

Exhibit 'A'



# PERSONNEL RULES AND REGULATIONS (EMPLOYEE HANDBOOK)

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## **INTRODUCTION**

Welcome! As an employee of the City of Kerman (the “City”), you are an important member of a team effort. We hope that you will find your position with us challenging and productive.

Because the quality of service we provide to our community depends on the dedication of our employees, we are highly selective in choosing new members of our team. The City is committed to treating employees respectfully, paying them fairly and providing good and safe working conditions.

We look to you and other employees to support our commitment to making Kerman a place “where community comes first.”

Again, welcome to our team! We trust that you will find your work with us a rewarding experience.

# **RULE 1. PERSONNEL POLICIES**

## ***Section 1.1 Organization***

The legislative power of the City of Kerman (the “City”) is vested in the City Council. The City Council consists of five persons who are elected by the citizens of Kerman. The position of Mayor, one of the five Council seats, is also directly elected by these citizens. Through its powers to pass ordinances, levy taxes, award contracts, and appoint certain City commissions, the City Council directs the course of City government. The Mayor, who is a member of the City Council, signs official documents, chairs Council meetings, and acts as the official head of the City at public and ceremonial occasions.

The day-to-day affairs and management of the government are directed by the City Manager, who is appointed by the City Council as the Chief Administrative Officer of the City of Kerman. To facilitate effective administration, the organization is divided into the following operating departments:

### **Office of the City Manager/Management Services**

- A. Office of the City Manager
- B. City Clerk
- C. Human Resources
- D. Community Investment/Economic Development

### **Community Development Department**

- A. Land Use Planning (Long Range and Current
- B. Building and Safety Services
- C. Business Licenses
- D. Code Compliance/Neighborhood Livability
- E. Development Services/Engineering

### **Community Services Department**

- A. Parks and Facilities
- B. Recreation Services for Seniors, Adults, and Youth
- C. Community Social Services
- D. Community Events

### **Finance Department**

- A. Director of Finance and City Treasurer
- B. Budgets and Investments
- C. Accounts Payable/Accounts Receivable
- D. Utility Billing and Collections
- E. Payroll Services

### **Police Department**

- A. Community Policing and Crime Prevention
- B. Patrol Divisions
- C. Detectives and Investigations

- D. Evidence, Property, and Records
- E. Traffic Safety/Vehicle Abatement
- F. School Resource Officers
- G. Animal Control

**Public Works Department**

- A. Operations and Street Maintenance
- B. Waste Supply and Distribution
- C. Sewer and Waste Water Treatment
- D. Fleet and Equipment Maintenance
- E. Park and ROW Maintenance
- F. Water/ Utility Conservation

***Section 1.2 Purpose of the Employee Handbook***

These Personnel Rules and Regulations (also referenced as “Employee Handbook” or “Handbook”) are intended to govern the Personnel System for the City. This Employee Handbook includes personnel policies and procedures that govern the day-to-day operations of our organization. These policies are intended to increase an employee’s understanding of the agency’s expectations and set forth levels of responsibility and authority for all employees and supervisors.

This Employee Handbook, however, cannot anticipate every situation or answer every question about employment with us. The Handbook is not, nor is it intended to be, an employment contract. Nor is it intended to create legal rights. In order to retain the necessary flexibility in the administration of policies and procedures, the City reserves the right to change or revise policies and procedures described in this Handbook without notice whenever it determines that such action is warranted. Any written changes to this Handbook will be distributed to all employees so that employees are aware of the new policies or procedures. No oral statements or representations can in any way alter the provisions of this Handbook.

***Section 1.3 Administration of Personnel Rules; Human Resource Officer***

The City Manager, as authorized by the City Council, and the City Manager’s designee shall administer these Personnel Rules and Regulations. This system effectively allows the City Council to voice its policies and instructions through this officer. The Human Resource Officer is the City Manager’s designee under these Personnel Rules and Regulations. The City Manager may also authorize other designees in writing. The City Manager shall have general control and supervision over all employees and shall also have the authority to control, order and give directions to all employees through supervisory employees.

The City Manager may establish written administrative rules and regulations which are consistent with these Personnel Rules and written administrative rules and regulations required by state or federal law unless such laws require adoption by the City Council.

**Section 1.4 Non-Contract**

These Personnel Rules do not create a contract of employment, express or implied, or any rights contractual in nature.

**Section 1.5 Coverage of Personnel Rules**

These Personnel Rules shall apply to all employees unless a section or provision specifically excludes them.

Independent contractors, volunteers, and City Council members are not City employees, and are therefore not covered by the Personnel Rules included herein.

**Section 1.6 Memorandums of Understanding**

Certain City employees are represented by an association. Each group negotiates a Memorandum of Understanding (MOU) governing certain aspects of employment including but not limited to compensation structure, work schedules, overtime pay, insurance benefits, and paid time off benefits.

Unless otherwise required by law, in the event that any provision in this Handbook conflicts with a provision in an MOU, the City will abide by the applicable MOU provision.

**Section 1.7 Definitions and Interpretation**

A. Interpretation

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and interpreted according to such peculiar and appropriate meaning.

B. Definitions

Where appropriate, specific definitions are utilized in these Personnel Rules and shall prevail. Such definition shall be applicable throughout these Personnel Rules unless otherwise stated.

**Section 1.8 Violation of Rules**

Violation of any of the provisions of these Personnel Rules by any City employee may be subject to disciplinary action as set forth in Rule 5.

**Section 1.9 Employment Constitutes Acceptance of Rules**

In accepting employment with the City, each employee agrees to be governed by and to comply with these Personnel Rules and written administrative rules and procedures established by the City



Manager. Upon accepting employment with the City, an employee shall be provided electronic access to a copy of these Personnel Rules and sign for their receipt. The receipt will be made a part of the employee's personnel file. A hard copy of the written Personnel Rules is also available within each department.

***Section 1.10 Severability***

If any rule, subsection, sentence, clause, phrase or portion of this Employee Handbook is for any reason held to be invalid by a court of competent jurisdiction, the remaining rules, sections, sentences, clauses, and portions of the Employee Handbook shall nonetheless remain in full force and effect.

**RULE 2. FAIR EMPLOYMENT POLICIES AND PRACTICES: EQUAL EMPLOYMENT POLICY; POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION; COMPLAINT PROCEDURE**

*Notwithstanding any language in this Employee Handbook, this Rule 2 shall be applicable to all City employees, independent contractors, volunteers, and City Council members*

**Section 2.1 Equal Employment Opportunity**

The City affords equal employment opportunity for all qualified applicants and employees to all terms of employment with the City including, but not limited to, compensation, hiring, training, transfer, discipline, and termination. Employment decisions will comply with all applicable laws prohibiting discrimination in employment including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Immigration and Nationality Act, the California Fair Employment and Housing Act and any other applicable laws.

The City prohibits discrimination against employees and applicants for employment on the basis of any status protected under state or federal 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 Civil Rights Department (“CRD”).

**Section 2.2 Purpose**

The City is committed to preventing discrimination, harassment, and retaliation in the workplace. Supervisors, co-workers and third parties are prohibited from engaging in unlawful behavior under the Fair Employment and Housing Act. This policy establishes a complaint procedure by which the City will investigate and resolve complaints of harassment, discrimination, 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.

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.

### ***Section 2.3 Covered Individuals and Scope of Policy***

This policy covers the following individuals: applicants for employment at the City employees regardless of rank or title; elected or 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.

### ***Section 2.4 Zero Tolerance***

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

### ***Section 2.5 Definitions***

#### **A. Protected Classifications**

This policy prohibits discrimination, harassment or retaliation because of an individual's protected classifications.

"Protected Classification" includes race (including hair texture and protective hairstyles), 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, reproductive health decision-making, or any other basis protected by law.

#### **B. Protected Activity**

- i. This policy prohibits discrimination, harassment, and retaliation because of an individual's protected activity.
- ii. Protected activity includes, but is not be 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.

#### **C. Discrimination**

- i. 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.

## D. Harassment

- i. This policy prohibits harassment of a covered individual because of the individual's actual or perceived protected 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 features, 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 a protected classification.
  - (d) Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.
- ii. Other Examples of Conduct That Might Constitute Harassment – Harassment includes conduct that another individual who is a member of a protected classification would find unwelcome or unwanted. Harassment may include the following:
  - (a) 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 subjected to retaliation.
  - (b) Conduct about which no employees previously complained. The fact that no employee previously complained about the same or substantially similar conduct does not mean that the conduct is inoffensive or appropriate nor does that fact preclude an employee from complaining about such conduct if it is repeated.
  - (c) Conduct witnessed by a third party or about which a third party learns, even if they did not witness such conduct. Visual, verbal, or physical

conduct between two (2) people who do not find such conduct to be offensive or inappropriate may constitute harassment of 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.

- (d) Conduct can constitute harassment even if the individual has no intention to harass. Conduct that may be well-intentioned conduct (e.g., gifts, over-attention, endearing nicknames, hugs) may nevertheless constitute harassment if the conduct is directed at, or implicates a protected classification, and if the individual finds such conduct

### ***Section 2.6 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 complainant 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.

### ***Section 2.7 Reporting Harassment, Discrimination, or Retaliation***

An individual who believes he or she has been the subject of, or has witnessed harassment, discrimination, or retaliation in violation of this policy, should promptly report the conduct. The individual may use any of the following procedures:

- A. Object to the Conduct: Sometimes an individual is unaware that his/her conduct is offensive. The offensive behavior may be eliminated by informing the offender that the conduct or language in question is unwelcome and offensive and requesting that it be discontinued immediately.
- B. Verbal or Written Complaint: The individual may report the alleged harassment, discrimination, or retaliation verbally or in writing to a supervisor, the City Manager, or Human Resources, without regard to any chain of command.
- C. Report to Outside Administrative Agency: Individuals may report the alleged harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department (CRD).

## **Section 2.8 Complaint Procedure Regarding Discrimination, Harassment, or Retaliation**

- A. Employees: All individuals must promptly report discriminatory, harassing, or retaliatory behavior, whether directed at themselves or other employees.
- B. Supervisors: Supervisory employees are required to report all complaints of discrimination, harassment, or retaliation on the basis of a protected category. If a complaint is made to a supervisory employee, or if a supervisory employee becomes aware of a potential violation of this policy, the supervisory employee must promptly report the complaint or potential violation to the City Manager. If the City Manager is the alleged perpetrator, the complaint or potential violation shall be reported to the City Council. Any supervisor who fails to timely report the complaint or potential violation may be subject to disciplinary action.

## **Section 2.9 Investigation of Harassment, Discrimination, or Retaliation Complaint**

- A. Response to a Complaint: All complaints will be followed by a fair, complete and timely investigation. The City Manager is responsible for coordinating the investigation unless the complaint is against the City Manager, in which case the complaint will be coordinated by Human Resources.
- B. Scope of Investigation: The type and scope of the investigation undertaken and the party chosen to conduct the investigation will depend on the nature and severity of the complaint.
- C. Interim Action: Interim action may be taken such as placing the alleged perpetrator on paid administrative leave or temporarily transferring the alleged perpetrator to another assignment.
- D. Confidentiality: The City will maintain the confidentiality of the complaint to the extent possible. Complete confidentiality, however, cannot be guaranteed due to the need to fully investigate potential policy violations and take effective remedial action.
- E. Closure of Complaint: At the conclusion of the investigation, the City will notify the complainant of the conclusion of the investigation. 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 a court order.
- F. Retention of Records Where EEOC/CRD Complaint Filed: California law requires that all employment records be retained for a minimum of three (3) years, or in the case of citizen complaints against peace officers, for a minimum of five (5) years. However, when the EEOC or CRD complaint has been filed, all records related to the complaint shall be kept until the EEOC or CRD has closed its inquiry and the limitations period or any resulting lawsuit has been terminated.

### ***Section 2.10 Discipline or Other Appropriate Remedial Action***

If the investigation finds that the alleged conduct occurred and the conduct violated this policy, the City will notify the complainant and perpetrator of the general conclusion(s) of the investigation and take disciplinary or other appropriate remedial action.

### ***Section 2.11 Accommodations for Disability***

To comply with applicable laws ensuring equal employment opportunities to qualified individuals with a disability, the City will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee, unless undue hardship would result. The intent of a reasonable accommodation is to allow an employee to perform the essential job duties; therefore a reasonable accommodation will be directed to the limitations created by the identified disability.

If an employee requires an accommodation in order to perform the essential functions of the job, contact the Human Resources Officer or Human Resources Specialist to request an accommodation. A member of City management will meet with the employee to identify and discuss possible accommodations, if any, which may assist the employee in performing the job. The applicant or employee is responsible for requesting an accommodation and to communicate with the City to determine effective reasonable accommodations. This duty to communicate remains throughout the accommodation period. If the applicant or employee fails to communicate, the City will be compelled to make decisions with the limited information in the City's possession.

In order to fully evaluate an employee's needs and to determine possible accommodations, the City and the employee must engage in an open, interactive discussion. The interactive discussion may consist of multiple communications, including ongoing efforts to accommodate a disability, the identification of vacant positions which the employee may be qualified to perform, and consideration of the employee's ideas for potential accommodations. In considering possible accommodations, the City cannot eliminate essential functions of a position in an effort to place the employee in a particular position. The employee may be asked to provide documentation from a health care provider of the limitation(s) as well as possible accommodations. The City will document the interactions with the employee and the employee. The City will make a reasonable accommodation that does not impose an undue hardship to assist a qualified individual with a disability.

The City is unable to provide an employee with an indefinite leave of absence as an accommodation. Indefinite leaves of absence typically arise when a health care professional cannot provide a reasonable time frame for an employee's return to work. An indefinite leave of absence may also arise when a health care professional provides us with multiple excuses from work for a specific period of time, but fails to provide a reasonable return date.

In the event there is a conflict between a person's religious belief or observance, religious dress or grooming practice and any employment requirement, the City will explore available reasonable means of accommodating that religious belief or observance. Religious belief or observance includes

observance of a Sabbath or other religious holy day, and reasonable time to travel to and from a religious observance. The City will provide an accommodation unless it is an undue hardship. The City will not retaliate or discriminate against a person for requesting a religious accommodation.

**Section 2.12 Reporting Hotline**

For more information about employee rights and the telephone number of the reporting hotline, employees may reference the Labor Law posters located in the following areas:

- |                                    |                                   |
|------------------------------------|-----------------------------------|
| Administration Lunch Room          | Police Patrol Ops Room            |
| Senior Center Office Area          | Public Works Break Room           |
| Community Team Center North Office | Waste Water Treatment Office Area |

**Section 2.13 Genetic Information Nondiscrimination Act (GINA)**

The City will not ask employees for any genetic information with respect to their employment.

**Section 2.14 Public Assistance**

The City understands that its employees may, at times, need to participate in public assistance programs. The City will not discriminate or retaliate against an employee who enrolls in a public assistance program. Nor will the City refuse to hire a person because of enrollment in a public assistance program. The City will not disclose to anyone, unless required by law, that an employee or applicant receives or is applying for public benefits.



## **RULE 3. EMPLOYMENT SELECTION, APPOINTMENT AND SEPARATION**

### ***Section 3.1 Filling of Employee Positions***

The City Manager may fill employee positions which are authorized in the approved City budget or by specific action of the City Council.

### ***Section 3.2 Employee Status***

- A. Permanent Full-Time Employees: Employees who are employed in a permanent position who successfully complete their probationary period and who regularly work a minimum of forty (40) hours per week shall be deemed permanent full-time employees. During their probationary status, these employees may be referred to as Probationary Employees.
- B. Permanent Part-Time Employees: Employees who are employed in a permanent position who successfully complete their probationary period and who work less than thirty (30) hours per week, shall become permanent part-time employees. Permanent part-time employees are not eligible for benefits except as required by applicable law. During their probationary status, these employees may be referred to as Probationary Employees.
- C. Temporary Employees: Employees who are employed in an intermittent or short-term position of work where the load is not year-round or of sufficient amount to justify a permanent full-time work shall be deemed Temporary Employees. The term "Seasonal Employees" may also be used from time to time. Temporary Employees are not eligible for benefits except as required by applicable law. The terms and conditions of employment will be decided individually for each case prior to actual employment, subject to approval by the City Manager. Temporary employees are at-will and may be subject to discharge for any reason or for no reason and have no right to appeal, grievance, or hearing.

### ***Section 3.3 Recruitment***

It is the responsibility of authorized staff to ensure that all applicants are treated fairly and to ensure that the procedures outlined herein are followed. Recruitment shall be open to all applicants who meet the minimum qualifications and other requirements of the position, as stated in the announcement.

The City may use all available, timely and cost effective means of recruiting qualified applicants. Such announcement should include the following information: position title, salary range, summary of the job and duties, minimum qualifications, and recruitment closing date.

### ***Section 3.4 Employment of Relatives: No Nepotism Policy***

To ensure against preferential treatment, internal control problems, and other related managerial problems, the City has a "No Nepotism Policy." The City shall not hire or promote anyone

who is an immediate family member to a Councilmember or to a City employee who would have direct supervision over the person to be hired or promoted, or where there would be a conflict of interest.

No City employee or City Councilmember shall supervise, initiate, or participate in personnel actions which include, but are not limited to, appointment, transfer, promotion, demotion, layoff, discipline, work assignments, evaluations, pay increases, training or any other personnel action that may affect an immediate family member.

For purposes of this Rule, the term immediate family includes spouses, registered domestic partners, parents, children, siblings, grandchildren, grandparents, uncles, aunts, nieces, and nephews by blood or marriage.

### ***Section 3.5 Selection of Employees***

The objective of recruitment and selection is to provide the City with the most qualified applicant for a position. Selection should be done in accordance with employment opportunities as described in these Personnel Rules.

#### **A. Application Form**

Job applications must be made on forms approved by the Human Resource Officer. Applications must be completed in full and signed by the applicant. The City will not process any incomplete or unsigned applications. All completed applications must be received at the City office by the closing date and time. It is the job applicant's responsibility to confirm receipt of his/her application by the City by the application deadline. If a job-seeker needs an accommodation to apply for a job, a request must be received in writing at the City office at least two days prior to the application deadline.

#### **B. Qualifying and Referral**

- (1) The City will only consider applications received by the closing date for the recruitment.
- (2) The Human Resources Officer should develop the selection criteria used for evaluation of the applicants. Based upon these criteria the top applicants should be identified. The most qualified applicants may be interviewed, assessed, background and references checked or otherwise tested to select the best applicant for the position.
- (3) The Human Resources Officer may reject an application at any time during the application or selection process if the applicant:
  - a. Makes a false statement of material fact or practiced fraud or deception in the application, examination or interview to secure eligibility or appointment.
  - b. Uses or attempts to use political pressure or bribery to secure an advantage in establishing eligibility for an examination or appointment.

- c. Directly or indirectly obtains information the applicant was not entitled to regarding a test or examination for the position.
- d. Violates provisions of state or federal law.
- e. Is a current user of illegal drugs.
- f. Is a relative of an employee or the Council and is subject to the No Nepotism Policy.

C. Final Selection

Based on the City's evaluation of the best applicant for the position from among the qualified candidates, the Department Head will make a recommendation to the City Manager for final selection.

D. Reference Checks

Reference checks of previous employers, co-workers and other individuals with personal knowledge of the applicant may be made by authorized personnel on all applicants who are selected as finalists for an opening. Adverse or unsatisfactory references may disqualify the applicant from further consideration.

E. Background Checks

Background and/or credential checks may be made, when deemed necessary by the City Manager and in such manner as authorized by law. Also, where pertinent or legally required, driver's license and criminal background checks will be made. Adverse or unsatisfactory results of background, credential, or criminal background checks may disqualify an applicant from further consideration.

F. Fingerprinting

The City is prohibited from employing persons who have a supervisory or disciplinary authority over minors if the person has been convicted of certain criminal offenses. Therefore, the City requires that any applicant who will have supervisory or disciplinary authority over a minor be fingerprinted and cleared prior to the start of employment. Applicants who are subject to this provision shall be required to complete an application that inquires as to convictions specified in Public Resources Code Section 5164.

The City shall screen, pursuant to Penal Code Section 11105.3 any applicant or volunteer having supervisory or disciplinary authority over a minor for that person's criminal background.

**Section 3.6 Probationary Period**

A. New Employees

(1) A probationary period of actual and continuous service applies to new and rehired employees serving in a full-time permanent position or part-time permanent position. For sworn police officers the probationary period is eighteen (18) months for new officers and twelve (12) months for lateral officers (employed as a public safety employee when hired). For Miscellaneous, non-management employees, this period is twelve (12) months. City Manager and Department Heads are hired by contract, are at-will, and are not subject to this section.

(2) Probationary employee benefits and leaves shall accrue according to Rules 6 and 7.

(3) Performance appraisal is ongoing and a written performance appraisal will be prepared before the end of the probationary period to determine if a permanent appointment is to be made by the City Manager. Thereafter, all employees will receive a performance appraisal annually on or about the employee's anniversary date. However, per Department Head determination, employee evaluations may be more frequent.

(4) The employee will be notified prior to expiration of the probationary period that he/she has been accepted or rejected for regular employment.

(5) The probationary period is considered to be part of the selection process. Employees have no right to employment during this probationary period. Probationary employees may be dismissed at any time without cause by the City and without the right of appeal, grievance or hearing.

### ***Section 3.7 Anniversary Dates***

The employee's date of hire is the employment anniversary date and initially coincides with the employee's classification anniversary date. The classification anniversary date is that date on which the employee began in a particular classification or salary step within that classification's salary range. The classification anniversary date changes with any change in classification, salary step or salary range, except that the classification anniversary date does not change as a result of certification compensation.

### ***Section 3.8 Resignation***

An employee may resign from City employment at any time. The City requests but does not require at least two weeks written notice to the Department Head. The notice should state the effective date. The City requests but does not require the reasons for leaving. The Department Head shall forward the resignation to the Human Resource Department. The two week notice period is not reduced by any accrued compensated leave. Such leave is paid upon resignation when required by law, policy or MOU. A resignation becomes final when the Department Head accepts the resignation in writing. Once a 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.

### ***Section 3.9 Discharge for Cause***

Employees discharged for cause are ineligible for future employment with the City.

## **RULE 4: WORKING CONDITIONS**

### ***Section 4.1 Job Duties***

Job responsibilities and performance standards will be explained at the time of hire. Employees are to refer to their applicable job description and MOU for further details about their position.

Job descriptions are meant only to describe the general nature of work. Job responsibilities may change at any time during your employment. From time to time, employees may be asked to work on special projects or to assist with other work necessary or important to the employee's department or the City. A supervisor may alter or change job responsibilities, reassign or transfer job positions, or assign additional job responsibilities.

### ***Section 4.2 Workday and Workweek***

A workday is defined as any consecutive 24-hour period beginning at the same time each calendar day. The workday begins at 12:00 am. See Section 4.6 Flextime for flexible workday/workweek.

A workweek is a fixed and regularly recurring period of 7 consecutive 24-hour periods, as defined by the applicable MOU.

The work period for Police Department Personnel is defined as a fourteen day period beginning one Sunday and ending the Saturday of the concurrently following week.

### ***Section 4.3 Work Hours and Attendance***

Employees are expected to be at their work area on time and working in accordance with their work schedule. In an organization such as ours, the timely and efficient production of work depends on each employee. If one person is late in arriving, the quality of our services may be impaired. Thus, while occasional, infrequent emergencies are to be expected, repeated or frequent tardiness cannot be permitted.

Absenteeism and tardiness will ultimately affect your employment at the City, and may result in termination of employment. If an employee is unable to report on time for any reason, the employee must inform their supervisor of their absence or tardiness as early as possible.

Anticipated absences must be arranged in advance. When an absence from work is required, employees should request permission for such an absence from your supervisor. An absence will be approved subject to the City policies and the needs of your department. If an employee is absent without approval for three or more days and the employee has not contacted their supervisor or the Department Head, the supervisor or the Department Head will assume the employee voluntarily terminated their employment and the employee will be deemed to have automatically resigned.

Attendance and other records related to hours worked and wages paid are kept for a period of five years. These records are available for review by the employee during normal office hours by scheduling a time to review them with the Human Resources Department.

#### ***Section 4.4 Time Keeping***

All non-exempt employees are required to record hours worked on time sheets. For those employees paid on an hourly basis, a time sheet is a record of the hours worked and for which the employee will be paid.

Employees are responsible for accurately recording all of the employee's work hours. The City will pay the employee for all hours accurately recorded, including overtime. Employees are not permitted to work "off the clock" and must record all time worked.

Employees must complete their own time sheets. Moreover, the City cannot monitor all employees and determine when they are working and whether they have clocked in. It is the employee's responsibility to clock in and to accurately maintain their time sheets.

#### ***Section 4.5 Overtime***

Only non-exempt employees are eligible for overtime compensation. Employees should refer to the approved salary scale to determine whether the employee is non-exempt employee. Exempt employees are not eligible for overtime compensation. Exempt employees are paid on a salary basis and are in executive, administrative or professional positions.

Unless otherwise stated in an MOU, "overtime" is all hours an overtime-eligible employee actually works over 40 in his/her work week, or for sworn Police Department personnel, all hours over 84 hours in a work period. Certain exceptions may apply pursuant to Stand-By/Call-Out guidelines developed by the department as specified in the applicable MOU. Overtime is compensated at 1.5 times the Fair Labor Standards Act regular rate of pay or as may be otherwise provided in the MOUs applicable to the employee. Unless specified in the MOUs, overtime will be calculated based on actual time worked, not including time for sick leave, vacation, or compensating time off (CTO). No overtime shall be recorded or reported for less than 8 minutes of work.

Non-exempt employees are not permitted to work overtime except as permitted by the guidelines developed by the applicable department. Employees may not work overtime without receiving the approval of the appropriate supervisor prior to performing the work. Working overtime without advance approval may be cause for disciplinary action.

#### ***Section 4.6 Flextime***

The City's Flextime policy gives employees the flexibility to perform their assigned duties outside of conventional five day/eight hour days each week. The City believes that flexible work hours can help motivate staff, improve productivity, accommodate education activities or routine health appointments, and promote a culture that respects work-life balance. Flextime is a management option that provides an alternative means to fulfill work requirements. Participating in a flextime program is strictly voluntary.

A. Approval Required

The opportunity to engage in flextime must be requested by the employee on the Flextime Application Form (contact Human Resources for a copy) and approved by the employee's Department Head and the City Manager, and must demonstrate mutual benefit. The City reserves the right to revoke flextime privileges at any time for reasons including, but not limited to, scheduling conflicts, concerns regarding the productivity of employees, and a decline in customer service levels. The Department Head will provide a one pay period notice to the employee whose flextime privileges are being revoked.

B. Scope

This Flextime Policy applies to all non-exempt employees of the City. All managers, supervisors, and flextime employees should be familiar with the contents of this policy. No employee is entitled to flextime; however, where possible, flextime may be granted to employees to help accommodate outside commitments.

Participation in the flextime program should have no negative impact on:

- The employee or another employee's performance.
- Customer service or internal service level agreements.
- Inter-departmental collaboration and communication.

Due to the time-sensitive nature of their associated tasks, and in order to ensure appropriate service levels, some departmental areas are not eligible for flextime schedules.

C. Eligibility

Full-time employees who have worked at the City for a minimum of six months are eligible for the flextime program. Employees in a training capacity will not normally be approved to participate in the flextime program.

D. Requests for Flextime

Flextime requests must be submitted in writing to the employee's Department Head with approval being at the sole discretion of the City. Flextime requests are granted on a case-by-case basis, factors that will be considered in the decision include:

- Operational requirements of the job function.
- Work team schedules and time commitments.
- Overall job performance as documented in performance reviews.
- Degree of self-motivation.
- Degree of organizational, prioritization, and time-management skills.
- Ability to work independently in an unsupervised environment.
- Disciplinary record from the past year, especially in the areas of reliability and attendance.

#### E. Available Flextime Schedules

The following are the flextime arrangements offered by the City:

- **4/10 fixed schedule:** Employee adheres to a set schedule of four workdays per week, with hours that differ from regular business hours of the office. (Same day off each week.)
- **9/80 pay period:** Employee alternates working five days and four days per calendar week. Scheduled shifts are nine hours, with the exception of one day during the five-day week, which will be eight hours. When an employee adopts this type of flextime schedule, his/her workweek for the purposes of calculating overtime will be re-defined to result in a 40-hour workweek and an 80-hour pay period.

#### F. Communication

Employees participating in the flextime program are required to take responsibility for their relationships with team members and clients. If employees are working flexible hours, this should also be conveyed in their voice mail, email auto response, office hours, points of client contact, and shared Outlook calendars.

#### G. Compensation Adjustments

The employee's compensation, benefits, work status, and work responsibilities will not change as a result of participation in the flextime program. A flexible work schedule cannot:

- Create instances of overtime or shift differential.
- Be used to take away the opportunity for overtime or shift differential pay.

### ***Section 4.7 Pay Day and Paychecks***

All employees are paid every other Friday.

Each pay day the City will pay employees with a check or by direct deposit. Employees will receive an itemized statement of earnings, typically referred to as a "paycheck stub." The statement will show, for the pay period, gross wages earned, total hours worked (except for employees paid a salary and who are exempt from the payment of overtime compensation), all deductions, net wages earned, the dates of the pay period, your name and part of your social security number, the name and address of the business, and the applicable hourly rate. The City will also provide employees with the state mandated paid sick leave benefits employees have accrued either on the paycheck stub on or a separate document distributed with employees' paychecks. Employees shall assure that all personal information is true and correct. If changes need to be made, please contact the Human Resources Specialist.

The City processes the payroll for each employee. Processing payroll requires the City to make many calculations for each employee, and it is possible that an error may occur. For this reason, employees should carefully review each paycheck stub for accuracy. If an employee has any questions, or if there is an error, the employee shall bring the error to the City's attention immediately. No



employee will suffer adverse action because he/she expressed or made a written or oral inquiry or complaint regarding wages.

Employees' paycheck' will be subject to payroll deductions. This will include federal and state income taxes which the City is required to withhold, payroll taxes such as social security, and any other deductions the employee has authorized. For example, employees may be responsible for paying part of an insurance premium. Another example might be that an employee asked the City to deduct a certain amount from their earnings to be transferred to a retirement account. A deduction from your paycheck may be made if an overpayment arises from the previous pay period.

Before the City makes any deductions, the employee will be required to sign an authorization as required by law. If the amounts of the deductions change (such as for health care premiums), the employee will be required to sign a new authorization form.

#### ***Section 4.8 Payroll Records***

The City will keep payroll records showing hours worked daily and wages paid to each employee at 850 S. Madera Avenue in Kerman, California. These records will be kept for at least five years. Employees may also keep personal records of hours worked. If the employee's record differs from the information the City provides the employee on their paycheck, contact the Human Resources Department immediately.

#### ***Section 4.9 Meetings and Training Courses***

Employees will be paid for all hours spent attending meetings or training courses required by the City.

The City will provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment and other forms of unlawful harassment to supervisory employees within six months of assuming a supervisory position. All supervisory employees shall complete training once every two years. Training will include prohibition against, and the prevention and correction of harassment, remedies available to victims, and the prevention of abusive conduct. The training will be provided by persons with knowledge and expertise in the prevention of harassment, discrimination and retaliation.

Nonsupervisory employees will receive at least one hour training of classroom or other effective interactive training and education in the prevention of sexual harassment and abusive conduct in the workplace. New hires shall receive training within six months of hire and all non-supervisory employees will receive training every two years.

#### ***Section 4.10 Travel Time***

On occasion, non-exempt employees will be required to travel during the course of a workday, or to meetings or training courses. Whether or not travel time constitutes hours worked will depend on the kind of travel involved. Travel between the employee's primary work location and a meeting location

during the workday will be counted as hours worked. However, time spent traveling directly between the employee's home and a meeting location is not considered hours worked, unless the meeting location is further than the employee's usual home to work travel.

Travel, whether by driving or other mode of transport, which keeps an employee away from home overnight is considered hours worked. Travel time does not include time spent at a hotel; time spent after the meeting/project is completed for the workday; time spent during meal breaks; or time spent on purely personal pursuits such as sightseeing and visiting family or friends. Non-exempt employees are required to accurately record their travel and work hours in these situations.

Time spent by exempt employees on travel related to the performance of their job duties is included in the employee's salary, and no additional compensation will be paid for travel time.

#### ***Section 4.11 Off-Duty Activities***

Participation in any off-duty recreational, social or athletic activity offered by the City is strictly voluntary.

#### ***Section 4.12 Pay Increases***

The City has three (3) published salary schedules as approved by Council Resolution: Management, Miscellaneous, and Public Safety Employees.

A merit increase is an advancement to a higher step in the appropriate range/classification schedule based on a positive evaluation. The merit increase must be approved by the Department Head and City Manager. A salary merit increase is not automatic with time served but must be accompanied by a satisfactory or better job performance evaluation from the employee's supervisor and be approved by the Department Head and City Manager.

Merit increases, within the assigned range/classification are normally considered annually, within the applicable salary range, on the employee's merit anniversary date. Based on positive evaluations, Management employees are eligible for the first step increase twelve (12) months from the date of hire; miscellaneous employees six (6) months from the date of hire; and sworn/non-sworn police department personnel are eligible for the first step increase, including sworn employees serving an 18-month probation period, twelve (12) months from the date of hire.

#### ***Section 4.13 Performance Evaluations***

Employees will receive periodic performance reviews. The Department Head or the employee's supervisor will discuss the review with the employee. Evaluations will generally be conducted once per year, on or about the employee's anniversary date. They may be conducted more often depending upon length of service, job position, past performance, changes in job duties or recurring performance problems. Performance evaluations are required whether or not an employee is eligible for a merit/step increase.

Performance evaluations may review factors such as the quality and quantity of the work performed by the employee, employee's knowledge of the job, employee's initiative, employee's work attitude and employee's attitude toward others. The performance evaluations should help the employee become aware of their progress, areas for improvement and objectives or goals for future work performance. While annual evaluations have a direct bearing on determining salary step advancements as defined by in the applicable MOU, a successful evaluation does not automatically result in a pay increase.

After the review, the employee will be required to sign the evaluation report to acknowledge that it has been presented to the employee and discussed with the employee, and that the employee is aware of its contents.

#### ***Section 4.14 Meal Periods***

The City will make a 60 minute unpaid and uninterrupted meal period available to each overtime eligible employee who works at least a five-hour shift. Employees are encouraged to take a meal period to relax or to take care of personal matters. Employees will be relieved of all duty during the meal period and are not required to remain on the premises. If the City concurs, employees may waive their meal period if their work period is no more than six hours in the workday. If an employee works 10 hours in a workday, the employee is entitled to a second unpaid meal period of 30 minutes. An employee cannot waive the second meal period unless the City concurs and the employee has not waived their first meal period. Meal periods may be arranged around work requirements, but should be taken before employees have completed five hours of work.

If, due to the press of business or for other reasons, an employee feels as though they cannot take a meal period, the employee shall contact a supervisor or Department Head. By coordinating schedules the City can assure that everyone can take a meal period. An employee's failure to record meal periods properly may result in disciplinary action.

An on-duty meal period will be permitted only when the nature of the work prevents an employee from being relieved of all duty and when the employee and the City agree in writing. The agreement will state that the employee can, in writing, revoke the agreement at any time.

#### ***Section 4.15 Rest Periods***

City employees who are overtime eligible will generally be permitted to take brief rest periods when needed during the work day, with approval from a supervisor. Rest periods should not exceed 15 minutes for every four hours worked, and should not be allowed to negatively impact the efficient production of work. Employees may need to coordinate schedules so that everyone can take a rest period.

#### ***Section 4.16 Recovery Period***

When the outside temperature exceeds 80 degrees, the City will provide shade for employees who are working outdoors. Shade will also be provided upon request. Employees are encouraged to

take a cool down recovery period in the shade for a period of no less than five minutes when they feel the need to do so to protect themselves from overheating. Employees must take a minimum 10-minute preventative cool-down rest period every two hours when temperatures reach 95 degrees.

The recovery period must be taken in an area approved by the supervisor or Department Head to provide for proper monitoring. Recovery periods are counted as hours worked.

#### ***Section 4.17 Lactation Accommodation***

An employee may make a request for lactation accommodation, either orally or in writing, to the employee's supervisor, Department Head or the Human Resources Department.

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

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

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

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:

- (a) Be shielded from view and free from intrusion while being used to express milk;
- (b) Be safe, clean, and free of hazardous materials;
- (c) Contain a surface on which to place a breast pump and personal items;

(d) Contain a place to sit; and

(e) 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.

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.

## **RULE 5. RULES OF CONDUCT; DISCIPLINARY PROCEDURE AND APPEAL PROCESS**

### ***Section 5.1 Disciplinary Action General Guidelines***

This Rule contains rules of conduct and constitutes the City's policy regarding disciplinary actions. These procedures shall not apply to a layoff or a reduction in pay which is part of a reclassification action, reorganization or layoff.

Excepted Positions: The following categories of persons can be terminated at-will and have no rights to receive a Notice of Intent or to any of the pre- or post-disciplinary processes or procedures provided in this Rule 5: (1) Temporary employees; (2) Probationary employees; (3) Any person who serves pursuant to a contract; and (4) Any person who is designated "at-will" in any City policy, document, acknowledgement, contract, resolution or ordinance. In addition, any regular employee who is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) is not subject to any disciplinary penalty which is inconsistent with his/her FLSA overtime-exempt status.

### ***Section 5.2 Employee Conduct and Causes for Disciplinary Action***

#### **A. Job Performance**

Employees may be subject to discipline, including termination, for poor job performance, including but not limited to the following:

- (1) Unsatisfactory work quality or quantity.
- (2) Failure to follow instructions or City procedures.
- (3) Inefficiency.
- (4) Failure to meet the requirements for continued employment in an employee's job description such as possession of a valid driver's license, particular certificate, or permit.

#### **B. Misconduct**

The City requires all employees to conduct themselves in a professional manner at all times. Employees may be disciplined for, including but not limited to, any of the following causes:

- (1) Insubordination, refusal to obey orders or to perform job assignments, or rude behavior.
- (2) Sleeping or leaving the job during work hours.
- (3) Theft, unauthorized removal or willful damage to any property belonging to another employee, a citizen, a vendor or the City.
- (4) Possession or use of weapons, firearms or explosive materials on City premises or City vehicles while on duty when not required by job duties.

- (5) Working while under the influence of alcohol or illegal drugs, including marijuana.
- (6) Mishandling and/or misappropriation of public funds.
- (7) Falsification or omission of pertinent information on City records.
- (8) "Horseplay," which includes, but is not limited to, wrestling, dangerous practical jokes, or throwing objects.
- (9) Disregard for safety rules or practices, security regulations or safety disciplinary rules.
- (10) Any conduct that impairs, disrupts, or causes discredit to the City.
- (11) Making any false statement, or omission or misrepresentation of a material fact.
- (12) Providing untrue, wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment.
- (13) Dishonesty.
- (14) Leaving the workplace without notifying employee's supervisor.
- (15) Unauthorized operation, repair, or attempt to repair machinery, tools, or equipment.
- (16) Unauthorized use of the telephone or computers.
- (17) Committing any act of violence against another employee, citizen or vendor.
- (18) Using City-owned material, time, equipment, or personnel for any unauthorized purpose.
- (19) Failure to immediately report an injury or accident to employee's supervisor.
- (20) Posting or removing any materials on City property without proper approval.
- (21) Discourteous, abusive conduct, rude or harassing treatment of the public, vendors, or other employees. Examples of this type of conduct includes, but is not limited to, repeated infliction of verbal abuse such as the use of derogatory remarks, insults, epithets, verbal or physical conduct that a reasonable person would find threatening, humiliating or intimidating or the gratuitous sabotage or undermining a person's work performance. A single act may be considered discourteous. A single act may be considered abusive conduct if severe or egregious.
- (22) Smoking on the job or in City facilities or unauthorized areas as defined in Section 8.8 of this Handbook.
- (23) Provoking a fight, or fighting during working hours or on City premises.

- (24) Engaging in criminal conduct related to job performance.
- (25) Personal use of City equipment, facilities, funds, property, vehicles and supplies as well as computers and electronic technology. See Sections 9.13 to 9.18 of this Handbook.
- (26) Unlawful harassment as defined in Rule 2 of this Handbook.
- (27) Violation of any Drug-Free and Alcohol Free Workplace Policy.
- (28) Violation of any City policy, regulation, ordinance, or Memorandum of Understanding.

C. Attendance

In addition to the general rules stated above, employees may be subject to discipline, including termination, for failing to observe attendance rules including but not limited to the following:

- (1) Failure to report to work on time, observing the time limits for rest and lunch periods, and a failure to obtain approval to leave work early.
- (2) Notifying the supervisor in advance of anticipated tardiness or absence.
- (3) Unauthorized leave.
- (4) Excessive absenteeism, tardiness, or abuse of break and lunch privileges.

The City reserves the right to terminate the employment of any employee at any time, with or without notice or reason.

***Section 5.3 Types of Disciplinary Action***

As used in this Rule, “disciplinary action” shall mean any of the following and may be taken singularly or in combination:

A. Counseling or Oral Warning

Documentation of oral counseling or warning will not be placed in an employee’s personnel file except as part of a regular or special performance evaluation of the employee for which the employee is given an opportunity to respond. Documentation of oral counseling or warnings will be confirmed in writing by the supervisor and shall be provided to the employee prior to being placed in the employee’s personnel file. The employee shall have the right to have a written rebuttal attached to the documentation of the oral counseling or warning in the employee’s personnel file if the rebuttal is submitted to the City Manager’s office within 10 days of the date the documentation was received by the employee. Counseling or an oral warning or a performance evaluation report is not subject to appeal. However, the employee may request a meeting with his/her supervisor or the City Manager to discuss.



#### B. Written Reprimand

A written reprimand shall be provided to an employee prior to being placed in the employee's personnel file. The employee shall have the right to have a written rebuttal attached to the written reprimand in the employee's personnel file if the rebuttal is submitted to the City Manager's office within 30 days of the date the written reprimand was received by the employee. A written reprimand is not subject to appeal. However, the employee may request a meeting with his/her supervisor or the City Manager to discuss.

#### C. Reduction in Pay

An employee's pay may be reduced for cause. A reduction in pay for disciplinary purposes may take one of two forms: (1) a decrease in salary to a lower step within the salary range; or (2) a decrease in salary paid to an employee for a fixed period of time. Documents related to a reduction in pay shall become part of the employee's personnel file when the discipline becomes final. An employee subject to a reduction in pay will receive prior written notice and the opportunity to be heard in accordance with the disciplinary appeal process set forth below.

#### D. Demotion

An employee may be demoted from his/her position for cause. Documents related to a demotion shall become part of the employee's personnel file when the discipline is final. An employee subject to a demotion will receive prior written notice and the opportunity to appeal in accordance with the disciplinary appeal process set forth below.

#### E. Suspension

An employee may be suspended from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the discipline is final. Vacation and sick leave shall not accrue during a suspension. An employee subject to suspension will receive prior written notice and the opportunity to appeal in accordance with the disciplinary appeal process set forth below. Employees who are exempt from FLSA overtime will be suspended as authorized by the FLSA.

#### F. Discharge

An employee may be discharged from his/her position for cause. Documents related to discharge shall become a part of an employee's personnel file when the discipline becomes final. An employee subject to discharge will receive prior written notice and the opportunity to appeal in accordance with the disciplinary appeal process set forth below.

### ***Section 5.4 Administrative Leave With Pay***

The City may place an employee on administrative leave with pay pending investigation of misconduct, potential disciplinary action, or for any other reason that the City Manager, in his/her sole

discretion, believes warrants such leave. Administrative leave with pay shall not, in and of itself, be considered a disciplinary action and is not subject to any grievance, hearing or appeal procedure.

**Section 5.5 Notice of Intended Disciplinary Action for Significant Discipline**

In cases of proposed suspensions, demotions, reductions in pay or discharges (hereinafter referred to as “Significant Discipline”), the proposed disciplinary action shall be served on the employee personally or by mail at the last known address on file in the City Office. The written notice of intended disciplinary action shall include:

- A. The level of discipline intended to be imposed;
- B. The specific charges upon which the intended discipline is based;
- C. A summary of the facts upon which the intended discipline is based;
- D. A copy of all written materials, reports, or documents upon which the intended discipline is based;
- E. Notice of the employee’s right to respond to the charges either in writing or orally, at the option of the employee. The employee shall be advised that he/she has seven (7) calendar days within which to file a written response or request, in writing, a pre-disciplinary conference, or both;
- F. Notice of the employee’s right to have a representative of his/her choice at the conference, should he/she choose to respond orally; and
- G. Notice that the failure to respond at the time specified shall constitute a waiver of the right to respond prior to the imposition of discipline.

**Section 5.6 Employee’s Response and the Pre-disciplinary (Skelly) Conference**

If the employee requests an opportunity to respond orally, the conference must be scheduled at least ten (10) calendar days after the date of the request. The conference will be an informal meeting with the City Manager or designee, at which the employee has an opportunity to provide his/her version of events and present any mitigating circumstances. The City Manager or designee will consider the employee’s presentation before any final disciplinary action.

The employee’s failure to make an oral response at the arranged conference time, or the employee’s failure to cause his/her written response to be delivered by the date and time specified in the notice, constitutes a waiver of the employee’s right to respond prior to the imposition of the discipline. In that case, the proposed disciplinary action will be imposed on the date specified pursuant to a Final Notice of Disciplinary Action.

### **Section 5.7 Final Notice of Disciplinary Action**

Within fifteen (15) calendar days of the pre-disciplinary conference or within ten (10) days of the receipt of the employee's timely written response, the City Manager or his/her designee will: (1) dismiss the notice of intent and take no disciplinary action against the employee; (2) modify the intended disciplinary action; or (3) impose the intended disciplinary action. If disciplinary action is pursued, the City will prepare and provide the employee with a Final Notice of Disciplinary Action that contains the following:

- A. The level of discipline, if any, to be imposed and the effective date of the discipline;
- B. The specific charges upon which the discipline is based;
- C. A summary of the facts upon which the charges are based;
- D. A copy of all written materials, reports, or documents upon which the discipline is based; and
- E. A statement of the employee's right to appeal.

The Final Notice of Disciplinary Action will be sent by mail using a method that verifies delivery to the last known address of the employee, or delivered to the employee in person. If the notice is undeliverable 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.

### **Section 5.8 Right of Appeal**

If Significant Discipline is imposed on an employee through issuance of a Final Notice of Disciplinary Action, the employee shall have the right to appeal the Significant Discipline in accordance with the procedures set forth herein.

#### **A. Appeal and Request for Hearing**

An employee served with a Final Notice of Disciplinary Action may file an appeal and request a hearing. The employee shall give written notice to the City Manager's office of his/her request to appeal the disciplinary action within ten (10) calendar days after the employee receives the Final Notice of Disciplinary Action. The appeal shall include the following:

- (1) An admission or denial of each charge with an explanation of why the charge is admitted or denied;
- (2) A statement of any affirmative defenses;
- (3) A statement that the employee disagrees with the penalty with an explanation of the employee's position;

- (4) The employee's current mailing address and contact information; and
- (5) A request for a hearing.

An employee's failure to file an appeal within the ten (10) calendar day period shall waive his/her right to a hearing and the Significant Discipline imposed by the Final Notice of Disciplinary Action shall be deemed final.

**B. Discipline Remains in Effect**

If the employee requests an appeal of the disciplinary action, it shall not prevent the discipline from being served or imposed prior to the appeal hearing.

**C. Selection of an Independent Hearing Officer**

An appeal of a Final Notice of Disciplinary Action imposing Significant Discipline shall be heard by an independent Hearing Officer. Within five (5) business days of receiving an employee's appeal demanding a hearing, the City Manager or his/her designee shall request a list of neutrals from the State Mediation and Conciliation Service (SMCS). Not later than three (3) business days after receiving the list from SMCS, the City Manager and the employee or his/her authorized representative shall meet to select the Hearing Officer utilizing the alternate strike method. The party striking first shall be determined by the toss of a coin. In the event the person selected as the Hearing Officer is unavailable to commence the hearing process within three months of the date of selection, the parties shall request another name from the SMCS and shall proceed to select the Hearing Officer in the same manner provided above.

The parties may at any time mutually agree to another selection process in writing.

**D. Scheduling of Hearing**

The Hearing Officer shall set the date, time, and place of the hearing (such place shall be on City premises) and give not less than ten (10) calendar days' notice of such date, time, and place to the employee or his/her authorized representative and the City's representative with a copy to the Human Resources Officer.

**E. Subpoenas**

The City Clerk or designee shall have the authority to issue subpoenas in the name of the City prior to the commencement of the hearing at the request of either party. Each party is responsible for seeking timely subpoenas and for serving his/her own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.

F. Hearing Procedure

The Hearing Officer shall regulate the conduct of the hearing process.

G. Right to Representation

- (1) The employee may be represented at the appeal by a representative of his/her choice who may or may not be an attorney.
- (2) The City may be represented by a representative of its choice who may or may not be an attorney.

H. Witnesses

Both the employee and the City shall have the right to call and cross-examine witnesses at the hearing, subject to the following:

- (1) The employee and the City shall provide each other and the Hearing Officer with a list of all witnesses (except rebuttal witnesses) intended to be called at the hearing no later than five days prior to the hearing. Neither party will be permitted to call any witness that has not been listed, unless that party can show that party could not have reasonably anticipated the need for the witness or the witness is being called for rebuttal;
- (2) All witnesses shall testify under oath; and
- (3) After the commencement of the hearing, subpoenas may be issued by the Hearing Officer only for good cause. Each party is responsible for serving his/her own subpoenas.

I. Exhibits

- (1) The employee and the City shall provide each other and the Hearing Officer with an exhibit list and a copy of all exhibits (except rebuttal exhibits) intended to be introduced at the hearing no later than five business days prior to the hearing. The City will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to introduce any evidence that has not been listed, unless that party can show that the party could not have reasonably anticipated the need for the exhibit or it is being used for rebuttal.

J. Conduct of Hearing

- (1) The Hearing Officer shall preside over the hearing. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but the hearing shall be conducted in a manner that the Hearing Officer decides is the most conducive to determine the truth. In no event shall the Hearing Officer impose rules of procedure or evidence more stringent than the California Code of Civil Procedure or the California Evidence Code.

- (2) The hearing shall be a closed hearing unless the employee appellant requests an open hearing. If an open hearing is held, witnesses will be sequestered.
- (3) Any relevant evidence may be admitted if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which make improper the admission of such evidence over objection in a civil action.
- (4) Irrelevant and unduly repetitious evidence may be excluded.
- (5) The hearing shall be recorded by an electronic process.
- (6) The Hearing Officer shall determine the relevancy, weight, and credibility of testimony and evidence. The Hearing Officer shall neither add to, detract from, nor modify the language of the City's Personnel Rules or policies in considering any issue properly before him/her. The Hearing Officer shall expressly confine himself/herself to the precise issues submitted and shall not have the authority to consider any issue not so submitted. Decisions made by the Hearing Officer shall not be invalidated by any informality in the proceedings.
- (7) During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.
- (8) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient to by itself support a finding.
- (9) The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions.
- (10) The City shall have the burden of proof based on a preponderance of the evidence.
- (11) The hearing shall proceed in the following order unless the Hearing Officer directs otherwise:
  - i. The City shall be permitted to make an opening statement.
  - ii. The employee shall be permitted to make an opening statement.
  - iii. The City shall produce its evidence.
  - iv. The employee shall produce his/her evidence.
  - v. The City, followed by the employee, may offer rebuttal evidence.
  - vi. Closing arguments of no more than 20 minutes may be permitted at the discretion of the Hearing Officer. The City shall have the right to argue first, the employee may argue second, and the City may reserve a portion of its argument time for rebuttal.

K. Written Briefs

Either party may request to submit a written brief and/or a draft decision. The Hearing Officer may request the parties to submit written briefs. The Hearing Officer will determine whether to allow written briefs, deadline for submission, and page limit.

L. Written Findings and Decision

Within forty (40) days following the close of the appeal hearing, the Hearing Officer shall issue a written Notice of Decision. The Notice of Decision shall include findings of fact and specify the following:

- (1) Whether the discipline imposed is upheld, reduced, or voided; and
- (2) The grounds upon which the decision is made.

The Notice of Decision and a copy of this Disciplinary Procedure and Appeal Process policy shall be mailed to the employee or the employee's representative by first-class mail, postage prepaid, including a copy of a proof of service.

If any portion of the discipline is reduced or voided, the employee shall be entitled to corresponding back wages and/or benefits lost, if any.

The decision of the Hearing Officer shall be final and binding unless an action or proceeding is commenced in a court of competent jurisdiction to determine the validity of the decision as set forth below.

M. Judicial Review

Judicial review of any decision of the Hearing Officer may be had pursuant to Section 1280 et seq. of the California Code of Civil Procedure only if a petition for writ of mandate is filed within the applicable time limits. Pursuant to Section 1288 of the California Code of Civil Procedure, the employee must file the petition in a court of competent jurisdiction within one-hundred (100) days after the Notice of Decision is mailed to the employee or the employee will waive their right to have the decision reviewed.

N. Waiver

An employee who chooses not to exercise his/her right to appeal a Final Notice of Discipline imposing Significant Discipline consistent with the terms and conditions of this Rule shall be barred from appealing the imposition of such discipline in Superior Court for failure to exhaust administrative remedies. This shall include any employee who chooses to prematurely terminate appeal proceedings before the Hearing Officer has issued the Notice of Decision.

## **RULE 6. TIME OFF**

### ***Section 6.1 Paid Vacation***

Represented employees are eligible to accrue paid vacation benefits subject to the specific terms of the applicable MOU.

Vacation requests must be submitted at least 30 days in advance and are subject to approval by the employee's supervisor. The scheduling of vacation depends in part on the City's operational needs and the requests for vacation and leaves of absence of other employees. Employees should not make unchangeable plans, such as purchasing an airline ticket, until employee knows their request has been approved.

### ***Section 6.2 Paid Sick Leave for Full-Time Employees***

Full-time employees accrue paid sick leave beginning the first day of employment at a rate of 3.08 hours per pay period, for an annual total of 80 hours subject to the specific terms of the applicable MOU

Sick leave is paid leave from work that an employee may use for the following purposes:

- (a) Diagnosis, care or treatment of an existing health condition of, or preventive care for the employee or for a family member. Family members include a child of any age or dependency status (biological, adopted, foster, step); a parent (biological, adoptive, step); a parent-in-law; a spouse; a registered domestic partner; a grandparent; a grandchild; a sibling, or designated person. A "designated person" for the purposes of the Paid Sick Leave law means a person identified by the employee at the time the employee requests paid sick days. An employee may designate a person at the time of their request. An employee is limited to identifying one designated person per 12-month period.
- (b) For an employee who is a victim of domestic violence, sexual assault, stalking, or other crime in order for the employee to engage in any of the following activities: (1) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or (2) obtain medical attention or psychological counseling, services from a shelter, program or crisis center, or (3) participate in safety planning or other actions to increase safety.

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



For Full-time employees, one-half of the employee's accrued and available annual sick leave is protected and may be used for any of the purposes stated in this policy.

The City may require Full-time employees to provide a physician's certification to support any absence that involves the illness of the employee or family member if the City suspects that there is an abuse of sick leave by the employee. Employees who use paid leave to address issues related to domestic violence, sexual assault, stalking, or other crimes and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.

Accrued sick leave is paid to the employee upon termination or retirement as described in the applicable MOU. If the employee is rehired by the City within one year of the date of separation, any sick leave that was not paid out will be reinstated at rehire.

Sick leave will be paid at the employee's regular hourly rate of pay.

The City will maintain records documenting hours worked and PSL accrued and used. The City will make them available within 21 days upon request.

### ***Section 6.3 State Mandated Paid Sick Leave for Part-Time and Temporary Employees***

Part-time and Temporary Employees accrue state-mandated Paid Sick Leave ("PSL") beginning the first date of employment. PSL is different from the City's sick leave policy for full-time employees.

PSL accrues at the rate of one hour per every 30 hours worked. An employee is entitled to use accrued PSL beginning on the 90<sup>th</sup> day of employment.

PSL is paid leave from work that an employee may use for the following purposes:

- (a) Diagnosis, care or treatment of an existing health condition of, or preventive care for the employee or for a family member. Family members include a child of any age or dependency status (biological, adopted, foster, step); a parent (biological, adoptive, step); a parent-in-law; a spouse; a registered domestic partner; a grandparent; a grandchild; a sibling, or designated person. A "designated person" means a person identified by the employee at the time the employee requests paid sick days. An employee may designate a person at the time of their request. An employee is limited to identifying one designated person per 12-month period.
- (b) For an employee who is a victim of domestic violence, sexual assault, stalking, or other crime in order for the employee to engage in any of the following activities: (1) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or (2) obtain medical attention or psychological counseling, services from a shelter, program or crisis center, or (3) participate in safety planning or other actions to increase safety.

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

For Part-time and Temporary Employees, up to 24 hours, or three (3) days, whichever is great, of accrued and available sick leave each year is protected and may be used for any of the purpose stated in this policy. The year is measured beginning on July 1, 2015, or the employee's anniversary of hire date, whichever is later.

Employees who use PSL to address issues related to domestic violence, sexual assault, stalking, or other crimes and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.

An employee may accrue a maximum of 48 hours of PSL. Once the maximum is reached, the employee must reduce accrued PSL before accrual will recommence. An employee can use no more than 24 hours of PSL in each year of employment. The City will not lend PSL to employees in advance of accrual. Unused PSL will not be paid to the employee at the separation of employment. However, if the employee is rehired within one year of the date of separation, previously accrued but unused PSL will be reinstated at rehire.

PSL will be paid at the employee's regular hourly rate of pay.

The City will maintain records documenting hours worked and PSL awarded and used. The City will make them available within 21 days upon request.

#### ***Section 6.4 Make-Up Time***

The City allows the use of make-up time when non-exempt employees need time off to tend to personal obligations. Employees may take time off and then make up the time later in the same workweek, or may work extra hours earlier in the workweek to make up for time that will be taken off later in the workweek. Make-up time worked will not be paid at an overtime rate.

Make-up time requests must be submitted in writing or via email to the Department Head. Requests will be considered for approval based on the legitimate business needs of the City at the time the request is submitted. A separate request is required for each occasion an employee requests make-up time.

All make-up time must be worked in the same workweek as the time taken off. Employees may not work more than 40 hours in a workweek as a result of making up time that was or would be lost due to personal obligations.

If an employee takes time off and is unable to work the scheduled make-up time for any reason, the hours missed will be paid from the employee's accrual bank. If no accrual time is available, the hours missed will be unpaid. If an employee works make-up time before the employee plans to take time off, the employee must take that time off, even if the employee no longer need the time off for any reason.

An employee's use of make-up time is completely voluntary. The City does not encourage, discourage or solicit the use of make-up time.

**Section 6.5 Holidays**

The City observes the following paid holidays for all permanent full-time employees (subject to change per MOUs):

- |                            |                        |
|----------------------------|------------------------|
| New Year's Day             | Veteran's Day          |
| Martin Luther King Jr. Day | Thanksgiving Day       |
| President's Day            | Day After Thanksgiving |
| Memorial Day               | Christmas Eve          |
| Independence Day           | Christmas Day          |
| Labor Day                  |                        |

If a holiday falls on a weekend, the holidays may be observed the preceding Friday or the following Monday. All holiday observances will be announced in advance. Employees covered by an MOU should refer to the applicable MOU for additional details.

**Section 6.6 Family and Medical Leave of Absence (FMLA/CFRA)**

The City provides family and medical care leave for eligible employees as required by federal and state 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 California Family Rights Act ("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 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.

The FMLA and the CFRA provide job protection and continued health insurance when an eligible employee needs to take time off from work for a qualified purpose. If an employee believe they may need to take a leave of absence for a qualifying reason, employee should speak with their supervisor or the Human Resources Department to gather important details with as much advance notice as possible. With open communication, an employee's leave and return to work can be handled as smoothly as possible for both the employee and the City.

## A. Definitions

- (a) “12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- (b) “Single 12 Month Period” means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
- (c) “Leave for the purposes of CFRA” means leave that only qualifies under the CFRA and does not run concurrently with FMLA.
- (d) “Family member” for FMLA leave means an employee’s child, parent, and spouse. “Family member” for CFRA leave means an employee’s child, parent, spouse, domestic partner, grandchild, grandparent, sibling, and designated person.
- (e) “Child”
  - a. Under the FMLA, “child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is “incapable of self care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
  - b. Under the CFRA, “child” means a child, including a child who is 18 years of age or older who is capable of self-care. An employee’s child means a biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.
- (f) “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.
- (g) “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.
- (h) “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.

- (i) “Designated Person” means any 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 may designate one designated person per 12-month period.
- (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) “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 them to the facility with the expectation that they 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.

(n) “Health Care Provider” means any of the following:

- 1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
- 2) An individual 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) A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor (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) A nurse practitioner or nurse-midwife or a clinical social workers who is authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
  - 5) A Christian Science practitioner 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.
- (o) "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.
- (p) "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.
- (q) "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.
- (r) "Next of Kin of a Covered Service Member" means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, 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 their nearest blood relative for purposes of military caregiver leave under the FMLA.

- (s) “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.

#### B. Reasons for Leave

An eligible employee may take a leave for the following reasons:

- (1) The birth of a child or to care for a newborn of an employee;
- (2) The placement of a child with an employee in connection with the adoption or foster care of a child;
- (3) To care for a child, spouse (or registered domestic partner) or parent with a serious health condition;
- (4) Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, sibling, or designated person 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.
- (5) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of their position;
- (6) 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;
- (7) 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
- (8) Leave to care for a spouse, son, daughter, 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.

C. Eligibility Employees Eligible for Leave

An employee is eligible for leave if the employee satisfies the following conditions:

- (a) The employee has been employed by the City for at least 12 months;
- (b) The employee has been employed by the City for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
- (c) For FMLA leave eligibility, the City directly employs at least 50 full or part-time employees within a 75-mile radius.

A break in service of seven years or more will not be counted in determining whether the employee has been employed for at least 12 months, except for a break in service caused by a military service obligation. The 12-month period may include part of the leave of absence. In that case, FMLA and CFRA would start after the leave commenced. For FMLA eligibility, the reporting worksite will typically be the assigned location for an employee without a fixed worksite.

Employees' eligibility must be verified. Employees should refrain from making any plans, such as scheduling a non-emergency surgery or purchasing non-refundable air tickets, unless the employee has received verification from Human Resources of their eligibility to take family and medical leave.

D. 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.

E. Minimum Duration of Leave

- (a) If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (*e.g.*, bonding with a newborn) for less than two weeks duration on any two occasions.
- (b) If leave is requested to care for a child, parent, spouse, domestic partner, grandparent, grandchild, sibling, designated person, 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.

F. 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:

(a) The aggregate number of workweeks of FMLA leave to which both may be entitled may be limited to 12 workweeks during any 12-month period; and

(b) Each parent is entitled to take 12 workweeks of CFRA leave 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.

G. Employee Benefits While on Leave

During the employee's absence under the Family and Medical Leave of Absence policy, the City will continue to maintain coverage under its health care policies to the same extent as if employee were not on leave. If a health care policy requires an employee contribution, the employee will remain responsible for all payments during the leave of absence. The City will provide the employee with advance written notice of the terms and conditions under which premium payments must be made. The City may cancel the employee's health care benefits if the employee is more than 30 days late in paying their premium. The City will provide the employee with 15 days' written notice of the intent to cancel coverage due to non-payment.

If the employee fails to return to work after the leave of absence, as defined by FMLA/CFRA, the employee will be required to repay the City for premiums it paid on the employee's behalf. If a key employee out on FMLA leave is notified that the City can't reinstate the key employee due to substantial and grievous economic injury to the operations of the City, the City will not attempt to recover the costs of health care premiums.

Employee will not earn vacation time or sick leave during family leave. Additionally, unpaid FMLA leave will not be treated as credited service for purposes of benefit accrual, vesting dates and eligibility to participate.

If an employee's leave is related to pregnancy disability, the employee may be able to continue their health care benefits for up to four months in a 12-month period. Please review the Pregnancy Disability Policy (Section 6.7) for more information on the continuation of benefits. Additionally, if the employee fails to return to work after the leave, as defined by FMLA/CFRA, the City may recover the premiums paid on the employee's behalf.

An exempt employee's pay may be reduced due to an intermittent or reduced work schedule.

H. 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 medical care leave as described below.

I. 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 parent, spouse, domestic partner, child, grandparent, grandchild, sibling, or designated person.

J. 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 (2) exceptions as described below:

- (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, sibling, designated person.

The City will attempt to integrate sick leave benefits with any state disability insurance benefits for which the employee may be eligible. All paid time off will count toward your maximum leave total.

K. City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently With Other Leaves

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 parent, spouse, domestic partner, child, grandparent, grandchild, sibling, or designated person.

L. 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 referenced 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 FMLA/CFRA qualifying purpose, the City may require the employee to exhaust accrued leave as described above.

M. Employee Notice of Leave

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact day(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform 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. For events that are unforeseeable 30 days in advance, but are not emergencies, employees must notify the City as soon as the employee learns of the need for the leave, ordinarily no later than one to two working days after the employee learns of the need for the leave. If the leave is requested in connection with a planned, non-emergency medical treatment, the City may request the employee reschedule the treatment so as to minimize disruption of business.

All requests for family care or medical leave should include the anticipated date(s) and duration of the leave. It is expected that an employee will provide notice to the City of the need for a leave extension within no more than one or two working days of learning of the need for additional leave or as soon as practicable where such notice is not feasible.

N. 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 child, parent, domestic partner, spouse, grandparent, grandchild, sibling, or designated person who

has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, spouse, grandparent, grandchild, sibling, or designated person and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, domestic partner, spouse, grandparent, grandchild, sibling, or designated person. 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 leave because of a qualifying exigency, an employee 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 and CFRA regulations.

O. 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.

P. 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.

Q. Human Resources' Review of the Contents of Medical Certification for Employee's Own Serious Health Condition

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 Officer will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

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.

R. 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.

S. 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 their 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.

T. Reinstatement

- (a) 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) 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) 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) 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 their 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) Under the FMLA only, the City may deny reinstatement to a "key" employee (*i.e.*, an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. Under the CFRA, the City may not deny reinstatement to a "key" employee during or upon the expiration of CFRA leave.

The City will engage in an interactive process if an employee is unable to return to work after a Family and Medical Leave of Absence.

#### U. Required Forms

Employees must complete the applicable forms to receive family and medical care leave. The forms may be found at Human Resources.

### **Section 6.7 Pregnancy Disability**

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.

Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice (no less than 30 days advance notice when practicable) of the medical need for the leave. All leaves must be confirmed in writing, having an agreed-upon specific date of return, and be submitted to the Human Resources Department.

The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: (1) the employee is disabled from working by pregnancy, childbirth or a related medical condition; (2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and (3) the estimated duration or end date of the leave.

An employee requesting a transfer due to pregnancy disability must provide a certification from employee's health care provider stating it is medically advisable for the employee to be transferred to a less strenuous or hazardous position or to less strenuous or hazardous duties. A certification indicating the medical advisability of the transfer should contain: (1) the date on which the need to transfer became medically advisable; (2) the probable duration of the period or periods of the need to transfer; and (3) an explanatory statement that, due to the employee's pregnancy, the transfer is medically necessary. Requests for transfers of job duties will be reasonably accommodated if the job and security rights of others are not breached. Temporary transfers due to health considerations will be granted when possible. However, the transferred employee will receive the pay that accompanies the job, as is the case with any other temporary transfer due to temporary disability.

Pregnancy disability leaves are without pay. An employee on unpaid pregnancy disability leave will be required to 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.

An employee on pregnancy disability leave may be entitled to disability insurance payments through the California Employment Development Department (EDD) depending on their evaluation of the employee's medical condition. An employee on pregnancy disability leave should contact the local EDD office for more information on eligibility for pregnancy disability insurance. An employee on pregnancy disability leave receiving disability benefits from a third party (such as the EDD), will not be required to use accrued leave but elect to use accrued sick time benefits concurrently. An employee will be allowed to use accrued vacation, or other leave time previously accrued (separate from the use of any sick leave) during an eligible pregnancy disability leave.

For employees on pregnancy disability leave, the City will maintain the employee's group health insurance coverage for up to a maximum of four months in a 12-month period, if such insurance was provided before the leave was taken on the same terms as if the employee had continued to work. The City may recover premiums it paid to maintain health coverage if an employees does not return to work, as defined, 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 FMLA. Sick and vacation leave does not accrue while an employee is on unpaid pregnancy disability leave. Employees should contact City management for further information. Employee is still responsible for dependent care costs.



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.

Upon the expiration of pregnancy leave, the employee will be reinstated to her original or comparable position, so long as it was not eliminated for a legitimate business reason during the leave. If the employee's original position is no longer available, the employee will be assigned to a comparable, open position if available. An employee returning from a pregnancy disability leave has no greater right to reinstatement than if the employee had been continuously employed. Leave returns will be allowed only when the employee's physician sends a release allowing the employee to return to work.

### ***Section 6.8 Extended Medical Leave of Absence***

To the extent that an employee exhausts the 12 weeks of family/medical leave under the City's policy or is otherwise ineligible to receive family/medical leave and still has a temporary medical disability which prevents the employee from returning to work, the City will engage in the interactive process to determine to what extent any further leave can be granted as a reasonable accommodation under state and federal disability accommodation laws. Any such leave will be contingent on a valid medical certification from a medical care provider verifying the need for continued medical leave of absence. During this time, the employee will be required to use any available accrued sick leave. To the extent such sick leave is exhausted, the employee will then be required to use any remaining vacation or other accrued leave. To the extent that the employee's leave is unpaid, the City will no longer continue the employee's health insurance benefits and the employee will be provided a COBRA notice of his/her rights to continued health benefits at his/her cost.

A medical leave begins on the first day the employee's doctor certifies that he/she is unable to work, and ends when the doctor certifies that the employee is able to return to work per the terms of this policy. The employee will provide an original form/note from his/her doctor showing the date the employee was disabled and the estimated date the employee will be able to return to work. An employee returning from a medical disability leave must present an original doctor's certificate declaring fitness to return to work.

If returning from a non-work-related medical leave, the employee will be offered the same position held at the time his/her leave began, if available. If the former position is not available, a comparable position will be offered. If neither the same nor a comparable position is available, the return to work will depend on job openings existing at the time of the scheduled return. The City makes no guarantees of reinstatement, and the return will depend on the employee's qualifications for existing openings.

### ***Section 6.9 Organ and Bone Marrow Donation Leave of Absence***

Employees may be permitted a leave of absence with pay, not exceeding 30 business days for the purpose of organ donation and up to five business days for bone marrow donation in any one-year

period, as prescribed. The employee must provide written verification that the employee is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

The employee will be required to use up to five days of accrued vacation for bone marrow donation and up to two weeks of accrued vacation for organ donation. Accrued vacation, sick leave, or other paid time off that is otherwise available may be used for these purposes. During the period of leave under this policy, the City will maintain any group health benefits for which the employee is eligible.

Upon returning from this leave of absence, the employee shall be restored to the position held when the leave began or to a position with equivalent seniority status, employee benefits, pay and other terms and conditions of employment. The City may decline to restore the employee to the same or equivalent position because of conditions unrelated to the leave of absence for organ or bone marrow donation.

***Section 6.10 Leave for Domestic Violence, Sexual Assault, Stalking or Other Crimes***

Any employee, who is a victim of domestic violence, sexual assault, stalking, or other crime may take time off from work to obtain or attempt to obtain 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 foreseeable, 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 Healthy Workplace Healthy Family Act of 2014 sick leave, accrued vacation or any other accrued time off.

An employee who is a victim of domestic violence, sexual assault, stalking or other crime, may take leave from work to attend to any of the following: obtain medical attention; obtain services from a domestic violence shelter, program or crisis center; obtain psychological counseling; or participate in safety planning or other activities to increase safety, if the employee provides advance notice of the employee's intentions 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 the employee was a victim;
- A court order protecting the employee from the perpetrator;
- Evidence from the court or district attorney 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 Healthy Workplace Healthy Family Act of 2014 sick leave, accrued vacation or personal leave or other accrued time off.

The City will also provide reasonable accommodations for an employee who is the victim of domestic violence, sexual assault, stalking, or other crime and who requests an accommodation for his/her safety while at work. Employees are encouraged to meet with their Department Head to discuss any request for a reasonable accommodation that might be effective. The City will take into account any exigent circumstance or danger facing the employee. The City will also consider how to best protect the health and safety of others. Some examples of reasonable accommodations include job transfer or reassignment, changed telephone number or work station, the installation of locks, or the implementation of safety measures to protect the employee.

The City may ask the employee to confirm in writing that the accommodation is for the purpose of providing the employee a safe workplace. The City may also request certification that the employee is actually a victim of domestic violence, sexual assault, stalking or other crime. The City will keep the certification confidential and not disclose it except as required by law or to protect the employees' safety. The City will provide the employee advanced notice of any disclosure.

#### ***Section 6.11 Regarding Crime Victim/Victim Family Member Court Attendance Leave***

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

#### ***Section 6.12 Regarding Crime Victim/Family Member Victims' Rights Proceeding Leave***

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

certification requirements are met. The leave is unpaid unless the employee elects to use accrued vacation or paid leave.

### ***Section 6.13 School Visits***

Any employee who is a parent, guardian, stepparent, or person who stands in loco parentis to one or more children who are enrolled 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 8 hours in any calendar month of the school year, to: participate in activities of their child's school or licensed child care facility; find, enroll, or reenroll a child in a school or with a licensed child care provider; or to pick up a child due to a child care provider or school emergency.

The employee must provide reasonable advance notice to 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 child care facility as verification that the employee participated in school or child care facility activities on a specific date and at a particular time.

If both parents, guardians or grandparents having custody work for the City at the same City work site, only the first parent requesting leave will be entitled to leave under this provision.

Any employee who is the parent or guardian of a child in grades 1 through 12 may take unpaid leave 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.

### ***Section 6.14 Jury Duty***

Any employee who is summoned to serve on a jury must notify their supervisor immediately or 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 fails to return to work immediately after an approved leave for jury duty will be assumed to have voluntarily resigned from their employment.

Employees will be required to provide documentation from the court of their arrival and departure times each day, and will be compensated for the total number of hours served plus commute time.

### ***Section 6.15 Subpoenaed or Court-Ordered Witness Leave***

Any employee, including a part-time or temporary employee, who is subpoenaed or ordered to be a witness may take unpaid time off. The employee must notify their supervisor as soon as possible.

Any employee, including a part-time and temporary 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, and the employee is not the plaintiff or claimant, 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.

### ***Section 6.16 Voting Time***

If any employee does not have sufficient time outside of working hours to vote, the employee may request up to two (2) hours of paid leave either at the beginning or end of their scheduled work hours to enable them to vote. Employee must present a voter's receipt before the employee will receive paid time off to vote. Employees may also take unpaid time off to serve as an election official. The employee must request time off to vote or to serve as an election official from their supervisor at least two (2) days prior to Election Day.

### ***Section 6.17 Military Leave***

The City will grant military leave with a right to reinstatement and any other entitled benefits to an employee who is a member of the Armed Forces, Armed Forces Reserve, National Guard or Naval Militia in accordance with federal and state law. An employee requesting leave for this purpose shall promptly provide the Human Resources Officer with a copy of the military orders specifying the dates, sites and purpose of the activity or mission. Within the limits of such orders, Human Resources may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

Generally, an employee is entitled to reemployment and other rights, so long as the individual complies with applicable state and federal law. An individual is entitled to reemployment if:

- The individual provided advance notice of the need for military leave (unless military necessity or other exigent circumstances precluded the notice);
- The cumulative length of absence by reason of service was five years or less;
- The individual was not discharged from service under dishonorable or other punitive conditions; and
- The individual reported to the City or submitted a timely application for reemployment as required by law.

#### **A. Return to Work**

An individual must report to the City upon the completion of their military service and within the required period. An individual, who has served less than 31 days, is required to return to employment by the beginning of the first regularly scheduled work period after the completion of military service. An

individual is, however, excused for the amount of time required to return home safely and for an eight-hour rest period.

An individual serving between 31 and 180 days, must file an application for reemployment within 14 days after the completion of military service. If an individual served more than 180 days, the individual must file an application for reemployment no later than 90 days after the completion of military service.

In all cases, if compliance with the time limits becomes impossible or unreasonable through no fault of the individual, the individual will be given additional time. Furthermore, reporting and application deadlines are extended for up to two (2) years for persons who are hospitalized or convalescing from a service-related illness or injury.

An individual returning from military leave and entitled to reemployment, will be reinstated to the position the individual had prior to military leave, or if the position has been abolished, to a position of like seniority, status and pay if such a position exists or to a comparable vacant position for which the employee qualifies. The City will provide training or other assistance to returning service members to help them refresh or upgrade their skills to qualify for reemployment.

#### B. Benefits

Service members and their families will continue to receive health benefits for 31 days. An employee may continue their health benefits and that of their family at their expense for up to 24 months. When returning from military leave the employee will resume health plan coverage without a waiting period or other exclusion.

The period of military duty will be counted as covered service for the purposes of retirement plan eligibility, vesting and benefit accrual. The City may not make plan contributions during a military leave. However, upon reemployment, the City will restart contributions, and make up contributions that would have been made during the employee's absence. If the employee is required to contribute to the retirement plan, the employee will have up to three times the period of military duty or five years, whichever is first, to make the contributions, subject to the rules under the retirement plan.

#### ***Section 6.18 Emergency Service Volunteers***

Any employee who takes time off to perform emergency duty as a reserve peace officer, or emergency rescue personnel, volunteer firefighter, or a disaster medical response entity will not be discharged or discriminated against in the terms of their employment. An employee who is a health care provider must notify the City when he/she becomes designated as an emergency rescue personnel and when he/she is notified of deployment as a result of the designation.

#### ***Section 6.19 Discretionary Leave of Absence***

The City recognizes that there may be times when additional time off may be requested beyond the benefits provided. In such cases, which may include times of an extended illness or personal

problems, the employee's Department Head may provide the employee with additional time off. The decision to provide time off is the sole discretion of the City. Generally, a discretionary leave of absence will not be permitted to exceed 90 days. Exceptions may be made in limited circumstances with the approval of the City Manager.

If it becomes necessary to fill the employee's position during a discretionary leave of absence, the City will make reasonable efforts to notify the employee to determine if the employee will return to work. If the employee is unwilling or unable to return, the employee's position will be filled. If the employee elects not to return from a discretionary leave of absence, the employee will be considered to have voluntarily terminated employment with the City. All employees returning from a medical leave of absence must provide a physician's statement that indicates the employee is released to return to work.

### ***Section 6.20 Bereavement Leave.***

Eligible employees may utilize paid bereavement leave to attend a funeral or memorial service, or to take care of family matters, that are related to the death of a member of the employee's family member. "Family member" consists of the following: employee's spouse, domestic partner, child, stepchild, parent, grandparent, grandchild, brother, sister, mother/father-in-law, son or daughter-in-law, brother or sister-in-law, legal guardian, or custodial child, or the same relatives of a domestic partner, or a designated person. "Designated person" means any 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 bereavement leave. An employee may designate one designated person per 12-month period.

Employees are entitled to up to five days of bereavement leave for each death of a family member. The City provides eligible employees with three (3) days of paid bereavement leave per year. Eligible employees may use any available and accrued leave, including, but not limited to, sick leave, vacation, or compensatory time off for any unpaid bereavement leave. An employee who utilizes bereavement leave shall notify their supervisor or Department Head of the intent to use such leave. Bereavement leave must be completed within 3 months of the death of the family member, and is not required to be taken consecutively.

The City may require eligible employee provide documentation to support their use of bereavement leave. "Documentation" 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.

If additional time is necessary, vacation leave, compensatory time, or leave without pay maybe taken to extend bereavement leave with the approval of the City Manager.

## **RULE 7 BENEFITS**

### ***Section 7.1 Health Care***

Certain employees and their dependents including spouses, children, registered domestic partners and children of the registered domestic partner may be eligible for coverage under the City's medical, dental, and vision plans as described in the applicable MOU.

The MOU and official plan documents set forth the specific terms, conditions, and limitations regarding program eligibility and benefit entitlement. This Handbook is not part of any official plan document of any benefit program, nor does it restate all of the features of the health care benefits program. The employee's applicable MOU and the official plan documents should be consulted for further information regarding each benefit program. Questions and requests for copies of official plan documents should be directed to the Human Resources Department.

Unless otherwise required by law or an MOU, the City of Kerman will maintain group insurance benefits during an employee's unpaid leave of absence for a maximum of 30 days. If the employee is unable to return to work within 30 days, the employee's insurance plan(s) will be cancelled and the employee may elect to continue coverage at their own expense through COBRA. If the employee is on a leave of absence protected by FMLA, CFRA, PDL or other legal requirement, the 30-day time frame will begin after the legally-protected leave has been exhausted.

### ***Section 7.2 Life Insurance***

A City-paid group life insurance plan is provided to all full time employees, as defined in the applicable MOU.

Each year, the month of June is designated as "open enrollment period". Only during this month may eligible employees change their insurance plan and/or add dependents. Exceptions include the addition of a spouse or other dependents within 30 days of marriage, the addition of a newborn within 30 days of birth, and other insurance-related qualifying events. Eligible employees must contact the Human Resources department immediately if they have a change in dependent status or loss of insurance coverage to avoid a delay in benefits.

### ***Section 7.3 Long Term Disability Insurance***

Long-term disability insurance is provided to eligible City employees as specified in the applicable MOU. Benefits are generally coordinated with the State of California Disability Insurance (SDI).

### ***Section 7.4 Deferred Compensation (457 Plan)***

Full-time employees of the City may elect to contribute a portion of their payroll into a 457 deferred compensation plan. Contributions are deducted pre-tax and benefits are taxable when withdrawn from the plan. Contact the Human Resources department for additional information.



### ***Section 7.5 Employee Development***

The City of Kerman firmly believes in the importance of providing career growth and development opportunities for employees. Because of this commitment to our employees, the City will reimburse its employees the cost of tuition and/or materials, subject to approval, for all accredited courses and seminars attended when the following criteria is met:

- The course is relevant to our business and within your city vocation;
- Minimum grade of “C” or its equivalent is obtained; and
- A recommendation must come from the Department Head and approval be obtained from the City Manager prior to registration.

### ***Section 7.6 Retirement***

The City provides a comprehensive defined benefit retirement program for all permanent full-time and permanent part-time employees that work over 1,000 hours per fiscal year or otherwise qualify through the California Public Employees Retirement System (CalPERS). The retirement coverage formula is referenced in the applicable MOU and is subject to the City’s CalPERS contracts and statute.

### ***Section 7.7 Employee Assistance Program***

The Employee Assistance Program (EAP) is available to all City employees who are eligible for insurance benefits. The EAP offers certain counseling and support services to employees and their family members for a variety of personal needs including substance abuse, relationship issues, depression, financial concerns, and many others. The EAP is confidential. Contact information can be found in the EAP literature in each department or may be obtained from Human Resources.

### ***Section 7.8 Workers' Compensation***

The City maintains workers' compensation insurance coverage as required by law to protect employees who are injured on the job. This insurance provides medical, surgical, and hospital treatment in addition to payment for loss of earnings that result from work-related injuries. If an injury occurs, notify your supervisor for directions to the nearest medical facility of an approved health care provider. Employees are required to immediately notify their supervisor of all work-related injuries or illnesses.

The City or its insurance carrier may not be liable for the payment of workers' compensation benefits for any injury which arises out of an employee's voluntary participation in any off-duty recreational, social, or athletic activity which is not a part of the employee’s work-related duties. Any questions regarding workers' compensation should be addressed to the Human Resources Department.

### ***Section 7.9 State Disability Insurance***

Pursuant to the California Unemployment Insurance Code, disability insurance is payable when an employee is unable to work due to non-work-related illness or injury, pregnancy, or childbirth. If an employee is unable to work due to illness or injury, pregnancy, or childbirth, the employee may apply to receive State Disability (SDI) benefits. Compensation payments received through SDI may be supplemented by the use of the employee's accrued and unused sick leave and/or vacation credits. Eligibility for benefits is determined by the state.

### ***Section 7.10 Paid Family Leave (PFL)***

PFL does not provide an employee with a leave of absence. However, if an employee is entitled to a leave of absence under a state or federal law or by City policy, the employee may receive pay from the state for up to eight (8) weeks in a twelve (12) month period to (1) bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption; (2) to care for a family member who has a serious health condition; or (3) take time off to participate in a qualifying exigency related to covered active duty or a call to covered active duty for the employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States. "Family member" is defined as the employee's child, parent, grandparent, grandchild, sibling, spouse, registered domestic partner, or the parent of a spouse or domestic partner. Eligibility for benefits is determined by the state.

Employee must provide medical certification to the state establishing that a serious health condition warrants PFL coverage. The certificate must include a diagnosis and International Classification of Diseases code; the commencing date of the disability; the probable duration, and the estimated time care is needed. A separate certification must be completed for leave associated with bonding.

"Covered active duty" means, with respect to a member of the regular Armed Forces of the United States, duty during the deployment of the member with the regular armed forces to a foreign country and, with respect to a member of the reserve components of the Armed Forces of the United States, duty during the deployment of the member of those reserve components to a foreign country under a federal call or order to active duty.

Benefits under PFL include approximately fifty-five percent (55%) of lost wages for employees who contribute to SDI. Employees collecting workers' compensation, unemployment or SDI are not eligible to collect PFL.

## **RULE 8. HEALTH AND SAFETY**

At the City of Kerman, health and safety is a priority. To maintain both a safe and productive working environment, the City needs employees' cooperation.

### ***Section 8.1 Injury and Illness Prevention Program***

The City maintains an Injury and Illness Prevention Program (IIPP). Employees will receive training in order to enable employees to safely perform their job duties. The IIPP is available for employees' review during working hours. Employees are also required to participate in periodic training meetings. If an employee has any questions related to health and safety, they may refer to the IIPP, or speak with their supervisor or Department Head.

### ***Section 8.2 Reporting On-The-Job-Accidents***

All accidents or injuries that occur in the course of an employee's employment must be reported to a supervisor upon the occurrence, regardless of how minor the injury may appear.

### ***Section 8.3 Safety Suggestions***

In keeping with our goal of creating a safe and healthy working environment, the City welcomes any and all safety related employee suggestions, concerns and complaints. If employees have a question or concern regarding the safety of their working environment, employees should discuss the matter with their supervisor or the Department Head. Employees who wish to remain anonymous may submit a written report of the concern to the City Manager or Human Resources. The City will follow-up on received suggestions, concerns and complaints and take corrective action when necessary.

If employees observe employee conduct that creates an unsafe workplace, employees must report it to their supervisor or Department Head immediately. If employees feel uncomfortable doing so or if their supervisor is the source of the problem, condones the problem, or ignores the problem, report to the next level of management or Human Resources. **Employees may also call the City's Safety Hotline at 877.312.6149.**

If employees do not find these reporting options satisfactory, employees should direct their questions, problems, complaints, or reports to the City Manager. Employees are not required to confront the person who is the source of their report, question, or complaint before notifying any of the individuals listed above. Nevertheless, employees are required to make a reasonable effort to promptly make unsafe conditions or conduct known should they exist.

### ***Section 8.4 Safety While Driving***

Safety is the first priority when driving. The following rules apply when driving on City business or traveling to or from home from City business, whether in the employee's personal vehicle or in a City vehicle:

- Operate the vehicle safely.
- Observe all traffic laws and drive courteously.
- The way employee's drive reflects on the employee and the City.
- Employees are required to wear their seat belt at all times while operating the vehicle.
- Employees must report any accident, regardless of how minor, to their supervisor as soon as possible, and no later than the end of your shift.
- Do not carry unauthorized riders or passengers, including non-employees and/or others not specifically assigned to accompany the authorized driver.

Before using a personal vehicle for City business, employees must provide a current copy of their driver's license and proof of satisfactory automobile liability insurance.

***Section 8.5 Safe Use of Cellular Phones and Electronic Wireless Communications Devices***

Safety is the first priority when driving. Employees shall avoid distracting activities while driving.

A. California Law

Under Vehicle Code Section 23123.5, a person shall not drive a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communications device unless the wireless telephone or electronic communications device is specifically designed and configured to allow voice-operated and hands-free operation and it is used in that manner while driving. This limitation does not apply to manufacturer-installed systems that are embedded in the vehicle.

A handheld wireless telephone or electronic wireless communications device may be operated in a manner requiring the use of the driver's hand while the driver is operating the vehicle only if (i) it is mounted like a portable GPS per Vehicle Code Section 26708(b) or mounted/affixed to the dashboard or center console in a manner that does not hinder the driver's view of the road; and (ii) The driver's hand is used to activate or deactivate a feature/function with the motion of a single swipe or tap of the driver's finger.

This section does not apply to an emergency services professional using an electronic wireless communications device while operating an authorized emergency vehicle in the course and scope of his/her duties.

Under this section, "electronic wireless communications device" includes, but is not limited to, a broadband personal communication device, a specialized mobile radio device, a handheld device or laptop computer with mobile data access, a pager, or a two-way messaging device.

## B. Other Rules

If employees use a cellular telephone while driving, please adhere to the following safety precautions:

- Comply with all driving laws.
- Do not take notes or look for phone numbers while driving.
- Do not text message until you are safely off- the road.
- Pause or discontinue the conversation if necessary due to hazardous conditions requiring your full attention.
- Refrain from emotional or complicated discussions.
- Use your phone or device to call for help.

## ***Section 8.6 Prohibition on Drugs and Alcohol in the Workplace***

### A. 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.

This policy establishes the rules and procedures regarding the use of alcohol and/or drugs as it pertains to employment and the procedures to be used to test alcohol, marijuana (recreational and medical) and/or drug abuse in the following two circumstances: (1) pre-employment testing of external applicants for the City's special need jobs in the Police Department; and (2) reasonable suspicion testing. This policy will help ensure that City employees are in a condition to perform the duties of their job safely and efficiently in the best interest of themselves, their fellow workers, and the public they serve.

### B. Prohibited Conduct of All City Employees

- (a) The manufacture, distribution, sale, dispensation, possession, or use of any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee in either City workplaces or wherever City business is performed.
- (b) Working or being subject to call in if impaired by alcohol or any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee.
- (c) An employee's failure to notify their Supervisor or Department Head before beginning work when taking medications or drugs, including but not limited to: prescription drugs, over the counter medications, or illegal drugs or narcotics (including marijuana) which could interfere with the safe and effective performance of duties or operation of City equipment.

- (d) An employee's failure to notify the City Manager or designee of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction.
- (e) An employee's criminal conviction for a drug violation that occurred in the workplace.

C. Drug and Alcohol Testing

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

- a.) **Pre-Employment Testing for External Applicants for Certain Jobs:** Those external applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but is not limited to, the following:
  - 1. Safety sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, enforcing drug laws, and/or operating natural gas pipelines; and
  - 2. Jobs that involve the direct influence over children.
- b) **Reasonable Suspicion Testing:** The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances.
  - 1. "Reasonable suspicion" to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, or other evidence of recent drug or alcohol use. If City suspects drugs or alcohol may have played a role in an accident involving City property or equipment that will also constitute reasonable suspicion.
  - 2. Document and Analysis: 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. Any reasonable suspicion testing must be pre-approved by the Department Head.
  - 3. Testing Protocol: If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the Department Head 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.

#### D. Testing Procedures

The City may require a City employee to undergo drug and alcohol testing if there is reasonable suspicion by the supervisor or other management personnel that the employee is under the influence of drugs or alcohol during work hours.

A supervisor may, upon reasonable suspicion and approval from the Department Head, ask any on-duty employee to submit to an alcohol and drug screening test for the presence of alcohol and drugs, including marijuana. The employee shall be immediately informed of the supervisor's suspicions and advised that he/she may have a representative present who is reasonably available. The employee shall be permitted up to 15 minutes to confer with his/her representative upon arrival. The employee will be given an opportunity to provide an explanation for his/her condition.

Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form (see Consent Form herein) authorizing the test and release of test results to those City officials with a need to know. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy and to indicate current or recent use of prescription and over-the-counter medication(s).

An employee who refuses to consent to a drug and alcohol test when reasonable suspicion has been identified is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action. No disciplinary action shall be taken without first discussing the matter with the employee.

##### a) Confirmation of Test Results:

If the testing procedures confirm a positive result, the applicant or employee shall be notified of the results in writing by authorized personnel. An employee or job applicant whose drug test yields a positive result shall be allowed to request a second confirmation test.

##### i. Second Confirmation Test:

The applicant or employee may request, at their own expense, a second confirmation test of the same sample and a review by the City within 24 hours of notification of the positive test results. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test. The confirmation test may be performed by a laboratory of the employee's or the applicant's choice at the employee's or applicant's expense; provided, the selected laboratory is licensed by the California Department of Health Services, Laboratory Field Services.

The cost of the second confirmation test must be paid in advance by the applicant or employee. If the test is negative, the City shall reimburse the applicant or employee for the cost of the test. If the second test confirms the positive test result, the employee or applicant shall be notified of the results in

writing by authorized personnel. The notification shall identify the particular substance found and its concentration level.

An employee or applicant whose second test confirms the original positive test result, may, at the employee's or applicant's own expense, have a third test conducted on the same sample at a laboratory selected by the City.

E. Laboratory Testing Requirements.

All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the City which are licensed by the California Department of Health Services, Laboratory Field Services. To be considered as a testing site, a medical facility or lab must submit in writing a description of the procedures that will be used to maintain test samples. Factors to be considered by the City in selecting a testing facility include but are not limited to:

- (1) Collection and testing procedures which ensure privacy and accuracy;
- (2) Chain of custody procedures which ensure accuracy;
- (3) Procedure that ensure confidentiality of test results.
- (4) Methods of analysis which ensure reliable test results.

F. Consequences for Positive Test Results.

- (1) Applicants: Job applicants will be denied employment with the City if their initial positive test results have been confirmed. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive drug test result.
- (2) Employees: If an employee's positive test result has been confirmed, the employee is subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, and the existence of past disciplinary actions. If termination is not selected as the appropriate course of action, a documented course of corrective action may be established. In addition, if the drug and alcohol test is positive, and the employee is not terminated, the employee may be referred to an Employee Assistance Program (EAP) (only available to regular employees with benefits) counselor to establish a course of therapy or arrange action to address the drugs or alcohol abuse. A "Return to Work/Rehabilitation Agreement," to be approved by the City Manager and the may be established between the employee and the City at the City's sole discretion.



## G. Confidentiality

The drug and alcohol analysis results will not appear in an employee or applicant's general personnel folder. This information will be maintained in a separate confidential medical folder that will be securely kept under the control of the Human Resource Department. Disclosure of analysis results will be made to City management strictly on a need to know basis and to the employee upon request.

Disclosures, without the employee's consent, may also occur when: (1) the information is compelled by law, judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee or applicant; (3) the information is to be used in administering an employee benefit plan i.e. EAP; or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

**REPORT FORM - ALCOHOL AND DRUG-FREE WORKPLACE POLICY**

This is to certify that \_\_\_\_\_ has reasonable  
(Supervisor Name)

suspicion to believe that \_\_\_\_\_ on \_\_\_\_\_ at  
(Employee) (Date)

\_\_\_\_\_ was:  
(Time)

\_\_\_\_\_ (a) in possession of or

\_\_\_\_\_ (b) under the influence of a substance or substances in violation of the City's Alcohol and Drug-Free Workplace Policy.

The following are the specific facts that have led me to suspect that the above named employee has violated the City's Alcohol and Drug-Free Workplace Policy:

\_\_\_\_\_  
(Supervisor's Signature)

\_\_\_\_\_  
(Date)

**AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION**

I, \_\_\_\_\_, hereby authorize \_\_\_ OCCU-MED \_\_\_\_\_  
[employee name]

to release the medical information described below to City of Kerman.

This authorization is limited to the following types of information:

\_\_\_\_\_.

The recipient of this information may use it for the following purpose(s):

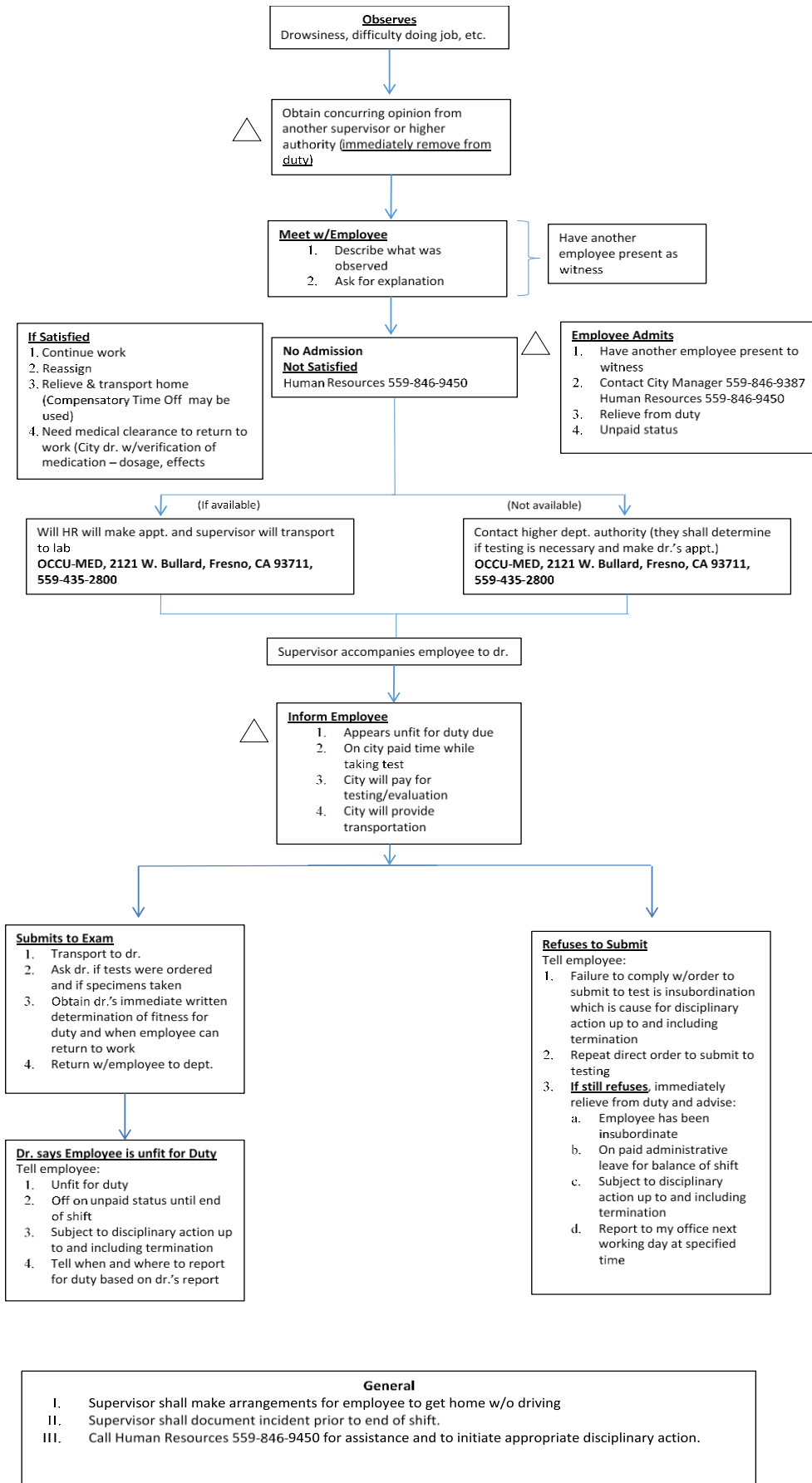
\_\_\_\_\_

[e.g., to assess reasonable accommodations]

This authorization shall expire on \_\_\_\_\_  
[date]

I understand that I have the right to receive a copy of this authorization upon my request. By placing my initials in the margin to the right of this clause, I hereby acknowledge that a copy of this authorization has been received.

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_



### ***Section 8.7 Vehicle Accident Policy***

When operating a City vehicle or personal vehicle to conduct City business, employees shall comply with all municipal and state laws, regardless of the class of driver's license held.

If an accident occurs, the following procedures apply for all City employees:

- A. The employee should immediately notify his/her supervisor about the accident, even if it is minor in nature. If the supervisor is unavailable, the employee should notify another supervisor in his/her department. When an injury results from the accident, the employee should seek medical treatment as soon as possible. Injuries which are not life threatening should be treated at the City's preferred medical center.
- B. Before leaving the accident scene, the employee should record the name and contact information of the other driver, his/her driver's license number, and auto insurance policy number. The employee should also make notes regarding how the accident occurred and any other pertinent details.
- C. The employee should also notify the local law enforcement agency and remain on site until an agency representative prepares a report. If the local law enforcement agency with jurisdiction cannot take a report at the accident scene, or if the accident is minor in nature, then the employee must complete a report with the appropriate agency within 24 hours or upon return to work as applicable.
- D. All accidents must be brought to the attention of the City Manager or his/her designee immediately. Depending on the circumstances, the employee may be held personally liable for the damage and any liability claims arising from the accident. The accident, depending on the circumstances, may also be grounds for discipline including dismissal.

### ***Section 8.8 Smoking Prohibited***

The City is committed to providing a healthy and safe work place. In keeping with this commitment, smoking is prohibited in any building or enclosed premise, including lobbies, lounges, waiting areas, stairwells, elevators, restrooms and offices. Smoking is prohibited inside public buildings, except covered parking lots. Employees who smoke do not receive extra rest periods.

"Smoking" means inhaling, exhaling, burning, using, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic cigarettes, and any electronic smoking device.

### ***Section 8.9 Policy Against Workplace Violence***

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

disciplinary action, up to and including termination. All employees, vendors and business associates should be treated with courtesy and respect at all times.

(1) Prohibited Behavior

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

(2) Definition of “Workplace Violence”

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

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

(3) Incident Reporting Procedure

- (a) Employees must immediately report to their supervisor or department head whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department head will immediately report the matter to the Human Resources Officer.
- (b) The Human Resources Officer or their designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.

(c) The Human Resources Officer or designee will take appropriate steps to provide security, such as:

- 1) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
- 2) Asking any threatening or potentially violent person to leave the site; or
- 3) Immediately contacting an appropriate law enforcement agency.

(4) Investigation

The Human Resources Officer or designee will see that reported violations of this policy are investigated as necessary.

(5) 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 Human Resources Officer and/or law enforcement authorities of any incidents;
- (d) Making all reasonable efforts to maintain a safe and secure workplace; and
- (e) Maintaining records and follow up actions as to reports of workplace violence.

**Section 8.10 Concealed Weapons**

The City prohibits weapons at City facilities, on City property, or at any event sponsored by the City. Police Officers are authorized by state and federal law to carry concealed weapons anywhere.

Weapons include visible and concealed weapons, including those for which the owner has necessary permits. Weapons can include firearms, knives with a blade longer than three (3) inches, explosive materials or any other objects that could be used to harass, intimidate, or injure another individual, employee, manager, or supervisor.

Violators of this policy are subject to disciplinary action, up to and including discharge, for any violation reasonably established or proven to have been committed.

## **RULE 9. PERSONNEL ADMINISTRATION POLICIES**

### ***Section 9.1 Personnel Documents***

#### **A. Establishment and Maintenance of Personnel Files**

- (1) An official personnel file for each City employee shall be maintained by and shall be under the control of the City Manager. Only the City Manager, Human Resource Officer, or persons expressly authorized by the City Manager may access personnel files.
- (2) A personnel file shall contain only material that is necessary and relevant to the City's administration of its Personnel System or required by law.
- (3) Personnel records are the property of the City, and access to the information they contain is restricted to protect employee privacy interests.
- (4) Files are kept for at least three years after separation of employment.
- (5) Payroll and benefit records shall be maintained by authorized staff. Access is limited to the City Manager, Human Resource Officer and authorized staff on a "need to know" basis.
- (5) It is important that employee personnel records contain accurate and up-to-date information. Any changes of name, address, telephone number, or number of dependents should be reported to the Human Resources Department promptly. The City requests that employees supply the City with the name, address, and telephone number of the person the City should contact in the event of an emergency. The City will not take adverse action against an employee who updates their personal information based on a lawful change of name, social security number, or federal employment authorization document.
- (6) The City will not display, disseminate or require employees to use their social security number for any purposes, unless strict security devices are in place or required by law.
- (7) Employees may inspect their own personnel files relating to their performance or to any grievance concerning the employee. Employees are entitled to a copy of any document signed by the employee. Employees wishing to review their personnel file shall contact Human Resources to arrange a mutually convenient time to review their personnel file.
- (8) Attendance and other records related to hours worked and wages paid are kept for a period of five years. Current employees may review these records during normal office hours by scheduling a time with the Human Resources Department. The City will respond to a request to inspect these records within 21 days.
- (9) The City shall immediately disclose to affected employees, any breach of the security of our computerized systems that includes personal information. Personal information is a



first name or first initial and last name in combination with the individual's social security, driver's license or California Identification Card number. A breach of security includes unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of personal information. Good faith acquisition of personal information by an employee or agent of the City in the course of duties is not considered a breach, provided the personal information is not used or subject to further unauthorized disclosure.

- (10) If a current employee's personal information is released, the City will provide written notification to the individual. Former employees will be notified through written correspondence to the most recent address on file. Notification may be delayed if a law enforcement agency determines the notification will impede a criminal investigation.

B. Medical Information

- (1) All medical information about an employee or applicant is kept separately and is treated as confidential in accordance with state and federal law.
- (2) The City will not obtain medical information about an employee or applicant except as authorized by the California Confidentiality of Medical Information Act. In order to enable the City to obtain certain information the employee or applicant may need to provide an authorization for release of the employee's medical information. Access to an employee's or applicant's medical information is strictly limited only to those with a legitimate need to have that information for City business reasons, or if access is required by law, subpoena, or court order. The City will not provide employee or applicant medical information to third parties (except as authorized by the California Confidentiality of Medical Information Act) unless the employee or applicant signs and provides a release of medical information to the City.
- (3) In the case of an employee with a disability, supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

C. Employee Access to Personnel File/Information

- (1) All personnel records are confidential.
- (2) Employment reference checks and requests for information concerning current or former employees must be referred to the Human Resource Department. The City will release such information only if the employee has provided and signed an authorization to release of employment information. Absent a signed release, the only information to be released shall be the position held, dates of employment, salary and records requiring disclosure under the California Public Records Act.

- (3) Subpoenas for personnel information must be reviewed by the City Manager and City Attorney.
- (4) Written verification of employment for major purchases such as real estate will be completed by the Human Resources Department. The employee's signature authorizing the release of the information must accompany a request for verification of employment.
- (5) A current employee may inspect their own personnel files, at reasonable times and at reasonable intervals, within 30 days of a written request. Employees may not remove any documents or unilaterally add to or delete from documents in their personnel files. 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 Human Resources Officer. The inspection must occur in the presence of the Human Resource Officer or other authorized 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.
- (6) 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 Human Resource Officer or their designee in writing. The City may charge a fee for the actual cost of copying.
- (7) 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 Human Resources Officer or their designee will notify the employee and/or representative of the date, time and place of the inspection in writing. No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

D. Changes Regarding Employee Information

It is important that the City have accurate personal information regarding employees. Each employee must promptly notify authorized staff in writing regarding changes in personal information such as name change, mailing address, telephone number, emergency contact information, and number of dependents.

E. 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.

## ***Section 9.2 No-Match Letter***

Each year, the Social Security Administration (SSA) sends letters to employers informing them that the Wage and Tax Statement (form W-2) contains employee names and social security numbers that do not match SSA records. If the City receives a “no-match” letter, it will take the following steps:

- (1) Within 30 days, the City will check its records to determine if the discrepancy is because of a typographical or clerical error in its records or in communications with SSA. If there is an error, the City will correct it.
- (2) If the records are accurate, the City will, within five (5) business days of completing its review, ask the employee to confirm that the information on file is correct. If the employee provides corrected information, the City will correct its records, inform SSA or the Department of Homeland Security (DHS), and verify that the corrected name and number match SSA or DHS records. If City records are correct, the employee will be asked to resolve the discrepancy with SSA or DHS within 90 days of receipt of the no-match letter.
- (3) If the discrepancy is not resolved within 90 days of receipt of the no-match letter, the City may re-verify the employee’s employment eligibility and identity by completing a new Form I-9 within three (3) days (93 days from the receipt of the no-match letter). In this case, the employee may not use a document containing the social security number or the alien number that is the subject of the no-match letter to establish employment eligibility or identity. In addition, all documents used to prove identity or both identity and employment eligibility, must contain a photograph.
- (4) If the no-match issue is not resolved by this process, the City may be compelled to terminate employment.

## ***Section 9.3 Conflict Resolution and Grievance Procedure***

The purpose of this policy is to provide a procedure by which employees may resolve differences, inform the City of any concerns, or to grieve any action or decision of the City or its representatives. Please refer to the Rule 5 in this Handbook for procedures relating to employee discipline as this procedure does not apply to employee discipline. Employees are encouraged but not required to utilize this policy. In particular, employees with issues, concerns, complaints of unlawful harassment may proceed immediately to the procedures in Rule 2.

Employees are expected to treat one another with respect and courtesy. In the event a misunderstanding, disagreement or a dispute arises, employees are encouraged to speak privately and directly with the person(s) involved. This meeting should focus on the issues causing concern. Each person should speak kindly and listen carefully to the other person in an attempt to resolve all issues.

If the persons involved cannot arrive at a satisfactory resolution of their differences, they should meet with a supervisor. The supervisor will listen to the concerns expressed and reach a decision on the matter. He/she may seek advice from another member of management before rendering a decision.

All employees are expected to cooperate and support any decision that is reached. Employees should not continue to debate and discuss the merits or wisdom of the decision. Instead, each employee should focus on what he/she can do to improve the workplace environment.

The most effective way of resolving conflict is to discuss the matter with the persons involved in the conflict, or with those persons in management positions who can assist in the resolution of the conflict. Rarely, if ever, will discussing the matter with co-workers help resolve the issue. Most often, that will make the problem worse.

If these differences cannot be resolved or if the employee has a concern about a serious matter such as a safety issue, or if the employee wishes to grieve an action or decision by the City, the employee may file a formal grievance with the employee's Department Head. The employee should include any evidence supporting the employee's claim, the identity of witnesses, and other pertinent information with their complaint. The Department Head or his/her designee will investigate the employee's claim and take any other action necessary to make a decision respecting the employee's grievance. The grievance should be filed within 30 days of the incident giving rise to the employee's claim.

Employees dissatisfied with the decision of the Department Head, may request a review by the City Manager. The employee must explain why the employee believes the Department Head's decision should be changed. The objection must be filed within 10 calendar days of receiving the decision. The City Manager will review the objection and may also ask for additional information from the employee or any other person involved. Generally, the City Manager's review will be limited to determining if all relevant evidence was considered and whether the decision of the supervisor and/or Department Head was supported by the evidence.

#### ***Section 9.4 Consumer Reports***

Generally, if the City hires a third-party to provide an investigative consumer report (background investigation) of any employee or applicant, the City will comply with the Federal and State Fair Credit Reporting Acts. The City will obtain the employee's or applicant's prior written consent by disclosing the information gathered or received to the employee or applicant, and provide the employee or applicant with a summary of rights. An investigative consumer report provides information regarding the character, general reputation, personal characteristics, and mode of living of the subject of the report.

If the City conducts an investigation that includes compiling information about a person's character, general reputation, personal characteristics and mode of living but does not include matters of public record, the information compiled will remain confidential to the extent permitted by law. Public records are those records documenting an arrest, indictment, conviction, civil judgment, action, tax lien or outstanding judgment. If public records are used in the investigation, the employee or applicant will be given a copy of the public records.

#### ***Section 9.5 Privacy of Health Information***

Pursuant to state and federal law, including the Health Insurance Portability and Accountability Act (HIPAA) and Confidentiality of Medical Information Act (CMIA), the City must take certain measures

to protect employees' "protected health information." "Protected health information" is information relating to an individual's medical condition, the provision of medical care for that individual, or the payment for that individual's medical care, which can identify the individual to whom it relates.

The City will not intimidate, threaten, coerce, discriminate against, or take any retaliatory action against an individual for exercising their HIPAA or CMIA rights, filing a complaint, participating in an investigation or opposing any improper practice. Employees will not be required to waive these rights as a condition of treatment, payment enrollment or eligibility.

### ***Section 9.6 Limitation on Political Activities***

The City prohibits the use of City resources and employee work time for engaging in political activities during work hours and/or using City's equipment or resources to promote a candidate or political activity during working hours. Employees may not engage in political campaigning in City buildings or on premises adjacent to City buildings. (The exception to this rule would be attendance/participation in such an activity at a City location normally utilized for such events (i.e. Community Teen Center, Park, etc.)

An employee or officer is prohibited from using his/her office to coerce or intimidate members of the public or other employees to promote, propose, oppose, or contribute to any political cause or candidate.

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

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

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

### ***Section 9.7 Confidentiality of City Information***

During the course of an employee's employment with City, the employee may learn or have access to information that must be kept confidential. This information may include, but is not limited to, information on IT configurations, security settings, employees, and financial and business operations of the City. Employees may also learn information regarding the personal or financial matters of community members. Confidential information may be in any form, e.g., written, electronic, oral, overheard or observed. Employees must safeguard confidential information and in no way reveal or divulge any such information except in the performance of the employee's duties to authorized individuals. Access to confidential information should be on a "need-to-know" basis and must be authorized by a member of City management.

In compliance with the California Public Records Act (Government Code sections 6250 – 6270.5) the City’s public records may be searched and inspected by members of the public. If employees are unsure whether requested information is considered public or confidential, employees shall confirm with their Department Head or the City Clerk immediately and prior to disclosure.

Employees may be given a personal password to log onto the City’s computer system. Passwords are given to allow the City to control and restrict access to information to certain employees. Employees may not share their password with others or allow others to access City data using the employee’s password. Nor should employees ever, directly or indirectly, copy, download or disseminate or help another person copy, download or disseminate City information for a non-work purpose. Employees should never download information to take with them upon separation of employment with the City, even if the employee created the document(s). Engaging in these activities could subject an individual to civil and/or criminal liability.

***Section 9.8 Attorney-Client Confidentiality***

On occasion, employees may participate in discussions involving confidential City business, including matters that are the subject of a pending or potential lawsuit. The dissemination of this information to employees and others is necessary to communicate litigation strategy and implement the advice of counsel. Employees must maintain the confidentiality of this information. The information is protected by the attorney-client privilege. The privilege is owned by the City Council of the City of Kerman. As a result, only the City Council can authorize the dissemination of any litigation information. Employees cannot discuss the information with others including co-workers, spouses, domestic partners, family members, or friends.

***Section 9.9 Document Retention***

In some cases, such as when litigation is pending or foreseeable, employees may have a duty to stop normal purging procedures and preserve existing data. The City will provide notice to affected employees if this duty arises. Altering or deleting documents during a purging hold will be considered grounds for discipline up to and including termination.

***Section 9.10 Garnishment***

If the City receives an order to garnish an employee’s wages, it must comply with that order. A garnishment is a stoppage of a specified sum from wages to satisfy a creditor. This will reduce the employee’s take-home pay.

***Section 9.11 Appearance Standards***

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

#### A. Grooming Standards

All City employees are required to dress appropriately for the job they are performing. The following dress code regulations shall apply to all City employees. If an employee has questions about how these standards apply to them, the matter should be immediately raised with their supervisor for consideration and determination:

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

#### B. Tattoos

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

- (a) Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, national origin, or any other protected status, extremist, and/or gang-related; and
- (b) Any non-conforming tattoos will be covered with clothing, bandage or makeup while at work, or removed.

#### C. Piercing

Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing. If an employee has questions about how these

standards apply to them, the matter should be immediately raised with their supervisor for consideration and determination.

- (a) No objects, articles, jewelry or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth.
- (b) Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

***Section 9.12 Use of City Facilities, Funds, Property, Vehicles, Equipment, and Supplies.***

A. Public Resources

City facilities, funds, property, vehicles, equipment and supplies are public resources and are to be used for City business only. Under Government Code section 8314 and Penal Code section 424, employees may not use these public resources for personal purposes, campaign activity or private gain.

Employees are expected to exercise due care, safety and economy in the use of City facilities, funds, property, vehicles, and equipment. For example, turning off electrical lights when not needed and reporting needed repairs are essential to the City's economy. City facilities, property, vehicles, equipment and supplies may be used only for the purpose for which they were intended.

B. Restitution and Repayment to City

In addition to the imposition of discipline for misconduct for violation of this Rule, employees may be required to repay City funds and to provide restitution to the City for any City facilities, property, vehicles and equipment which are damaged, destroyed, stolen and/or converted.

***Section 9.13 The Use of City Vehicles***

As with all other City property, City-owned vehicles are to be used for business purposes only, and only in compliance with the following rules:

- Operate the vehicle safely. Observe all traffic laws and drive courteously. The employee's driving practices reflect on the employee and the City.
- Employees must wear their seat belt at all times while operating the vehicle.
- Set the emergency brake, remove the keys and lock the doors when the vehicle is not in use.
- Employees shall keep the vehicle clean of personal belongings and/or materials when not using the vehicle. Remove all litter.
- Do not smoke in the City vehicle.
- Report any mechanical or maintenance problems.



- Employees shall visually inspect the vehicle each day and report any damage or problems to their supervisor and/or the repair garage.
- Employees shall report any accident, regardless of how minor, to their department supervisor as soon as possible, and not later than the end of their shift.
- Do not carry unauthorized riders or passengers.
- Do not carry weapons in the City vehicle unless specifically authorized as part of the employee's job duties.

#### ***Section 9.14 Tools and Equipment***

Tools or equipment necessary to the performance of a job shall be provided and maintained by the City. Personal use of City property, including tools, vehicles and other equipment is strictly prohibited. In addition, employees are prohibited from using tools and equipment that the employee has not been trained to use.

#### ***Section 9.15 Expense Reimbursements***

The City will reimburse employees for reasonable expenses incurred for business purposes. Generally, receipts must be provided to the employees' supervisor for approval of expenses. Employees will be reimbursed the IRS standard mileage rate if the employee uses their personal vehicle for City purposes and has been authorized to do so. However, employees are still responsible for any expenses associated with operating their own vehicle during business travel time, including but not limited to insurance deductibles.

#### ***Section 9.16 Cash Shortages and Breakage***

The City may require reimbursement, if, after an investigation, it is determined that the shortage, breakage or loss was caused by a dishonest or willful act, or by the gross negligence of the employee.

#### ***Section 9.17 The Use of Communication Equipment***

The City has made a significant investment in technology, including equipment that allows the City to better and more efficiently communicate with one another and with third parties. The technology, including computers and telephone systems, were purchased to improve operations. Unfortunately, some employees may attempt to use the equipment inappropriately.

Employees should refrain from putting any information on City-owned equipment that is inappropriate, unlawful or that could prove embarrassing. Among those considered offensive are communications that contain sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin, disability, or any other protected class. Communications that violate any other rule or policy contained in this manual are also prohibited. In order to protect its property, maintain costs and improve efficiency, the City reserves the right to search office property including computers, cell phones or pagers and associated billing and usage records.

Access to any website that is offensive or discriminatory is prohibited. Employees may not use City technology to state positions or opinions that give the impression that he/she is speaking on behalf of the City, unless the employees was specifically authorized to do so.

The communication systems should not be used to send or receive (download) copyrighted materials, trade secrets, proprietary financial information, or similar materials without prior authorization. Under no circumstances should any confidential or sensitive materials be disclosed to third parties except for appropriate and authorized business purposes.

Employees are advised that all information placed on the computers, telephones or any electronic data system, whether or not personal in nature, is property of the City and may be assessed and reviewed by the City, without notice or reason. This information includes, but is not limited to, monitoring sites employees visit on the internet, monitoring chat groups and news groups, reviewing downloaded or uploaded material, and reviewing e-mail sent and received by employees. The City will require employees provide copies of all internet and e-mail passwords used to access or use City-owned equipment. Passwords do not guarantee privacy of any data or information. Nor do system security features such as passwords and message delete functions prevent our ability to access equipment employees have used or data employees have created, received or sent. Inappropriate use of the equipment could lead to discipline. Employees have no expectation of privacy in City-owned equipment or systems.

Employees are further cautioned that the use of communication equipment shall only be used for its authorized purposes. As an example, unless specifically instructed to do so employees may not access or email City information for personal reasons. After employees are no longer with the City, employees are no longer authorized to use City information or log into City accounts and must return any City property located on personal computers or in their home.

### ***Section 9.18 The Use of Social Networking Communications***

Employees may not use City property to create, maintain, amend, view, access, download, contribute to, or store a blog, or post entries on the internet (whether through a social network of any form, or using another method), unless employees have authorization from the Department Head to do so. Employees may not blog or post entries on the internet (whether through a social network of any form, or using another method) while employees are on duty, unless employees have authorization from the Department Head to do so. Do not use City equipment to post or disseminate any copyrighted materials or other intellectual property belonging to someone other than the employee.

The City has access to all City-provided electronic equipment and property, and may from time to time, and without notice, inspect the condition of the equipment and the communications, content, data and imagery stored on it. Employees have no privacy rights in any communications, content, data or imagery in City-provided digital equipment employees access, view, create or save. Those communications, content, data and imagery are also subject to monitoring by the City.

Employees may be subject to discipline if any comments, material or information employees post, blog, tweet, comment or disseminate on non-City-owned equipment:

- Violates the privacy rights of another City employee;
- Discloses confidential business information of the City or any affiliated business entity, the City's suppliers or vendors;
- Discloses confidential strategies or prospects of the City or any affiliated business entity;
- Purports to represent the position, viewpoint, statements, opinions or conclusions of the City (unless specifically authorized in writing);
- Violates laws that prohibit defamation, harassment, discrimination, or retaliation;
- Displays contemptuous, opprobrious or abusive comments about the City or its representatives; or
- Suggests that the City endorses or promotes a particular product, commercial enterprise, opinion, cause or political candidate.

This policy does not, however, prevent employees from engaging in concerted activities for the purpose of collective bargaining or other mutual aid.

Remember, employees are personally responsible for any posting they make. Employees can be held personally liable for any statements deemed to be defamatory, obscene, harassing, discriminating, or retaliatory, violate privacy rights, include confidential or copyrighted information (e.g., music, videos or texts that belongs to someone else) or are otherwise unlawful. The City is not responsible for protecting employees from the consequences of any information posted by the employee.

### ***Section 9.19 Social Media Passwords***

Generally, the City will not require or request employees disclose a user name or account password to access a personal social media account. Nor will the City ask employees to access their personal social media accounts in the City's presence or to divulge any personal social media. The City may ask employees to divulge personal social media if the City reasonably believes it is relevant to an investigation of employee misconduct or employee violation of applicable laws and regulations. Even in this situation, the City will use the information for the investigation or proceeding only.

City employees are required to disclose usernames, passwords or other methods of accessing employer-issued electronic devices.

### ***Section 9.20 Limitations on Outside Employment***

#### **A. No Outside Employment without Prior Approval**

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with their City duties, functions, responsibilities, or that of the department in which they are employed at the City. In order to avoid perceived or actual conflicts of

interest that may arise from outside employment, all employees must obtain written approval from the Human Resources Officer or their designee prior to undertaking any outside employment as described in this policy.

B. 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 their Department Head. The written request must include: (1) the work hours and/or time required; (2) job title or the nature of the activity; (3) the work location; and (4) the supervisor, manager and name of the employer or activity.
- (b) **Analysis and Decision:** The 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, they will authorize the activity and specify the conditions/restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.
- (c) **One (1) Year Authorization:** An outside employment authorization is valid only up to one (1) year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, they 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 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.

C. 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 he/she is employed; or
- (d) Involves time demands that would render the employee's performance of their regular City employment less efficient or dangerous to the employee.

D. Change in Outside Employment Status

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

E. Revocation/Suspension of Outside Employment

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.

F. 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.

**Section 9.21 Personal Business**

Personal phone calls, e-mails and visits during work hours should be kept to an absolute minimum. Except for emergencies, employees shall restrict personal business to meal and rest periods. Attending to personal business during work hours is extremely costly.

**Section 9.22 Romantic Relationships or Employment of Relatives, Spouses, Domestic Partners**

A. Romantic Relationships in the Workplace

The City prohibits employees in the line of authority from engaging in romantic relationships due to potential conflicts of interest or claims of unlawful harassment. If such a relationship develops, the employees are expected to disclose the relationship to their superiors so that a transfer can be made, if possible. Similarly, employees are encouraged to avoid romantic relationships with co-workers because of potential complications in the workplace.

B. 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 interests and to promote safety, security, supervision, and morale.

i. Definitions

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

ii. 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 relatives already hold a position, if any of the following would result:

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

iii. 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:

- (a) One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner; or
- (b) Potential conflict 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.

iv. Marriage or Domestic Partnerships After Employment

- (a) Transfer: If two City employees who work in the same department later become spouses or domestic partners, the Human Resources Officer has discretion to transfer one of the employees to a similar position in another department. Although the wishes of the two employees will be considered, the Human Resources Officer 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 Human Resources Officer finds to be consistent with the City's interest in the promotion of supervision, safety, security, or morale, then the Human Resources Officer 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.

### ***Section 9.23 Housekeeping***

All employees are expected to keep their work areas clean and organized. Common areas such as break rooms and restrooms should be kept clean by those using them. Please clean up after meals and dispose of trash properly.

### ***Section 9.24 Searches and Inspections***

In order to protect its property and employees, the City reserves the right to search City-owned property including desks, computers, containers, storage areas, vehicles and any other equipment without notice. The City also reserves the right to inspect personal property on the premises as warranted, including vehicles, clothing, packages, lunch boxes, purses and other containers for illegal drugs, alcohol, weapons, stolen property or evidence of a violation of City policies. Searches of personal property will only be conducted when there is reasonable cause to believe that an employee has illegal drugs, alcohol, weapons, stolen property or evidence of a violation of City rules in his/her possession.

City property and administrative offices may be monitored by means of audio, visual or electronic equipment at any time, without prior notice. Monitored information includes, but is not limited to, monitoring sites employees visit on the internet, monitoring chat groups and news groups, reviewing downloaded or uploaded material, and reviewing email sent and received by employees. The City will keep copies of all Internet and email passwords. System security features such as passwords and message delete functions, do not neutralize or inhibit our ability to access such materials. Employees do not have an expectation of privacy in any area not specifically designated to the employee for their exclusive use.

### ***Section 9.25 Postings***

Federal and state employment posters and all other postings are located in the following areas:

Administration Lunch Room  
Senior Center Office Area

Police Patrol Ops Room  
Public Works Break Room

Community Team Center North Office  
Animal Shelter

Waste Water Treatment Office Area

A copy of Wage Order No. 4-2001 may also be viewed via the Internet at:

[www.dir.ca.gov/iwc/WageOrderIndustries.htm](http://www.dir.ca.gov/iwc/WageOrderIndustries.htm)



## EMPLOYEE HANDBOOK ACKNOWLEDGEMENT FORM

By signing this form, I acknowledge receipt of the Handbook. I understand that this Handbook does not imply or constitute a contract or employment agreement for a specified term between myself and the City of Kerman.

I have received the Handbook, and I understand that it is my responsibility to read and comply with the policies contained in this Handbook. If I have any questions about the Handbook, or any employment matters, I will contact my supervisor or Department Head.

Employee Signature \_\_\_\_\_

Employee Name Printed \_\_\_\_\_

Date \_\_\_\_\_