been submitted, the grievant may not initiate another grievance concerning the issue, incident, or action upon which the grievance is based.

#### **Step Three: Personnel Review**

If the grievant is not satisfied with the decision on the Step Two grievance, the grievant must present the grievance in writing to the Human Resources Manager within ten (10) calendar days of the grievant's receipt of the decision from the Department Head at Step Two.

The Step Three grievance must (1) state the section(s) of the Rules alleged to be violated; (2) provide sufficient facts to establish that a violation of the identified section(s) of the Rules has occurred; (3) provide as much narrative as possible as to why the employee is not satisfied with the decision on the Step Two grievance; and (4) state the desired remedy to resolve the grievance. The Step Three grievance must attach the written decision of the Department Head at Step Two.

The Human Resources Manager or designee shall investigate the alleged grievance. The Human Resources Manager or designee shall provide a written decision on the grievance to the grievant within fifteen (15) calendar days from receipt of the Step Three written grievance.

#### **Step Four: City Manager Review**

If the grievant is not satisfied with the decision on the Step Three grievance, the grievant must present the grievance in writing to the City Manager within ten (10) calendar days of the grievant's receipt of the decision from the City Manager at Step Three.

The Step Four grievance must (1) state the section(s) of the Rules alleged to be violated; (2) provide sufficient facts to establish that a violation of the identified section(s) of the Rules has occurred; (3) provide as much narrative as possible as to why the employee is not satisfied with the decision on the Step Three grievance; and (4) state the desired remedy to resolve the grievance. The Step Four grievance must attach the written decision of the Human Resources Manager at Step Three.

The City Manager or designee shall investigate the alleged grievance. The City Manager or designee shall provide a written decision on the grievance to the grievant within thirty (30) calendar days from receipt of the Step Four written grievance. The City Manager's decision is final.

### **34.00 DISCIPLINE: CAUSES, TYPES, PROCEDURE, APPEALS**

#### **34.01 CAUSES FOR DISCIPLINE**

The below is a non-exhaustive list of reasons an employee may be disciplined:

- (a) Violation of any department rule, City policy, City regulation, ordinance, or resolution;
- (b) Absence without authorized leave or tardiness;
- (c) Excessive absenteeism and/or tardiness as defined by the employee's Department Head, and/or these Rules;
- (d) Use of leave from work in a manner not authorized or provided for under City Rules;
- (e) Making any false representation or statement, or making any omission of a material fact;
- (f) Providing wrong or misleading information or other fraud in securing appointment, promotion, or maintaining employment;
- (g) Unsatisfactory job performance;

- (h) Inefficiency;
- (i) Damaging any City property, equipment, resource, or vehicle, or the waste of City supplies through negligence or misconduct;
- (j) Insubordination; or insulting or demeaning the authority of a supervisor or manager;
- (k) Dishonesty;
- (l) Theft;
- (m) Violation of the City's or a department's confidentiality policies, or disclosure of confidential City information to any unauthorized person or entity;
- (n) Misuse or unauthorized use of any City property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, City communication systems, City vehicles or intellectual property;
- (o) Mishandling of public funds;
- (p) Falsifying or tampering with any City record, including work time or financial records;
- (q) Discourteous or offensive treatment of the public or other employees;
- (r) Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance;
- (s) Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
- (t) Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the City;
- (u) Any conduct that impairs, disrupts or causes discredit to the City, to the public service, or other employee's employment;
- (v) Harassment, retaliation or discrimination in violation of law or City Policy;
- (w) Engaging in sexual conduct while on duty and/or in the workplace;
- (x) Reckless or unsafe conduct;
- (y) Working overtime without prior authorization or refusing to work assigned overtime;
- (z) Carrying firearms or other dangerous weapons while on duty when not required by job duties; or
- (aa) Horseplay or fighting.

### **34.02 TYPES OF COUNSELING, REPRIMANDS AND DISCIPLINE**

The following are types of discipline which the City may impose:

- (a) **Counseling Memo:** A counseling memo will be provided to an employee to identify: a

failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below. A counseling memo is not considered "punitive action" under the Public Safety Officers Procedural Bill of Rights Act.

- (b) **Verbal Reprimand:** A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.
- (c) **Written Reprimand:** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be retained in the employee's personnel file and documented in the performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below. The employee has the right to have their written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the City Manager or designee within 14 days after the reprimand is received.
- (d) **Suspension Without Pay:** The City may suspend an employee from their position without pay for cause. Documents related to a suspension without pay shall become part of the employee's personnel file when the suspension is final. A suspension without pay will be documented in the performance evaluation. A suspension without pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will be suspended without pay only as authorized by the FLSA.
- (e) **Reduction in Pay or Paid Leave:** The City may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of three forms: 1) a decrease in salary to a lower step within the salary range; 2) a decrease in salary paid to an employee for a fixed period of time; or 3) loss of accrued paid vacation or administrative leave, floating holiday, or compensatory time off. Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final. The reduction in pay shall be documented in the performance evaluation. A reduction in pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.
- (f) **Demotion:** The City Manager or designee, after consulting the Department Head

concerned, may demote an employee from their position to a lower position for cause. No employee shall be demoted to a position for which the employee does not possess the minimum qualifications. Documents related to a demotion shall become part of the employee's personnel file when the demotion is final. A demotion will be documented in the performance evaluation. A demotion is subject to the discipline and discipline appeal procedures described below.

- (g) **Dismissal:** The City may dismiss an employee from their position for cause. Any employee who has been dismissed is entitled to receive a written statement of the reasons for such action, and to a hearing if they request. Documents related to the dismissal shall become a part of an employee's personnel file when the dismissal is final. A dismissed employee is entitled to the discipline and discipline appeal procedures described below. The City Manager, City Clerk, City Attorney, and the City Treasurer may be dismissed only by the City Council.

### 34.03 DISCIPLINE PROCEDURES

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

- (a) **"Skelly" Notice of Intended Disciplinary Action to Employee:** A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:
- The level of the intended discipline;
  - The specific charges that support the intended discipline;
  - A summary of the facts that show that the elements of each charge at issue in the intended discipline;
  - A copy of all materials upon which the intended discipline is based;
  - Notice of the employee's right to respond to the Department Head or designee regarding the intended discipline within 7 calendar days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;
  - Notice of the employee's right to have a representative of their choice at the *Skelly* conference; and
  - Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.
- (b) **Response by Employee and Skelly Conference:** If the employee requests a *Skelly* conference, the Department Head or designee will conduct an informal meeting with the

employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against them and present any mitigating circumstances. The Department Head will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.

(c) **Final Notice of Discipline:** After the *Skelly* conference and/or timely receipt of the employee's written response, the Department Head or designee will: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the Department Head will provide the employee with a notice that contains the following:

- The level of discipline, if any, to be imposed and the effective date of the discipline;
- The specific charges upon which the discipline is based;
- A summary of the facts that show that the elements of each charge at issue in the intended discipline;
- A copy of all materials upon which the discipline is based; and
- A reference to the employee's appeal right and deadline to appeal.

(d) **Delivery of the Final Notice of Discipline:** The final notice of discipline will be sent by mail method that verifies delivery to the last known address of the employee, or delivered to the employee via email. If the notice is not deliverable because the employee has moved without notifying the City or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

#### **34.04 APPEAL PROCEDURE FOR DISCIPLINARY ACTION**

The following administrative appeal process shall apply to all appeals of final disciplinary actions. For purposes of this section, "final disciplinary action" means disciplinary actions involving a loss of compensation, e.g., discharge, demotion, unpaid suspension, or reduction in salary.

##### **A. NOTICE OF APPEAL**

Within seven (7) calendar days of receipt by an employee of Final Notice of Discipline, the employee shall notify the City Manager in writing of the employee's intent to appeal the final disciplinary action. The Notice of Appeal shall specify the action being appealed and the substantive procedural grounds for the appeal.

##### **B. HEARING OFFICER**

Upon receipt of the employee's Notice of Appeal, the parties will select a neutral Hearing Officer who will hear the employee's appeal and provide a written advisory decision to the City Manager. The Hearing Officer shall conduct the formal hearing in accordance with the procedures set forth herein.

The parties may mutually agree upon a Hearing Officer, or the parties will jointly select a Hearing Officer from a list of seven (7) arbitrators provided by the State of California Mediation and Conciliation Service (“SCMCS”). If the parties cannot reach mutual agreement regarding an arbitrator to serve as a Hearing Officer, they shall alternately strike the names from the SCMCS list. The parties shall flip a coin to determine who strikes first. The City will pay the Hearing Officer’s fee and expenses.

### **C. BURDEN OF PROOF**

The City shall bear the burden of proof at the hearing. The City must prove the facts that form the basis for the charge(s) by a preponderance of the evidence. The City must also prove that the punitive action was reasonable in consideration of the gravity of the offense and any history of prior discipline.

### **D. CONDUCT OF THE HEARING**

- The hearing shall be conducted in the manner most conducive to determination of the truth, and the Hearing Officer shall not be bound by technical rules of evidence. The Hearing Officer shall have discretion to exclude evidence which is incompetent, irrelevant or cumulative, or the presentation of which will otherwise consume undue time.
- Each side will be permitted an opening statement. The City shall first present its witnesses and evidence to sustain the charges and the employee will then present their witnesses and evidence in defense.
- Witnesses shall testify under oath. The oath may be administered by the Hearing Officer.
- Each side will be allowed to call and examine witnesses, to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her.
- The Hearing Officer shall, if requested by either party, subpoena witnesses and/or require production of other relevant records or material evidence.
- The Hearing Officer may, prior to or during a hearing, grant a continuance for any reason the Hearing Officer believes to be important to reaching a fair and proper decision.
- Following the presentation of evidence, the parties may submit oral and/or written closing arguments for consideration by the Hearing Officer.

### **E. REPRESENTATION**

The employee may be represented by an individual of his or her choice at all stages of the proceedings. All costs associated with such representation, and any other costs the employee incurs in association with the appeal hearing, shall be borne by the employee. The City/Department shall also be entitled to representation at all stages of the proceedings.

### **F. RECOMMENDED DECISION**

The Hearing Officer shall prepare and issue a Recommended Decision in writing within thirty (30) calendar days of the submission of the case by the parties for decision. The Hearing Officer's written Recommended Decision shall set forth whether the charge(s) are sustained, and shall contain findings regarding the facts which form the basis for the charge(s), and a determination on the reasonableness of the penalty in consideration of the gravity of the offense and any history of prior discipline. The Hearing Officer shall serve the Recommended Decision on the parties

#### **G. FINAL DECISION**

The Hearing Officer's Recommended Decision is advisory to the City Manager. After reviewing the Recommended Decision, the City Manager will thereafter sustain, modify or revoke the disciplinary action. The City Manager's decision is final. The City Manager's decision shall be served on the employee and their representative, and shall advise the employee that the time within which judicial review of the decision may be sought is governed by California Code of Civil Procedure section 1094.5.

### **35.00 POLITICAL ACTIVITY / SOLICIATION OF CONTRIBUTIONS**

#### **35.01 POLITICAL ACTIVITY**

Political activity of municipal employees shall be restricted in accordance with the Personnel Ordinance.

#### **35.02 SOLICITATION OF CONTRIBUTIONS**

No City officer, employee, or candidate for City office shall in any way solicit or receive contributions or services for any political purpose from any City employee,, applicant, or appointed official. This section shall not prohibit a City officer or employee, or a candidate for elective office for the City, from requesting political contributions from officers or employees of that agency if the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from and employees of the City.

No City employee shall in any way solicit or receive contributions of services for any purpose affecting the employee's working conditions.

Pursuant to Government Code section 3205, employees cannot solicit or receive contributions from other employees during work time for political contributions.

### **36.00 OUTSIDE EMPLOYMENT**

Employees may not carry on concurrently with their municipal service, any private business or undertaking, which is inconsistent, incompatible, or in conflict with their City duties, functions, responsibilities, or that of the department in which they are employed at the City.

Outside work or private business or undertaking of full-time employees shall be permitted only upon prior approval of the Department Head and City Manager.



### 36.01 AUTHORIZATION AND APPEAL PROCESS

- (a) **Written Request:** Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to the Department Head. The written request must include: the work hours and/or time required; job title or the nature of the activity; the work location; and the supervisor, manager and name of the employer or activity.
- (b) **Analysis and Decision:** The Department Head will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the City. If the Department Head determines such activity is compatible, or would be if any conditions or restrictions applied, the Department Head will authorize the activity and specify the conditions/ restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.
- (c) **One Year Authorization:** An outside employment authorization is valid only up to one year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, the employee must make another request following the process in this Policy.
- (d) **Appeal:** If the Department Head denies an employee's outside employment request, the employee may submit a written notice of appeal to the City Manager or designee within 10 days after the date of the denial. The decision on appeal will be put in writing, provided within 10 days after the receipt of the appeal, and will be final.

### 36.02 PROHIBITED OUTSIDE ACTIVITIES

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

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

### **36.03 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

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

### **36.04 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT AUTHORIZATION**

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

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

### **36.05 USE OF CITY EQUIPMENT PROHIBITED**

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

## **37.00 ACCEPTANCE OF GIFTS, GRATUITIES, AND/OR SERVICES**

### **37.01 GENERAL RULE**

Employees shall not accept gifts at any time from anyone with whom the City does business or has any business contacts whatsoever.

The City is entitled to expect complete integrity of all of its employees and to feel free from reasonable or unreasonable suspicion in the acceptance of such gifts.

### **37.02 EXCEPTIONS TO THE RULE**

The following can be considered exceptions if the gifts are valued at less than \$250 per year and approved by the City Manager, designee, or Department Head:

- a) An unsolicited consumable gift such as candy or fruit baskets may be accepted so long as they are kept in the office and shared by all employees.
- b) A gift to the City for the benefit of the City.
- c) A gift justified by a personal relationship which exists completely outside the realm of City business.
- d) Inexpensive "advertising" items such as calendars and pens bearing the vendor's name may be accepted as long as they are for use at the employee's place of employment rather than for personal or home use.

### **37.03 PROCEDURE**

In the event that an employee receives a gift, the employee should return it with a brief letter or note explaining the refusal. If this is not possible and the gift has no useful purpose for the City, the gift should be turned in to the City Manager's Office for disposal to a local charity. Below are sample responses.

*Dear \_\_\_\_\_:*

*Thank you for your kind gift. I am prohibited by City regulations from accepting such an offer and have therefore forwarded it to the Community Services Agency for their distribution to a needy family. I have made this local charity aware that you are the donor, and they share my thanks to you for your kind gift in the interest of a better community.*

*Sincerely,*

*Dear \_\_\_\_\_:*

*This will acknowledge receipt of your kind gift. While I appreciate the sentiment, City rules preclude me from accepting it. I am therefore returning the enclosed and share with you my wishes for a happy and prosperous new year.*

*Sincerely*

### **38.00 USE OF CITY VEHICLES, EQUIPMENT, ELECTRONIC SYSTEMS, AND OTHER RESOURCES**

City vehicles, equipment, electronic systems, and other resources are to be used for City business only.

#### **38.01 CITY EQUIPMENT OR RESOURCES**

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

#### **38.02 NO EXPECTATION OF PRIVACY**

The City, periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through City networks or electronic resources. The City employees must provide the agency with the employee's username or password for any City-issued equipment or resource.

The existence of passwords or delete functions does not restrict the City's access. As a result, City employees have no expectation of privacy in their use of any City equipment or resources.

### **38.03 APPROPRIATE USE ONLY -- NO MISUSE**

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

- (a) Any use that violates applicable law and/or City policies, rules or procedures.
- (b) Exposing others to material which is offensive, harassing, obscene, or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.
- (c) Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law.
- (d) Communication of confidential City information to unauthorized individuals within or outside of the City.
- (e) Unauthorized attempts to access or use City data or break into any City or non-City system.
- (f) Theft or unauthorized transmission or copying of paper or electronic files or data.
- (g) Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication.
- (h) Misrepresentation of one's identity for improper or illegal purposes.
- (i) Personal commercial or business activities (e.g. "for sale" notices, personal ads, etc.).
- (j) Transmitting/accessing obscene material and/or pornography.
- (k) E-Commerce, including online shopping and any buying and selling of goods online.
- (l) Online gambling.
- (m) Installing or downloading unauthorized software or equipment.
- (n) Violating terms of software licensing agreements.
- (o) Using City equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- (p) Any unauthorized access to City equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain

access to their email or other electronic resources; or making City equipment or resources available to others who would otherwise have no authorized access.

- (q) Using City vehicles for personal affairs, such as providing transportation to family members or friends, driving to and from personal appointments, running errands, etc.
- (r) Using City equipment or resources to speak on the City's behalf without authorization.

#### **38.04 CITY EMAIL ADDRESS MUST BE USED FOR CITY BUSINESS**

City's email system is an official communication tool for City business. The City establishes and assigns official email addresses to each employee as the City deems necessary. Employees must send all City communications that are sent via email to and from their official City email address. Employees are prohibited from using their private email address (such as Gmail, yahoo, MSN/Hotmail, etc.) when communicating City business via email. Should an email related to City business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's City email account and responded to accordingly.

#### **38.05 INCIDENTAL PERSONAL USE OF CITY COMMUNICATIONS EQUIPMENT PERMITTED**

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

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

### **39.00 WORKPLACE VIOLENCE PREVENTION POLICY**

#### **39.01 PURPOSE**

- 1) To ensure a safe, healthy, and productive work environment the City will not tolerate physical acts of violence or threats of physical acts of violence, made in person, via phone, voice mail, or electronic mail, from City employees nor non-employees, and will take proactive steps to protect its employees and others conducting business with the City. Threatening remarks or threats of physical violence may be considered harassment under City policy and state and/or federal law.
- 2) To provide a policy that informs all employees and volunteers of the City's zero-tolerance workplace violence standard, guidelines for responding to threats of violence or violent acts, and the procedure for reporting threats or acts of violence. It is the policy of the City to use early

prevention strategies in order to avoid or minimize the effects of violence in the workplace by City employees or members of the public.

### **39.02 POLICY**

Violent behavior of any kind, or threats of violence, either implied or direct, is prohibited at City worksites. Such conduct by a City employee or volunteer will not be tolerated. An employee or volunteer who exhibits this behavior may be subject to criminal prosecution and/or disciplinary action up to and including termination. Violent threats or actions by a non-employee may result in criminal prosecution. The City will investigate all complaints filed and will also investigate any possible violation of this policy of which the City is made aware. Retaliation against a person who makes a complaint regarding violent behavior or threats of violence is also prohibited.

The City has adopted a four-part system to help create a safe workplace for employees and non-employees.

- 1) Create an *attitude* of zero tolerance to violence and threats of violence towards yourself and others in the workplace.
- 2) Build *awareness* in yourself and others about the threat of workplace violence, how it is perpetrated in the workplace, the warning signs, and how to stop it.
- 3) Learn the *skills* needed to know what to do in a violent situation, how to report violence, and how to avoid physical harm and defend yourself if needed.
- 4) *Prevention* is the best way to protect yourself and others from any physical or emotional harm. Report any threats or actions that could be construed as warning signs of violence.

### **39.03 DEFINITIONS**

**Workplace Violence:** Behavior in which an employee, former, employee, volunteer or visitor to a workplace inflicts or threatens to inflict on others at the workplace damage to property, serious harm, injury or death to people at the workplace.

**Threat:** The implication or expression of intent to inflict physical harm or actions that a reasonable person would interpret as a threat to physical safety or property.

**Intimidation:** Making others afraid through threatening behavior, causing others to avoid contact or appropriate disciplinary actions due to the intimidation.

**Zero-tolerance:** A standard that establishes that no behavior at all, implied or actual, that violates this policy will be tolerated.

### **39.04 PROHIBITED BEHAVIOR**

If an employee or non-employee threatens any employee with whom they have a personal relationship, and the intended victim is within city offices, facilities, work sites, vehicles, or while conducting business on behalf of the city, then that employee or non-employee may be subject to criminal prosecution.

If an employee, during working hours or at an employer-sanctioned function, demonstrate or threaten violent behavior, the employee may be subject to disciplinary action up to and including dismissal.

If an employee or non-employee, on City property, demonstrate or threaten violent behavior, it will constitute grounds for discipline up to and including dismissal, or the employee may be subject to criminal prosecution.

Violence in the workplace may include, but is not limited to, the following list of prohibited behaviors directed at a coworker, supervisor, or member of the public:

- (a) Possession of weapons of any kind on City property, including parking lots, other exterior premises, City vehicles, or while engaged in activities for the City in other locations, unless such possession or use is a requirement of the job and use has been authorized by the proper authority. City management will determine what tools and equipment are requirements of the job;
- (b) Statements, implications or suggestions of violence or violent behavior;
- (c) Stalking;
- (d) Assault of any form;
- (e) Physical restraint or confinement;
- (f) Striking, punching, slapping or assaulting another person;
- (g) Fighting or challenging another person to fight;
- (h) Grabbing, pinching or touching another person in an unwanted way, whether sexually or otherwise;
- (i) Engaging in dangerous, threatening or unwanted horseplay;
- (j) Threatening harm or harming another person, or any other action or conduct that implies the threat of bodily harm, including physical intimidation;
- (k) Making threatening telephone calls, e-mails or other written statements;
- (l) Impeding one's path, not allowing them to pass.

### **39.05 PROHIBITED ITEMS**

To safeguard against possible harm or acts of violence, weapons of any kind are not allowed on City property or facility, unless authorized by the proper authority. Weapons include, but are not limited to, the following:

- (a) Firearms of any kind
- (b) Knives with blades over 3.5 inches
- (c) Explosives

(d) Illegal weapons as defined in Section 12020 of the California Penal Code

### **39.06 RESPONSIBILITY**

All employees are responsible for ensuring that their behavior meets the City's Workplace Violence Prevention zero-tolerance standard. It is the responsibility of any employee who feels that they have been the target of actual or threatened violence in the workplace or who has witnessed or otherwise learned of such conduct to immediately contact their Department Head, Supervisor or Human Resources. In cases where there is an imminent potential for violence, an employee should immediately contact the Police Department by calling 9-911.

All new regular full-time employees will be provided with a copy of this policy as part of the Human Resources New Employee Orientation. Supervisors and managers are responsible for notifying all employees and volunteers about the policy, as well as preventing and correcting all acts or threats of violence, and notifying the Department Head and Human Resources of all complaints.

### **39.07 PREVENTION**

Each Department Head has authority to enforce this policy by:

- (a) Training supervisors and subordinates about their responsibilities under this policy;
- (b) Assuring that reports of workplace violence are accurately and timely documented and addressed;
- (c) Notifying the City Manager or designee, and/or law enforcement authorities of any incidents;
- (d) Making all reasonable efforts to maintain a safe and secure workplace; and
- (e) Maintaining records and follow-up actions as to reports of work place violence.

### **39.08 RESPONDING TO AND REPORTING ACTS OR THREATS OF VIOLENCE**

Any employee or volunteer who is the victim of violence, believes they have been threatened with violence, or witnesses an act or threat of violence, should take the following steps:

- 1) If an emergency exists and the situation is one of immediate danger 9-911 should be called immediately. Those receiving threats should attempt to leave the situation without harm and take whatever emergency steps that are available and appropriate to protect oneself from immediate harm.
- 2) If the situation is not one of immediate danger the employee or volunteer should report the incident to the Department Head and/or an appropriate authority as soon as possible. The Department Head or their designee will document the incident, including the employee name(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.

The Department Head or designee will take appropriate steps to provide security, such as:



- (a) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
  - (b) Asking any threatening or potentially violent person to leave the site; or
  - (c) Immediately contacting an appropriate law enforcement agency.
- 3) Active resistance to violence may be necessary in some cases to prevent possible injury, but should be focused on *escape and remaining safe*. Actual use of force should always be a last resort and should be geared to escape as opposed to violence. Use only the force necessary to remove yourself from the situation; act with focus and conviction and do not respond emotionally. Remember that you may not want to use force, but may have to in order to stay safe.
- 4) City employees and others on site are most at risk to be threatened or be physically violated by co-workers or those receiving services from the City. In order to help prevent violence and threats of violence, all present at City facilities should treat others with respect and stay calm if tension increases in any situation. Employees should remove themselves from the situation and report the actions or threats to the Department Head. Warning signs of potential violence may include, but are not limited to:
- (a) Direct or veiled verbal threats of harm;
  - (b) Intimidation of others (physical or verbal);
  - (c) Carrying or displaying a concealed weapon to test reactions;
  - (d) Paranoid behavior (“the whole world is against me”);
  - (e) Expression of extreme depression over family, financial, or personal problems;
  - (f) A history of violent behavior;
  - (g) Extreme interest in weapons and their destructive power to people;
  - (h) Fascination with incidents of workplace violence;
  - (i) Disregard for the safety of co-workers;
  - (j) Displays of anger (particularly unjustified anger);
  - (k) Drastic change in belief system;
  - (l) Violence toward inanimate objects;
  - (m) Theft or sabotage of projects or equipment.

**Bomb Threats:** The risk of bomb threats and use of mail-bomb devices are present in any public agency regardless of how unrealistic they might seem in the Los Altos community.

- (a) Any bomb threat should be considered real and should be reported to the Department Head at once.

- (b) A suspicious package should never be opened or disturbed and should not be assumed as a hoax or prank.
- (c) Never open a package or letter from an undisclosed sender or delivery person from an undisclosed or unknown delivery service.
- (d) Never leave a strange or suspicious package in a manner where another person might touch, disturb, or open it by mistake.
- (e) Do not use radio frequency devices or cell phones in the threatened area.
- (f) Management staff should remove all people from the area immediately and in a calm manner.
- (g) Management staff should contact law enforcement from a safe place immediately following the evacuation.

**Hostage Situations:** Hostage situations are similarly unlikely to occur in the Los Altos community, yet should be addressed, as the threat to any public agency is possible.

- (a) Don't panic
- (b) Cooperate
- (c) Avoid provoking or angering the perpetrator
- (d) Attempt to escape if the risk is not high to yourself or others
- (e) If escaped or released, move away from the area and contact authorities
- (f) Listen and follow directions from law enforcement

**Unauthorized Personnel:** To better prevent any violent act or threat of violent act, unauthorized persons should not be allowed in areas other than designated lobbies unless needed to conduct business. As constituents may not understand or except this policy in a public building, they should be helped with the utmost respect while preserving the safety of employees and those conducting business with the City.

- (a) Ask with whom they need to speak, their name, and if they are expected.
- (b) Escort the visitor to the appropriate staff person
- (c) Report any suspicious actions or responses to the Department Head

### **39.09 INVESTIGATION**

The supervisor or manager will notify the Department Head and Human Resources of all complaints. All reports of violence or threats of violence will be investigated by the appropriate supervisor or manager in consultation with Human Resources. A criminal investigation will be initiated if suspected criminal activity has taken place.

Information concerning any investigation resulting from a report of violence or threat of violence will remain as confidential as possible, but information will be shared on a need-to-know basis.

The appropriate supervisor or manager will take immediate corrective action to ensure that acts or threats of violence cease immediately. The appropriate supervisor will also review the effectiveness of the corrective action to ensure that threats and/or acts of violence have ceased. If the reported source of the act or threat of violence is a City employee, the supervisor will also ensure that the employee who reported the violation is not subject to retaliation for having filed a complaint. No one acting in good faith that initiates a complaint or reports an incident under this policy will be subjected to retaliation or harassment.

If investigation findings indicate that a City employee has carried out an act or threat of violence, disciplinary action, up to and including termination, may be imposed. If findings warrant, the employee may be referred to the City's Employee Assistance Program (EAP) to assist the employee to modify their behavior to be in compliance with this policy. If findings warrant, the City may make a Management Referral to EAP whereby compliance with the referral, assessment and recommendations are a condition of employment. If findings warrant, disciplinary action will be initiated in accordance with all relevant sections of the City's Personnel Rules and Regulations and any applicable Memorandum of Understanding.

## **40.00 TRAINING**

### **40.01 RESPONSIBILITY FOR TRAINING**

The City Manager or designee, upon consulting the Department Heads concerned, is responsible for the training programs for employees.

Successful completion of special training courses may be considered in making advancements and promotions. The employee shall transmit proof of such completed training to the City Manager or designee.

### **40.02 AUTHORIZATION FOR TRAINING AND CONFERENCES**

Authorization may be granted for employees to attend professional conferences and meetings, or to participate in some form of activity or training in the interest of the City.

Upon budget authorization, such leave may be granted by the Department Head for one day, or by the City Manager or designee for more than one day.

Reimbursement of expenses incurred at authorized trainings or conferences shall be made in accordance with the City's Travel and Expense Policy, described in Section 42.

## **41.00 PERSONNEL RECORDS**

The City Manager shall maintain a file for each employee; the file shall contain a copy of every personnel transaction affecting the status of said employee. Personnel files of individual

employees are confidential information and shall be used for administrative purposes or in connection with official proceedings before the City Council.

#### **41.01 CONFIDENTIAL FILES**

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

#### **41.02 NOTIFICATION OF CHANGES**

Each employee is responsible to promptly notify the City Manager or designee of any changes in their contact and benefits information, including: mailing address; telephone number; persons to contact in case of emergency; and number and names of dependents.

#### **41.03 ACCESS TO APPLICANT OR EMPLOYEE MEDICAL INFORMATION**

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

#### **41.04 INSPECTION OF FILE**

A current employee may inspect their own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect their personnel records one time per year. A current or former employee and/or their representative, who wishes to review their personnel file should make a written request to the City Manager. The inspection must occur in the presence of the City Manager or their designee and: (1) at a location where the employee works and at a time other than the employee's work time; or (2) at another agreed upon location without loss of compensation to the employee.

#### **41.05 COPIES**

A current or former employee is entitled to receive a copy of their personnel records within 30 days after the employer receives a written request. A current or former employee who wishes to receive such a copy should contact the City Manager or their designee in writing. The City may charge a fee for the actual cost of copying, unless the request is for any instrument relating to the obtaining or holding of employment (Labor Code § 432.).

#### **41.06 REPRESENTATIVE'S INSPECTION**

If the current or former employee wishes to have another person/representative inspect their personnel file, they must provide the person/representative with written authorization. The City

manager or their designee will notify the employee and/or representative of the date, time, and place of the inspection in writing.

#### **41.07 NO REMOVAL OF FILE DOCUMENTS**

No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

#### **41.08 LIMITATIONS ON ACCESS OR COPYING OF PERSONNEL FILE**

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

### **42.00 TRAINING AND TRAVEL EXPENSES POLICY**

It is the policy of the City to administer a training program that will provide for the professional growth and continued development of its personnel aligned with their duties and tasks. By doing so, the City will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community. All travel should be for business and training purposes that are valuable to the City and its residents. All expenses incurred while on City business should constitute actual and necessary expenses that are reasonable and justified use of public funds. Employees shall choose the most cost-efficient, direct, and economical travel options. This policy shall be consistent with the City's Purchasing, CalCard, and Petty Cash policies.

#### **42.01 POLICY**

The purpose of this policy is to establish business travel guidelines for City employees that are fair, accountable, and transparent. This policy addresses the criteria for City payment of travel expenses and/or advances incurred by the City employee. It is the policy of the City that no employee shall sustain personal monetary loss as the result of duties performed in an official capacity. However, the policy is not to reimburse for more than actual, necessary, reasonable, and justified expenses incurred.

#### **INTERNAL CONTROLS**

In order to safeguard public funds from fraud, waste, and abuse, the following internal controls shall be followed by all employees who incur expenses while traveling on City business:

- All employees are responsible for reading and complying with this policy,
- All training and travel expenses shall be properly authorized in advance of travel, except in emergencies,

- The duties between the travel authorization and reimbursement payment shall be properly segregated,
- All training and travel expenses shall be properly supported by adequate documentation,
- All reimbursement claims shall be filed timely,
- All training and travel expenses shall be consistent with budgetary limitations,
- If an advance check is provided, the employee shall make certain the amount corresponds to the total estimated expenses minus any prepayment,
- Prior to any travel during which reimbursable expenses will be incurred, the employee's Supervisor will estimate the expenses which will be incurred as a direct result of the travel and attendance at the training or conference,
- It shall be the responsibility of the employee incurring the expenses to provide the proper documentation for each expense, including receipts as required,
- It shall also be the employee's responsibility to be aware of and understand the estimate of expenses established by the employee's Supervisor. The employee shall monitor expenses to ensure they are within the estimated amount unless unusual circumstances exist, and if so, document such circumstances,
- In the event an employee needs to cancel his/her training at the last minute, it is the employee's responsibility to cancel his/her hotel reservations after obtaining cancellation approval from his or her Supervisor.

## **42.02 GENERAL GUIDELINES**

### **Allowable Expenses**

1. Allowable expenses are those that are properly authorized and shall include, but are not limited to, authorized business expenses incurred while engaging and/or participating in the following activities and/or events, which meet the criteria listed below:

- The seminar, meeting, function certification training, or conference is mandatory or necessary to accomplish key City goals and objectives. Such activities include, but are not limited to:
  - Participating in and attending meetings of regional, state, and national organizations whose activities affect the City's interests.
  - Attending educational seminars designed to improve skill and information levels.

- Attending business meetings, functions of local civic or community organizations where there is a clear nexus between the event and City employee duty, i.e., not purely social events.
- If the training location requires an overnight stay, efforts should be made to ensure that no local option is available. Government rates should be used when available. Attendance at conferences and travel time to and from the conference must receive prior approval from the employee's supervisor. If the employee is eligible for overtime or compensatory time accrual during the travel time and conference event, wages will be calculated in accordance with FLSA requirements or in accordance with the employee's MOU. Lodging at conference-sponsored or group rate discounts are to be utilized. Exceptions may be made for Public Safety personnel with prior approval from the Police Captain or his/her designee.
- Registration fees will be fully paid by the City via check or credit card. Any discounts offered for early registration or attendance by additional people should be obtained whenever possible.
- When training is scheduled for any employee, it shall be considered mandatory and part of the employee's obligation to participate. An excused absence shall be requested in writing prior to the training date.
- International and out-of-state travel for any event or activity requires advance approval by the City Manager or his/her designee.

### **Prohibited Expenses**

1. The following are examples, but not all-inclusive, of personal expenses for which the City will not reimburse the employee, even when incurred in conjunction with approved reimbursable expenses:

- Any expenses that have not been authorized in advance of travel
- Double-dipping of expenses (submitting the same expense for reimbursement more than once through the same or various means)
- Expenses incurred as a result of supplemental personal travel
- Political or charitable contributions or events
- Family or companion expenses, including those related to child or pet care
- Entertainment, alcohol, and gambling expenses
- Meals for any person other than the employee

- Non-mileage personal automobile expenses, including repairs, insurance, or gasoline, if personal vehicle is used for travel and mileage is claimed for reimbursement
- Gasoline expenses if mileage is claimed for reimbursement and personal vehicle is used for travel
- Gasoline expenses if employee receives vehicle allowance and the one-way travel is within 50 miles of City Hall
- Personal losses incurred while on City business
- Any receipts that are not itemized
- Any receipts that are greater than the reimbursable cost of the item
- Traffic citations and toll violations
- Any expenses incurred by individuals who are not City employees

2. Payments for travel and expenses may be requested as an advance, prepayment, or reimbursement of appropriate expenses for lodging, food, transportation, and miscellaneous and incidental expenses. Some departments may have additional regulations for their staff, such as Public Safety attending training required by POST. Reimbursement of expenses may be made only for City employees; no reimbursement is allowed for non-employees accompanying the attendee.

3. All reimbursement claims or advances for travel and expenses (including registration) shall be pre-authorized in advance and accompanied by sufficient supporting documentation, including original itemized receipts, copies of registration forms, conference or training agenda, invoices, canceled checks, mileage reimbursement forms, Google maps, per diem rates, or notation for any receipts that are lost.

4. All claims for travel and expenses shall be signed by the employee's supervisor and Department Head or his/her designee.

#### **42.03 LODGING, MEALS, AND TRANSPORTATION**

##### **Airfare**

1. Use of air, train, private automobile, or other mode of transportation shall be selected on the basis of the least expensive option for the City. Government and group rates should be used when available.
2. Transportation costs to and from the authorized destination will not exceed advance purchase economy class airfare unless such fare is not available. Employees shall inquire as to any government discount the airlines may provide. The City will not pay for upgrades (e.g., seat



upgrades or early boarding options) without prior approval from the Department Head or his/her designee.

### **Automobile**

1. City vehicles should be used whenever possible. No mileage reimbursement for transportation is authorized when a City vehicle is used.
2. When two (2) or more employees are traveling by vehicle, the employees should make every effort to travel together.
3. Automobile mileage will be reimbursed at the rate set by the Internal Revenue Service (IRS) in effect at the time of travel and will be reimbursed for the distance between home and the destination or city hall and the destination, whichever is less. The Finance Department shall be responsible for determining the applicable rate at the time of travel. This amount does not include bridge and road tolls, which are reimbursable at actual rates. Any employee in a management position who receives a vehicle allowance, or has a take-home City vehicle assigned, is not eligible for mileage reimbursement. Mileage reimbursement should be submitted within thirty (30) business days of travel ended.
4. If a personal vehicle is used to and from the airport, the actual mileage will be reimbursed.
5. The necessity for a rental car must be established and authorized in advance by the Department Head or his/her designee. Only economy car models may be rented, unless the upgrade is provided at no additional cost to the City. Prepaid gas is not to be selected, but optional insurance is required and will be reimbursed. The employee is required to notify the City's Risk Manager and their supervisor, immediately, in the event of any incident or accident related to the rental vehicle. When two (2) or more employees are attending the same training, the rental vehicle, if approved, should be shared.
6. If an employee chooses to travel by vehicle instead of air, the employee is only eligible for travel time equal to the estimated length of the air travel. If travel time is longer, as a result of driving, the employee must use time off for the difference. Exceptions may be made at the discretion of the Department Head or his/her designee.
7. Employees involved in any vehicle accident while on City business shall report such accident to his or her Supervisor within a reasonable period of time.

### **Gasoline**

1. Employees claiming mileage reimbursement are not eligible to receive reimbursement for gasoline.

2. Employees receiving vehicle allowance are not eligible to receive gasoline reimbursement unless approved by the City Manager and the travel destination point exceeds 50 miles from City Hall.

### **Taxis**

1. Taxi service should be used only when no other convenient and less costly transportation is available.

### **42.04 LODGING**

1. No lodging expenses incurred by employees within a 50-mile radius of City Hall will be reimbursed unless there are extenuating circumstances with the prior Department Head or his/her designee's approval.
2. Lodging expenses may be prepaid directly to the hotel or reimbursed. Prepayment or reimbursement will be limited to single-occupant room rates. Lodging reimbursement shall not exceed the conference hotel cost or host group rate, with the exception that the lodging is not available. No reimbursement will be made when lodging is at a family/friend's residence.
3. Hotels often provide exemptions from transient occupancy tax for government employees. Employees should request an exemption for hotel transient occupancy taxes (Governmental Rate) if applicable.

### **42.05 MEAL COSTS**

1. The City will reimburse meal expenses, including gratuity (not to exceed 15%), according to the daily Maximum Federal Rate. For per diem rates within the US, use the rate listed on <http://www.gsa.gov/>. If the destination city is not listed, then the rate for the county applies. If there is no rate for the city or county, the lowest rate applies.
2. Meal expenses, including gratuity, in excess of the daily Maximum Federal Rate will not be reimbursed without the approval of the Department Head or his/her designee.
3. The per diem rates are to be reimbursed only for full days of travel (travel away from City overnight). If a partial day of travel, the City will reimburse the meal based on the Federal Meal Rate.
4. If any meal is included in the registration fee or the hotel fee, the employee will not receive reimbursement for the included meal. For example, if lunch is included in the registration fee, then the full-day per diem will be less the per diem allocated for lunch.
5. If travel ended prior to 12:00 p.m., the employee is eligible to receive a Federal Meal Rate for breakfast. If travel ended between 12:00 p.m. and 6:00 p.m., the employee is eligible to receive Federal Meal Rate for breakfast and lunch. If travel ended after 6:00 p.m., the employee is eligible to receive Federal Meal Rate for breakfast, lunch, and dinner.

6. All meals must be supported by the Agenda of the Conference or Training attached to the Check Request.

#### **42.06 MISCELLANEOUS AND INCIDENTAL EXPENSES**

1. Expenses related to City business are miscellaneous expenses and will be reimbursed for actual Wi-Fi, telephone, parking expenses, tolls, taxi, hotel wireless charges, or other necessary, reasonable and justified expenses. Miscellaneous expenses must be itemized, and receipts must be provided. Where receipts are not available, a signed declaration of expenditures may be accepted by the Finance Director or designee at their discretion.
2. Incidental expenses (IE) are personal expenses that are incurred incidentally in connection with the business travel and will be reimbursed up to the General Service Administration (GSA) limit (currently at \$5 per day) if the employee is eligible to receive the GSA Full Day Per Diem Rate. If the employee receives a full day's per diem, no additional incidentals will be provided, as this is already included in the GSA daily rate (\$5).
3. Personal expenses (e.g., shoeshine, in-room entertainment, personal phone calls, traffic fines, etc.) are not reimbursable.
4. If a personal side trip is planned, the City will reimburse not more than the advance purchase of economy class airfare to and from the original destination. Any additional costs related to personal travel will not be reimbursed by the City.
5. If a companion accompanies an employee, only the business cost incurred by the employee will be reimbursed. All costs incurred in addition to the employee costs will not be reimbursed by the City.

#### **BUSINESS MEETING EXPENSES**

1. All business meeting expenses, including meals, must have prior approval on the Business Meeting Expense Form and be supported by itemized receipts. The approved form and itemized receipts shall include the amount of the expense, the date and place of the expense, the business purpose, and who attended the business meeting, including Name, title, department/company/Agency.
2. Business Meeting Meals will only be reimbursed for the cost(s) of the eligible item on the meal receipt. Overcharged amounts will not be reimbursed. Any receipts that lack detail of the expense will not be reimbursed.
3. Business Meeting Meal reimbursement should be submitted within 30 business days of the meeting.

#### **42.07 PROCEDURE**

## **Employee**

1. Discuss planned travel and expenses with the immediate supervisor prior to travel and obtain written pre-authorization of the approved estimate of any potential travel expenses by using the Travel Authorization Form. Obtain written authorization for any nonstandard expenses (i.e., rental car, travel by air, etc.) prior to actual travel.
2. Submit requests for registration and any advances or prepaid items within the standard disbursement time period.
3. Employees are responsible for turning in all itemized receipts (except for GSA rates meals) to their Supervisor within 30 business days of returning from travel. The employee's Supervisor shall review all receipts for the reasonableness of expenses and conformance to this policy. Excessive or questionable expenses will be reviewed with the involved employee and may require additional explanatory documentation. Only expenses deemed reasonable and appropriate for the nature of the event will be reimbursed by the City. The expense is deemed appropriate when the expense is actual, necessary, reasonable and justified, and incurred for meeting the objectives of the City.
4. Within 30 business days after the employee's return from a trip, a Statement of Travel Expenses (Travel expense report and mileage Form) must be filed with the Finance Department, complete with the proper signing authority. The Statement of Travel Expenses must be supported by the Travel Authorization Form that includes all expenses authorized prior to travel and other relevant supporting documentation such as Mileage Reimbursement Form, Google Maps printouts, GSA rates, hotel folios, conference and training agendas, and itemized receipts when itemized receipts are applicable.

## **Finance Department**

1. Receive the completed Expenses Travel Package and Reimbursement Request from the department.
2. Required backup documentation: Conference/Meeting/Training agenda, receipts for airfare, hotel, tax/transit, map to and from if mileage is used, per diem rate of the travel destination from GSA website, or meal receipts with details if actual meal expenses are used, and any other relevant documents supporting the reimbursement request, including Travel Authorization Form that shows proper pre-authorization of the actual travel expenses.
3. Review requested prepayments, advances, and reimbursements related to travel. Check the budget for consistency with budgeted funds.
4. Process Statement of Travel Expenses and provide payment for advances, prepayments, or reimbursements.

## **POLICY NON-COMPLIANCE**

1. If personal expenses were accidentally incurred at the City's cost, the employee shall promptly reimburse the City within 30 business days from the travel ending date or 30 days from the CalCard statement closing date if CalCard is used.
2. Willful non-compliance with this policy will be referred by the Finance Department to the Human Resources Department for further disposition.

## **43.00 MOBILE DEVICE POLICY**

### **43.01 PURPOSE**

To allow the employees of City of Los Altos to do their jobs effectively, some employees are entitled to make use of cell phones for business purposes. This policy outlines the mobile device options supported by City of Los Altos, guidelines for appropriate use, and other administrative issues relating to cell phone acquisition and phone allowance. This policy was created in order to enhance employee safety, limit City's liability, and help manage telecommunications costs.

### **43.02 SCOPE**

All employees requiring the use of a City-owned cell phone for business purposes must go through an approval process that outlines why a mobile device is required and what level of service the employee needs should their application be accepted.

It is also possible for employees to use privately owned cell phones for business purposes, e.g., checking emails or messages, or using department-specific applications. If this is the case, the employee must get prior written approval from their department head to do so.

All expense forms for reimbursement of cost incurred due to business calls must be submitted to the department head or delegate for approval. Current phone allowance is \$30/month (or \$13.87/paycheck) and is paid by the requesting department.

Employees may request mobile devices or a phone allowance with prior approval by the employee's department head or designee prior to the purchasing of mobile devices and activation of cellular services by IT or requesting department.

### **43.03 DEFINITIONS**

Mobile device includes, but is not limited to, cellphone, tablet, and mobile hotspot.

### **43.04 POLICY STATEMENTS**

It is imperative that cell phones owned by City of Los Altos, or any cell phone used to conduct City of Los Altos' business be used appropriately, responsibly, and ethically. The following rules must be observed:

1. Monthly plan and the initial cost to acquire City-issued mobile devices will be paid from IT's budget.
  - a. Maximum cell phone plan with data tethering (\$55 per month)
  - b. Maximum cell phone purchase (\$350 plus applicable tax)
  - c. Maximum tablet purchase (\$500 plus applicable tax)
2. The eligibility of requesting City-owned mobile device(s) or phone allowance is based on position or assigned job duty.
  - a. Administration Executives: City Manager, Assistant/Deputy City Manager, City Clerk
  - b. Department Head: Director and Assistant/Deputy Director
  - c. Police: Chief, Captain(s), and all sworn officers
  - d. Department / Division Manager: Building Official, Planning Services Manager, Engineering Services Manager, Police Services Manager, Recreation Manager, HR Manager, IT Manager
  - e. Supervisors: Sewers, Street, Parks, Facilities
  - f. Job duty: Building Division staff, Engineering Inspector, Special Project Manager, Public Information Officer, Recreation supervisors who work on multiple campuses, Lead field worker, On-call personnel
  - g. City Council
  - h. Others: special request will be approved on a case-by-case basis by the City Manager or designee
3. Except for Police personnel, sufficient fund shall be set aside in IT's annual operational budget from the General fund (approximately for 40 non-PD users) based on the above-mentioned criteria.
4. Commonly used phone plans for government offered by the major carriers (AT&T / FirstNet, T-Mobile / Sprint, Verizon) usually consist of unlimited talk and text, plus high-speed (4G LTE or 5G if available) internet data within the 50 States of the USA. International calls and data roaming is not included.
5. City of Los Altos has the right to retrieve detailed call logs and data usage reports from the carrier.
6. City of Los Altos will not pay for any international calls made using a privately owned cell phone that is also used to conduct City business.
7. City of Los Altos will reimburse employees for business calls made on a pre-approved privately owned cell phone. All submissions for reimbursement must be accompanied by sufficient and appropriate documentation (i.e., original cell phone bill). Employees requesting

reimbursement will also be asked to certify in writing prior to reimbursement that they did not use the cell phone in any way that violates company policy.

8. City-owned cell phone users are expected to answer phone call during normal business hours, approved individual work schedule (e.g., 5/40, 4/10, or 9/80) and defined work shift hours (e.g., weekend or holiday on-call duty, day/night shift, etc.).
9. An employee who is using City-owned mobile device or personal mobile device with City's allowance, is subject to the Public Records Act and when required, must provide records.
10. The phone number of a City-owned mobile device or personal mobile device with City's allowance, shall be listed in directory for internal use and for emergency contact.
11. Selected mobile apps will be pushed to each City-owned mobile device by the MDM (Mobile Device Management) system. Personal devices will not be added to the MDM system automatically. Although different apps may have similar functionalities, user is required to use only certain assigned apps, such as Microsoft Outlook (emails and calendar), RingCentral (unified communication), Openpath (door access system), Microsoft Authenticator app (multi-factor authentication), SonicWall (VPN) etc. to receive limited support from IT Department. Additional apps installed by individuals for personal preference will not be supported.
12. Additional free apps can be downloaded and installed by user on City's mobile devices, but only with the use of individual's work email address as the app store account (e.g., Apple ID). Installing paid apps requires prior written approval by department head or requesting employee's supervisor. The cost of the paid app shall be paid by the requesting department unless instructed otherwise.
13. No employee is to use a City-owned mobile device for the purpose of illegal transactions, harassment, or bullying, in accordance with other existing employee policies. Knowingly sending or receiving pornographic images or messages on a City-owned mobile devices is prohibited.
14. Employees are not to make or receive business calls on a cell phone of any kind without using a hands-free device or connection while operating a vehicle. This includes both City-owned and privately-owned mobile devices. In addition, employees are not to make or receive any calls on a cell phone without a hands-free device, be they business or personal in nature, if driving a City-owned or leased vehicle. All vehicles must be pulled off the road and parked prior to making or accepting a call on your cell phone.
15. Use of a City-owned mobile device without a hands-free device while driving or use of a mobile device while operating a City-owned or leased vehicle is only permitted in emergency situations, namely to report an accident, to call for assistance in the event of car trouble, or if you or another person are in imminent danger.
16. If a City-owned cell phone is damaged, lost, or stolen, it must be reported immediately to the user's supervisor AND the IT Department.

17. If a City-owned cell phone or related accessories or equipment is damaged, lost, or stolen through the negligence of the authorized user, that individual will be responsible for reimbursing City of Los Altos for all repair or replacement costs.
18. If an authorized mobile device user does not return a City-owned mobile device when requested, he or she will be required to reimburse City of Los Altos for the purchase price (without 1-year or 2-year contract with the carrier) of the mobile device.
19. All users of cell phones for business purposes must participate in a cell phone safety training session. Participation in this training is mandatory for all authorized cell phone users, and participation will be documented in each employee's personnel file.

#### **43.05 GLOBAL POSITIONING SYSTEM TRACKING**

Each cell phone is embedded with a global positioning system (GPS) that tracks the location of the device at all times. All data collected from the GPS unit is the property of City of Los Altos. City of Los Altos reserves the right to use such data for the following activities:

1. Track the device if lost.
2. Proof of remote working or business trips
3. Legal action according to applicable laws and contractual agreements.

#### **44.00 TUITION REIMBURSEMENT**

As a benefit for full-time employees, the City provides an Education Reimbursement Program. This program is intended to provide eligible employees of the City with the opportunity to receive education and training related to job duties and prepares employees for career growth within the City. Details of how the plan is administered are explained below:

##### **44.01 PARTICIPATION ELIGIBILITY**

The Education Reimbursement Program applies to full-time City employees; eligibility varies by employee group. Please contact Human Resources for information on eligibility.

Employees must receive approval from the Department Head and Human Resources before enrolling in the course to be eligible for reimbursement. Department Heads and Human Resources reserve the right to review a course/program for its job-relatedness and professional development value.

Reimbursement will not be made retroactively for courses taken before an employee became eligible for the program.

Unless otherwise stated in an MOU, employees entitled to and/or receiving any form of Career Incentive Pay (CIP) shall not be eligible for the Education Reimbursement Program.



#### **44.02 PLAN YEAR**

The Education Reimbursement Program runs from July 1<sup>st</sup> to June 30<sup>th</sup>, and balances renew each fiscal year. The year out of which a claim is paid is determined by the year in which a course is taken and not by the date a reimbursement request is submitted.

#### **44.03 ANNUAL BENEFIT**

The annual maximum benefit for eligible employees is \$2,500.

Employees can receive up to \$2,500 in reimbursement toward tuition expenses for courses in a degree or certificate program and up to \$1,500 in reimbursement for courses taken as continuing education.

#### **44.04 ELIGIBLE EXPENSES**

The following expenses will constitute reimbursable expenses under this program:

- (a) Tuition and/or fees required to enroll in the educational institution and register for a course and receive credit
- (b) Required materials for the class, such as textbooks or additional materials
- (c) Required fees to take the course, such as lab fees
- (d) Required fees to obtain the diploma or certificate

Expenses such as transportation, mileage, parking, or optional materials are not eligible for reimbursement.

#### **44.05 REQUIREMENTS**

In order to receive reimbursement under the program:

- 1) All classes must be earning credits toward a degree program, certificate, or continuing education related to the employee's duties for the City.
- 2) All classes must be taken through an accredited educational institution.
- 3) All classes must be applied toward a certificate or degree, unless otherwise pre-approved.
  - (a) Courses and related work must be completed outside of employee's regular work schedule, unless otherwise pre-approved but the Department Head.
  - (b) Employees must earn a grade of "C" or better, or "pass" in a "pass/fail" system.
  - (c) Employee must provide Human Resources with all required paperwork, including:
    - i. Signed Education Reimbursement Approval Form (before beginning course)
    - ii. Education Reimbursement Request Form
    - iii. Proof of satisfactory course completion (transcript, grade sheet, or other official document)

- iv. Proof of total cost of eligible expenses
- (d) Paperwork should be submitted to Human Resources as soon as possible, but no later than six months after course completion.

## **45.00 SOCIAL MEDIA USE POLICY AND PROCEDURES**

### **45.01 INTRODUCTION**

Social media encompasses the various activities that integrate technology, social interaction, and content creation. Through social media, individuals can create Web content, can organize, edit or comment on content, as well as combine and share content on their own web site or on someone else's. Social media uses many technologies and forms, including Web feeds, blogs, wikis, photography and video sharing, web logs, journals, diaries, chat rooms, bulletin boards, affinity web sites, podcasts, social networking, fan sites, mashups, and virtual worlds. To assist employees in making responsible decisions about their use of social media, the City has established this policy and guidelines for appropriate use of social media.

### **45.02 RIGHTS AND RESPONSIBILITIES IN USING SOCIAL MEDIA TECHNOLOGY**

- To the extent an employee's social media use impacts City employees and constituents, the employee should follow City policies and regulations as applicable, including but not limited to those that protect individual privacy rights, anti-discrimination and harassment policies, and the anti-workplace violence policy.
- If an employee's social media conduct adversely affects an employee's job performance, the job performance of other employees, or adversely affects constituents served by the City, the City may take disciplinary action against the employee up to and including termination.
- If an employee posts complaints or criticism about work related matters, the employee should avoid using statements, photographs, video or audio that reasonably could be viewed as unlawful harassment or discrimination or other violation of the law such as unlawful threatening conduct. Examples of such conduct might include offensive posts that could contribute to a hostile work environment on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or any other status protected by law. Examples of unlawful threatening conduct include posting material that would make a reasonable person afraid for their safety or the safety of their family.
- An employee should not disclose information that may violate the rights of other employees. For example, an employee should not disclose another individual's social security number, medical information, financial information in a manner that violates that person's rights.
- If an employee publishes a blog or post online related to their work, the employee should make clear that they are not speaking on behalf of the City

- The City recommends employees use privacy settings to restrict personal information on public sites. Employees should understand that even if they have privacy settings on, individuals employees invited into a social network can easily, print, save, cut, paste, modify or publish anything individuals post. Material can be archived on the Internet even after it is removed.
- Employees should be aware that any devices used for work-related tasks can be subject to Public Records Act Requests.

#### **45.03 USING SOCIAL MEDIA AT WORK**

Employees shall not use social media during working hours unless the employee is on break or lunch. Employees shall not use City email addresses to register on social networks, blogs or other online tools utilized for personal use.

#### **45.04 MEDIA CONTACTS**

The City strives to anticipate and address situations in order to provide accurate information and reduce disruption to our employees and the public that we serve. To best serve these objectives, the City will respond to the news media in a timely and professional manner only through its designated spokesperson. Employees are not authorized to comment for the City and should direct inquiries regarding the City's position to the City Manager or designee.

### **46.00 WELLNESS INITIATIVES**

Healthier employees are more productive and effective workers, require less expensive medical care, and are more satisfied with their jobs and their employer. Chronic diseases such as heart disease, stroke, cancer, obesity and diabetes are among the most prevalent and costly health problems for employers and employees. A healthy diet and regular physical activity program can prevent or delay the onset of many of these chronic health conditions and their associated health care costs.

Employers are in a unique position to promote and encourage their employees to be healthy and safe. The City strives to create a culture of health among employees by providing programs that promote preventative care and healthy lifestyle choices.

#### **46.01 CITY GOALS**

The City aims to create a healthy, livable, prosperous, environmentally conscious and collaborative community for our employees and the public that we serve. In furtherance of this vision, the City, through this Employee Wellness Policy, will:

- Provide healthy food and beverages choices for employees;
- Encourage employees to take advantage of opportunities for physical activity during the workday;
- Eliminate workplace tobacco exposure and encourage a tobacco-free lifestyle;

- Engage employees as partners in assuring their best possible health and in reducing preventable health care costs for both our employees and the City.

## **46.02 FOOD & NUTRITION**

### Access to Healthier Foods

- The City will provide healthier food options in the workplace including fresh fruit delivery
- The City plans to implement a program to provide fresh, healthy dinner options for employees presenting at City Council meetings
- Guidelines for food served at City-sponsored celebrations, events, and meetings include:
  - Non-fat or low-fat dairy products (e.g.; yogurt, cheese, cottage cheese)
  - Smaller portion-sized desserts (e.g.; mini brownie bites, small cookies, mini cupcakes)
  - Fruit as a dessert alternative
  - Moderate serving sizes
- Guidelines for beverages served at City-sponsored celebrations, events, and meetings include:
  - Present water as an attractive and appealing option with no added sweeteners
  - Serve coffee and tea unsweetened with condiments on the side and offer decaffeinated options
  - Provide unflavored, fat-free (skim) or low-fat (1-2%) milk, milk alternative, or non-dairy creamer

Vending Machines: The City will provide a vending machine with healthy vending options, including options that are low in fat and are available in a single serving size.

## **46.03 PHYSICAL ACTIVITY**

Work Breaks for Physical Activity: Employees are encouraged to use their daily breaks and meal periods to be physically active as well as to seek additional opportunities for physical activity during their workday (e.g.; park further from the building, walking meetings, taking stairs instead of the elevator, work stretches, etc.)

Walking Groups: The City will coordinate group walks during lunch hours to encourage interested employees to engage in physical activity during meal periods, as time and weather permits.

Activity Challenges: The City will organize activity challenges for interested employees to encourage moderate physical activity leading to reduced risk of illness and improved emotional and mental well-being.

#### **46.04 TOBACCO-FREE LIFESTYLE**

Supporting a Tobacco-Free Lifestyle: Employees and/or family members who smoke are encouraged to consider quitting smoking and are supported in their endeavors to do so. Smoking cessation services are available through the County of Santa Clara Public Health Department.

Eliminating Workplace Tobacco Exposure: The City prohibits smoking on the grounds of all City-owned buildings and in parks or recreation areas to reduce workplace tobacco exposure.

#### **46.05 INCREASE HEALTH AWARENESS**

Health Fair: The City will host an annual health fair to educate employees on their health insurance coverage, illness prevention, and healthy lifestyle habits through biometric screenings and health assessments.

Flu Shots: The City plans to contract with a third-party administrator to provide flu shots to interested employees.

### **47.00 APPEARANCE STANDARDS**

#### **47.01 ATTIRE AND APPEARANCE**

Employees are required to dress appropriately for the jobs they are performing. The following standards apply to all City employees:

- All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and job functions performed;
- Prescribed uniforms and safety equipment must be worn;
- Hair must be neat, clean, and well-groomed;
- Good personal hygiene is required; and
- Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public.

#### **47.02 TATTOOS AND PIERCINGS**

Employees are expected to project a professional appearance while at work and must abide by the following standards:

- No tattoos are allowed anywhere on the head, face, or neck;
- Visible tattoos shall not be obscene, sexually explicit, discriminatory, extremist, and/or gang related.
- No objects, articles, jewelry, or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth, except

that reasonably-sized pierced earrings may be worn and one reasonably-sized pierced nose ring may be worn.

Any non-conforming tattoo or piercing shall be covered or removed while at work.

## **48.00 PROHIBITIONS ON DRUGS AND ALCOHOL IN THE WORKPLACE**

### **48.01 PURPOSE AND SCOPE**

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

### **48.02 DRUG- AND ALCOHOL-FREE AWARENESS PROGRAM**

The City's employee assistance provider offers counseling and treatment of drug- or alcohol-related problems. The employee assistance provider has information about: (1) the dangers of drug or alcohol abuse in the workplace; (2) the penalties that may be imposed for drug or alcohol abuse violations; (3) the City's policy of maintaining a drug- and alcohol-free workplace; and (4) any available drug or alcohol counseling, rehabilitation or employee assistance programs.

### **48.03 PROHIBITED CONDUCT**

- The manufacture, distribution, sale, dispensation, possession, or use of alcohol, cannabis and any other controlled substance, narcotic, or prescription drug that has not been lawfully prescribed to the employee in City workplaces or wherever City business is performed.
- Working or being subject to call in if impaired by alcohol, cannabis or any controlled substance, narcotic, or prescription drug that has not been lawfully prescribed to the employee.
- An employee's failure to notify their Department Head before beginning work when taking medications or drugs, including but not limited to: prescription drugs, over the counter medications, cannabis, or illegal drugs or narcotics which could interfere with the safe and effective performance of duties or the operation of the City.
- An employee's failure to notify Human Resources of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction.
- An employee's criminal conviction for a drug violation that occurred in the workplace.

### **48.04 REASONABLE SUSPICION TESTING**

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or

alcohol at work, under the following circumstances. The City will use an outside laboratory to perform all testing.

- “Reasonable suspicion” to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, or other evidence of recent drug or alcohol use. If [City/County/District/Agency] suspects drugs or alcohol may have played a role in an accident involving [City/County/District/Agency] property or equipment that will also constitute reasonable suspicion.
- Document and Analysis: In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the Department Head and Human Resources. Any reasonable suspicion testing must be pre-approved by the City Manager or designee.
- Testing Protocol: If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the City Manager or designee has approved, the employee will be relieved from duty, transported to the testing facility and to their home after the test. The employee will be placed on sick or other paid leave until the test results are received.