

**CITY OF MORENO VALLEY
PERSONNEL RULES & REGULATIONS**

REVISED AND ADOPTED BY CITY COUNCIL JULY 1, 2007

Please complete this form and return to Human Resources. If you have any questions regarding the Personnel Rules & Regulations, please contact the Human Resources Department at extension 3045.

On _____, I received a copy of the City of Moreno Valley's, July 1, 2007, Revised Personnel Rules & Regulations, and I have had an opportunity to ask questions and discuss the information. I understand that a copy of this acknowledgement form will be placed in my central personnel file, located in the Human Resources Department.

Employee Name **(Please Print)** _____

Employee Signature _____

Department/Division _____

.....
.....

Human Resources Department Use Only

Date Returned _____

CITY OF MORENO VALLEY
PERSONNEL RULES AND REGULATIONS

REVISED AND ADOPTED July 1, 2007

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**CITY OF MORENO VALLEY
PERSONNEL RULES AND REGULATIONS
REVISED AND ADOPTED
Effective July 1, 2007**

SECTION 1: GENERAL PROVISIONS

1.05. AUTHORITY

The City Council of the City of Moreno Valley is authorized and directed under the Municipal Code and the provisions of Section 1.40 of these Rules to adopt rules for the administration of the City's personnel system.

1.10 OBJECTIVES

The objectives of these Personnel Rules are to facilitate efficient and effective services to meet public needs as well as provide for an equitable system of personnel management in municipal government.

These Rules shall set forth in detail procedures which insure fair and equitable treatment for those who compete for original employment and promotion within City employment and define many of the obligations, rights, privileges and prohibitions which are placed upon all employees in the competitive service of the City.

1.15 INTERPRETATION

Within the limits of administrative feasibility, the City Manager shall be responsible for the interpretation of these Rules in cases where the proper application of a rule or any portion thereof is not clearly ascertainable. When such interpretation is required, the result shall be in harmony with the objectives set forth above.

1.20 DEFINITION OF TERMS

All words and terms used in these Rules and in any ordinance or any resolution dealing with Personnel Rules and Regulations shall be defined as they are normally and generally defined in the field of personnel administration. For the purpose of convenience, the following words and terms most commonly used are defined.

Appointing Authority: The City Manager or designee who, in his or her individual capacity, has the final authority to appoint a person to a position of employment.

Anniversary Date: The date when the employee last completed probation. If an at-will employee, the date the employee was hired to the most recent position.

Except as specifically provided in these Rules, any non-probationary employee who takes an authorized leave of absence without pay shall have his or her anniversary date extended the same amount of time as his or her period of leave.

Appointment: The designation of a person to fill a position of employment.

At-Will Employee: A probationary employee, or contract employee, who does not hold career status.

Career Employee: A permanent employee hired for an indefinite term into a budgeted position, who is regularly scheduled to work no less than one thousand (1,000) hours per year, has successfully completed his or her probationary period, and has been retained as provided in these Rules.

City: The City of Moreno Valley.

City Manager: The City's Chief Executive Officer.

Classification: A certain group of job positions with the same title, salary range, and benefit package.

Classification Manual: A document containing the class specifications for all City positions as approved by the City Manager or designated official.

Classification Plan: A listing of the duties and responsibilities of all City positions, as determined by the City Manager and adopted by the City Council.

Classification Roster: A listing of all City positions including the title and benefit category contained in the annual fiscal year budget, as determined by the City Manager and adopted by City Council.

Compensatory Time: Time accrued or taken off from work with pay, in lieu of paid overtime compensation.

Competitive Service: The merit system whereby City employees are hired and promoted through a competitive process based upon objective standards of merit to assure fair consideration in all aspects of employment/promotion.

Contractual Employee: An employee hired and paid pursuant to the terms and conditions of a specified written contract between such an employee and the City.

Days: Calendar days unless otherwise stated.

Demotion: The voluntary or involuntary transfer of an employee from one classification to another classification with a lower salary or to a lower step in a classification or hierarchy of positions.

Department Head: One who functions directly under the authority of the City Manager, has direct responsibility for a particular department, and manages its staff, policies and budget.

Dependent: A covered person who relies on another person for support; or obtains health coverage through a spouse, domestic partner, parent, grandparent, or legal guardian.

Disciplinary Action: The discharge, demotion, reduction of pay, suspension, placing on probation, or the issuance of a written reprimand, or formal warning, or any other action for punitive, corrective, or disciplinary reasons.

Disciplinary Suspension: A disciplinary action that temporarily separates an employee from City service without pay.

Dismissal: The discharge of an employee by the City from City employment.

Division Manager: Division Heads and those who qualify for executive exemption under FLSA and for a certain benefits package.

Domestic Partner: As defined by state law and registered accordingly.

Eligibility List: A list of all persons eligible for appointment to a particular classification after final testing/interviews as determined by the Human Resources Director.

Emergency Appointment: An appointment made to meet immediate requirements of an emergency condition, such as fire, flood or earthquake, which threatens life or property, where such employment is not anticipated to endure beyond the duration of such an emergency period.

Employee: An elected or appointed person occupying a position in the City employment, including City Councilmembers, providing personal services to the City or its residents. This excludes independent and outside contractors, commissioners, members of advisory boards, and volunteers.

Employee Assistance Program (EAP): A health and wellness benefit which allows an employee or a member of his or her family to receive personal counseling at City expense, subject to certain limits and available funds.

Employee Relations Officer: The City Manager-designated officer who administers the City's employee relations as defined in Employee Relations Resolution #92-110. The designated Employee Relations Officer functions under the authority of the City Manager.

Executive Management: Department Heads and those who qualify for executive exemption under FLSA and for a certain benefits package.

Fair Labor Standards Act (FLSA): The Federal Law, which guarantees employees certain minimum wages and time and one-half overtime standards.

Fiscal Year: A twelve-month period from July 1 to June 30 in which the City plans, budgets, appropriates, and expends its funds.

Flexible Work Schedule: A City Manager-approved variation from the standard daily work hour schedule of 8:00 a.m. to 5:00 p.m.

Full-time Employee: An employee who is regularly scheduled and expected to work forty (40) hours or more during a workweek.

Furlough: A Management-dictated, mandatory, reduced working period implemented to save City funds during difficult economic times.

General Non-Exempt Employee: An employee who is not exempt from the pay and overtime provisions of FLSA and who qualifies for a certain benefits package.

Human Resources Officer: The City Manager-designated officer, known as the Human Resources Director, who administers the City's personnel system. The designated Human Resources Officer functions under the authority of the City Manager.

In-House Competitive Examination: A type of examination open only to City employees meeting the minimum qualifications for a particular classification.

Immediate Family Member: Mother, father, spouse, domestic partner, natural/step children, children of domestic partner, mother-in-law, father-in-law, brother, or sister, grandparent and grandchild. Step-parents may be included depending on the current situation.

Insubordination: This occurs when an employee refuses a lawful order from a supervisor. Three elements should exist: (a) the employee understood the instructions and consequences of failing to follow the order; (b) the order was in line with the employee's duties; and (c) there was no safety reason for the employee to refuse the order.

Interim Employee: An employee who is appointed to a career classification on an acting or temporary basis pending completion of the recruitment process, issuance of an eligibility list, and filling the classification.

Lead Worker: A working daily supervisor who typically schedules, assigns, trains, monitors, and evaluates the work of a crew or group of employees. Additionally, a lead worker performs the more difficult and responsible tasks assigned to classifications within that classification series.

Leave of Absence Without Pay: A period of time during which an employee may take time off without receiving compensation or benefits, unless otherwise stated in these Rules.

Limited Term: An employee hired for a definite term based on the funding available and/or workload requirements.

Merit Salary Increases: The increase of an employee's salary within the salary range established for the classification the employee occupies, resulting from satisfactory job performance, which is based on performance or merit, not solely on longevity.

Misconduct: Any act or unsatisfactory job performance which may be subject to disciplinary action.

Modified Work Schedule: Any work pattern schedule other than a usual 8 to 5 schedule as approved by the City Manager.

Open Competitive Examination: A type of examination open to applicants meeting the minimum qualifications for a particular position.

Overtime: The time which an employee is required or permitted to work beyond the number of hours prescribed for a full-time employee in that classification. Overtime compensation, taken as paid time or as compensatory time, shall be authorized as provided in Section 6.05.

Part-time Employees: The City has three (3) types of part-time employees; career part-time, seasonal or temporary, and crossing guards.

- A. Career Part-Time Employee: An employee who works a minimum of twenty (20) scheduled hours per week on a permanent basis.
- B. Temporary or Seasonal Employee: An employee, other than a contract employee, who is scheduled to work no more than 1,000 hours in a calendar year or one for whom there is no Council-authorized position.
- C. Crossing Guard: An employee hired as a regular or an alternate crossing guard. A regular crossing guard shall have a usual post near a school site. An alternate or substitute guard shall relieve any regular crossing guard in the case of absence.

Performance Assessment Review (PAR): This is the performance evaluation tool for the City's career employees, wherein performance is evaluated and rendered at three (3) months and six (6) months while on probation, and annually thereafter on the employee's anniversary date.

Permanent Disability: A medical disability which will indefinitely prevent the employee from performing his/her essential job duties without creating unreasonable endangerment to health and safety or inefficiency of the employee or others.

Personnel Ordinance: Chapter 2.30 of the City's Municipal Code, authorizing the establishment of a personnel system for the City.

Position: A specific job assigned to a job classification.

Probationary Employee: An employee who is serving his or her probationary period.

Probationary Period: A working test period which is part of the selection process, during which an employee is required to demonstrate his or her fitness for the position to which assigned. Before an employee may promote, they must successfully complete original probation.

Professional/Administrative/Management Employee: An employee who qualifies for the executive (Professional/Administrative/Management) exemption under FLSA and for a certain benefits package.

Promotion: The advancement of an employee from one classification to another classification having a higher salary range.

Reclassification: The reassignment from one classification description, or status to a different classification description, or status in accordance with a re-evaluation of the minimum qualifications, duties, and responsibilities of the position in question. Simple title changes are not reclassifications.

Reduction in Force (RIF): A layoff in the work force.

Resignation: The voluntary separation by an employee from City employment.

Rules: These Personnel Rules, as they may be amended periodically.

Salary Schedule: The listing of the salary ranges and steps for all defined City classifications.

Salary Range: The range of pay an employee can earn while employed in a particular classification.

Seniority: The length of an employee's continuous service in a City career position.

Staffing Plan: The classification titles, salaries and number of allocated positions in a department or division for a designated fiscal year, as determined by the City Manager and adopted by City Council in the annual budget document.

Standards of Conduct: Those rules which are intended to govern the actions of City employees during their course of employment with the City with respect to the employee's job performance.

Supervisor: Performs full scope of supervisory duties including hiring, training, planning, scheduling, disciplining, and evaluating the work of several crews and/or work units of staff.

Temporary Employee: *(See Part-time Employees)*

Termination: The separation of an employee from City service because of retirement, resignation, permanent disability, death or dismissal.

Transfer: The change of an employee from one department or division to another department or division without changing the employee's salary and usually within the same classification.

Workweek: A regularly recurring period of seven (7) consecutive twenty-four (24) hour days beginning at 12:01 p.m. on Friday and concluding at 12:00 noon the following Friday.

Y-Rate of Pay: The Y-rate of pay shall exist when an employee's salary is frozen at the then current level until such time as the commencing salary at the Y-rate, taken together with subsequent general salary increases, equals or exceeds the employee's salary at the Y-rate. This may occur in situations where an employee is reclassified, voluntarily demoted, or as otherwise stated in these Rules. Normally, benefits will not be Y-rated.

1.25 ADMINISTRATION OF THE PERSONNEL SYSTEM

The City Manager shall administer the City personnel system and may delegate any of the powers and duties related thereto to any other officer or employee of the City or may recommend that such powers and duties be performed under contract as provided in Section 1.30 of these Rules. The City Manager shall:

- A. Act as the appointing authority for all City employees except those officers and employees directly appointed by the City Council.
- B. Administer all of the provisions of these Personnel Rules except as specifically reserved to the City Council.
- C. Prepare and recommend to the City Council any appropriate Personnel Rules and revisions to such Rules.
- D. Prepare or cause to be prepared, and revise as appropriate, a position classification schedule, including class specifications.
- E. Have the authority to discipline City employees in accordance with these Personnel Rules.
- F. Provide for the publishing or posting of notices of examinations for positions in the competitive service; the flexibility to waive certain job stated qualifications for good cause when it is in the best interests of the City; the receiving of applications therefore; the conducting and grading of examinations; the establishment of a list of all persons eligible for appointment to the appropriate position in the competitive service; and the performance of any other duty which may be desirable or required for the effective implementation of these Rules.
- G. Appoint employees on a temporary or seasonal basis without competitive examination.
- H. Determine standardized daily work hours and schedules and approve variations to the standard schedule.

1.30 CONTRACTS FOR SPECIAL SERVICES

The City Manager may contract for the performance of technical services in connection with the establishment or operation of the personnel system. In addition, the City Manager may determine the circumstances under which it is in the best interests of the City to contract for such services, and to enter into contracts for such services with City Council approval. The contract may be with any qualified person or public or private agency for the performance of any or all of the following:

- A. The preparation of Personnel Rules and subsequent revisions and amendments.
- B. The preparation of a position classification plan, and subsequent revisions and amendments.
- C. The preparation, conduct, and grading of qualifying tests.

- D. The conduct of employee training programs.
- E. Special and technical services of advisory or informational character on matters relating to personnel administration.
- F. Professional services.

1.35 APPLICATION AND EXCEPTIONS

- A. These Rules shall apply to all offices, positions, and employments in the service of the City, as defined in Section 1.20 of these Rules, with the exception of the following:
 - 1. Members of the City Council and other elected officials.
 - 2. Members of commissions and advisory bodies appointed by the City Council or City Manager.
 - 3. Direct appointees of the City Council, including the City Manager, City Clerk, City Treasurer, City Attorney, and any assistant or deputies to the City Attorney. An employee who also holds the position of City Treasurer shall not be excluded from the Rules, unless he or she has entered into an employment agreement pursuant to sub-section "F" herein.
 - 4. Volunteer personnel, such as volunteer fire protection personnel, and others who provide services to the City without receiving compensation (although such persons may receive reimbursement for actual expenses incurred in the service of the City).
 - 5. Outside and independent contractors, engaged to provide expert, professional, technical, or other services.
 - 6. Employees who have entered into an employment agreement with the City, unless otherwise specified in an employment agreement.
- B. These Rules, with the exception of Sections 8-12 inclusive, shall apply to the following employees, who serve at the pleasure of their respective appointing authorities and are considered "at will" employees:
 - 1. Emergency employees, such as those hired to meet immediate needs of an emergency condition (i.e., fire, flood or earthquake) which threatens life or property.
 - 2. Employees who are considered temporary or seasonal.
 - 3. Other non-career employees who are not specifically mentioned in Section 1.35 of these Personnel Rules.
 - 4. Alternate Crossing Guards.

5. Volunteers and Interns.

- C. The crossing guard manual contains specific personnel policies for crossing guards. It is an extension of these rules. Violations of those written policies are also considered violations of these rules as well.

1.40 ADOPTION AND AMENDMENT OF RULES

Pursuant to the Personnel Ordinance, the City Council may adopt Personnel Rules to provide for the implementation of a personnel system for City employees. Recognized employee organization-proposed amendments to these Rules shall be submitted to that organization for review and recommendation prior to submittal to the City Council. Advance notice and an opportunity to meet and confer shall be given to recognized employee organizations concerning any amendments which affect matters subject to meet and confer such as, wages, hours, and other terms and conditions of employment. Upon request, the Human Resources Director shall provide the opportunity for review and comment and consult with any recognized employee organization so requesting prior to consideration by the City Council.

As provided in Section 3500 et seq. of the California Government Code, in cases of emergency, when the City Council determines that amendment(s) to these Rules must be adopted immediately without prior notice or meeting with a recognized employee organization, the City shall provide such notice and opportunity to meet at the earliest practical time following the adoption of the amendment(s). Amendments shall become effective upon adoption by the City Council or at such other time as the adopting resolution may provide.

With the written approval of the City Manager, Department Heads may promulgate rules not in conflict with these Rules for the effective and efficient operation of their departments.

1.45 VALIDITY OF RULES (SEVERABILITY)

If any section, subsection, sentence, clause, phrase or portion of these rules is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these rules. The City Council of Moreno Valley hereby declare that it would have adopted these rules and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

1.50 VIOLATION OF RULES

Violation of these Rules may be grounds for disciplinary action, subject to the applicable appeals procedure provided herein.

1.55 CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS AND OTHER GRATUITIES

City employees should serve the needs and respond to the wishes of all citizens equally without regard to their personal gain. City employees should perform their duties in an

impartial manner, free from bias caused by their own financial interests or the financial interests of other persons. Therefore, it is the policy of the City of Moreno Valley that all City employees shall avoid situations which might be interpreted as involving or creating a conflict of interest between the employee's duties and responsibilities as a public employee, and the employee's personal and private interest.

Employees should not take part in the consideration of any application, proceeding or other matter involving their own personal property, real estate, investment or other interest, or that of any relative or close personal acquaintance. In all such situations, the employee should disclose the nature of the relationship to his or her immediate supervisor and request to be relieved of any responsibility or involvement in such matter.

The acceptance of gifts, favors, or any form of compensation or gratuity may be viewed as influencing or compromising or attempting to influence or compromise the judgment of an employee. To prevent such a conflict, employees shall discourage any offer of a gift, favor or any form of compensation or gratuity. Gifts that can and will be shared with office staff, such as boxes of candy, flowers, and food, may be viewed as exceptions. Being hosted by a City contractor or potential City contractor is not a conflict of interest, provided that all financial disclosure laws and regulations are complied with.

Employees who receive or are offered an unanticipated gift, favor or gratuity, should consult their Department Head to determine an appropriate response to the donor.

City employees shall not solicit or accept donations for City sponsored events unless waived for specific events by express written authorization of the City Manager.

1.60 INCOMPATIBLE EMPLOYEE ACTIVITIES

During an employee's work day, the employee is expected to devote his or her full time, attention and efforts to the performance of his or her assigned duties as a City employee. At no time shall any outside employment or activity be conducted on City time. No employee shall engage in any employment, outside activity, or enterprise which is inconsistent, incompatible, in conflict with, or interferes with his or her ability to perform the duties, functions, or responsibilities of his or her position as a City employee, nor shall he or she engage in any outside activity which may directly or indirectly contribute to the lessening of his or her effectiveness as a City employee. Employees who undertake outside employment shall notify their immediate supervisors in writing of the nature, duties, and hours of that employment before undertaking such employment, including military service in the Reserves or Guard.

No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly permitted by the City Manager, Federal or State law, Memorandum of Understanding, or City Council directive.

1.65 POLITICAL ACTIVITIES

No restrictions shall be placed on the political activities of any employee of the City of Moreno Valley other than the following.

- A. No person who holds, or who is seeking election or appointment to, any office or employment with the City shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position within the City, upon consideration or condition that the vote or political influence or action of such a person or another shall be given or used on behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration (Government Code 3204).
- B. No employee shall directly or indirectly solicit political funds or contributions from other employees of the City. Employees, however, are not prohibited from requesting political funds or contributions to a significant segment of the public which may include officers or employees of the City (Government Code 3205).
- C. No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer or arrange for any increase in compensation or salary for an employee of a state or local agency in exchange for, or a promise of, a contribution or loan to any committee controlled, directly or indirectly, by the person who holds, or is seeking election or appointment to office. (Government Code 3205.5)
- D. No employee shall participate in any political activities while in uniform (Government Code 3206)
- E. No employee shall engage in political activity during working hours or on City premises (Government Code 3207).
- F. No employee shall engage, during his or her working hours, in the solicitation or receipt of political funds or contributions to promote the passage or defeat of any ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of the employees of the City; nor shall entry be permitted on City premises during working hours for such purposes (Government Code 3209).

1.70 SAFETY AND HEALTH

Each employee shall comply with all applicable safety laws, rules, and regulations. All employees shall follow safety practices, use personal protective equipment as required, render every possible aid to safe operations, and report to proper authority all unsafe conditions or practices.

- A. Management may request a fitness-for-duty examination and repeat examinations as necessary to safeguard the employee and co-workers when there is a concern about an employee's ability to perform his or her job, based on the observations of a supervisor, manager, or physician. Specific reasons for the fitness-for-duty request must be stated.

1.75 DRUG AND ALCOHOL FREE WORKPLACE

Because drug and alcohol use can detrimentally affect job performance and employee safety, the City is committed to achieving and maintaining a drug and alcohol free workplace. While the City has no intention of intruding into the private lives of its employees, it will be firm in identifying and disciplining those employees whose impaired mental or physical condition, as a result of drug or alcohol use, may endanger the health or safety of fellow employees and the public at large, or interfere with the operations of the City.

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

While on paid duty time, the employee shall not be under the influence of any substances, drugs, medications, legal or illegal which could impair an employee's ability to effectively and safely perform the functions of the job. The use of prescription drugs which would not alter an employee's work performance is acceptable if prescribed by a qualified physician.

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

The unlawful manufacture, distribution, dispensing, possession, or use of any illegal drug or "controlled substance" is prohibited on the job, in the City's workplace, or while subject to duty (i.e., stand-by).

For the purposes of this Section, the following shall be defined as:

- A. "Controlled Substance" denotes any substance which could potentially impair the employee's ability to effectively and safely perform the functions of his or her duties, including, but not limited to: alcohol, coca leaves, cocaine, marijuana, opium and opiates, amphetamines, methamphetamines, lysergic acid (L.S.D.), etc. As outlined below, certain prescription drugs and medications shall also be classified as controlled substances.
- B. "Conviction" is a finding of guilt (including a plea of no contest), an imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
- C. "Criminal Drug Statute" is a criminal statute involving the manufacture, distribution, dispensation, use, or possession of any illegal drug or controlled substance.

Please refer to the City of Moreno Valley's Personnel Rules & Regulations, Appendix A-D, for a detailed description of the City's Drug and Alcohol Free Workplace Policy.

1.80 EQUAL EMPLOYMENT POLICY

It is the policy of the City of Moreno Valley to offer equal opportunity in all matters of employment. Employment with the City is based solely upon the qualifications of the individual applicant, regardless of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or a mental or physical disability, unless sex, mental, or physical ability is a bona fide occupational qualification.

All employees are to be treated with respect and dignity. The City of Moreno Valley prohibits any harassment of employees in the workplace. Activities and occurrences which may constitute harassment, whether written or oral, include, but are not limited to disparaging comments on the basis of one's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or mental or physical disability. Such harassment activities, which may have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the Human Resources Director.

The City shall not unlawfully discriminate against a qualified individual with a disability in job applications, hiring, advancement, compensation, training, discharge, and other terms, conditions, or privileges of employment. A disabled person is one who has mental or physical impairment that limits at least one major life activity, who has a record of impairment, or who is regarded as having impairment. A qualified individual with a disability is a person, who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Violation of this policy will result in appropriate disciplinary action pursuant to Section 8 of these Rules.

1.85 DISCRIMINATION AND ANTI-HARASSMENT POLICY

The City of Moreno Valley is committed to providing a work environment that is free of discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting any form of harassment, including sexual harassment, of all employees. Furthermore, the City prohibits harassment in any form, including verbal, physical, visual, or sexual harassment or retaliation against an employee for filing a harassment and/or discrimination complaint.

Harassment of an employee by a co-worker, supervisor, management employee, or other agent of the City, or a customer, on the basis of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or a mental or physical disability will not be tolerated. **Such harassment activities, which may have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the Human Resources Director.**

Harassment includes, but is not limited to:

- A. Verbal Harassment- For example, epithets, derogatory comments or slurs on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity, age, or denial of family and medical care leave and denial of pregnancy disability leave.
- B. Physical Harassment- For example, assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity or age.
- C. Visual Forms of Harassment- For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity or age.
- D. Sexual Harassment- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employee benefit, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or an offensive work environment.

The City shall ensure that each employee has a copy of the City's anti-harassment policy which will include information on its internal complaint procedure.

Any employee who believes he or she has been harassed by a co-worker, a supervisor, a management employee, any other agent of the City, or customer should promptly report the facts of the incident or incidents and names of persons involved to his or her supervisor and/or the division manager/department head, and/or the Human Resources Director. If the offending party is a department head or higher, the complaint should be addressed to the offending party's supervisor. Any supervisor, division manager, or department head is obligated to immediately report any complaints and/or incidents of harassment to the Human Resources Director. Failure to make such a report when required by this Section may provide grounds for disciplinary action.

Upon receiving notification of a harassment complaint, the Human Resources Director shall:

- A. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with:
 - 1. the complainant;
 - 2. the accused harasser; and
 - 3. any other persons the Human Resources Director has reason to believe have relevant knowledge concerning the complaint. This may include victims of similar conduct.

- B. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual, or sexual conduct, and the context in which the alleged incidents occurred.
- C. Report the results of the investigation, and the determination as to whether harassment occurred, to appropriate persons, including the complainant, the alleged harasser, the supervisor, the department head, and the City Manager. If discipline is imposed, the discipline will not be communicated to the complainant.
- D. If the harassment occurred, take and/or recommend to the appointing authority prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the offense.
- E. Take reasonable steps to protect the complainant from further harassment.
- F. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- G. If appropriate, take action to remedy the victim's loss, if any, which resulted from the harassment.

If the employee is not satisfied with the action taken, the employee shall have the right to file a formal grievance in accordance with Section 12.55. If the allegation of harassment implicates any person rendering a decision at any Step in the Grievance Procedure, the employee may omit that particular Step and proceed to the next Step in the Grievance Procedure.

Dissemination of Policy

All employees, shall receive a copy of this Discrimination and Anti-Harassment Policy when they are hired and regularly thereafter. All supervisors hired after January 1, 2005, shall receive harassment training within six (6) months of hire. All supervisors shall receive interactive anti-harassment training at least every two years.

1.90 WORKPLACE VIOLENCE POLICY

This organization does not tolerate workplace violence. We define workplace violence as actions or words that endanger or harm another employee or result in other employees having a reasonable belief that they are in danger. Such actions include:

- Verbal or physical threats, or intimidation;
- Assaults or other violence; and
- Any other behavior that causes others to feel unsafe (e.g., bullying, sexual harassment).

City policy requires an immediate response to all reports of violence. All threatening incidents will be investigated and documented. Counseling may be provided.

The following disciplinary actions may also be taken:

- Oral reprimand;
- Written reprimand;
- Suspension; or
- Termination.

Employees are expected to behave in a professional manner. It is the responsibility of all employees to report all threatening behavior to management immediately. The goal of this policy is to promote the safety and well-being of all people in our workplace.

1.95 SMOKING POLICY

In compliance with all CALOSHA regulations, smoking is prohibited in all City facilities and in all City vehicles and rolling stock. Consistent with CAL OSHA regulations no one may smoke less than 20 feet from doorways.

SECTION 2: CLASSIFICATION AND SALARY PLAN

2.05 PREPARATION, ADOPTION, AND AMENDMENT OF CLASSIFICATION PLAN

The City Manager shall determine the duties and responsibilities of all City positions for inclusion in the Classification Plan. The Classification Plan shall be so developed and maintained to ensure that all positions which are substantially similar with respect to duties, responsibilities, authority and character of work, are included within the same classification, and the same schedules of compensation shall apply to all positions in the same classification. Classification specifications are explanatory, but not restrictive. The listing of particular tasks shall not preclude the assignment of other related kinds of tasks or related jobs requiring lesser skills. The Classification Plan may be amended or revised, as required, in the same manner as originally established and described herein and is subject to adoption by the City Council.

2.10 ALLOCATED POSITIONS

The City Manager shall approve the appointment of employees to positions in the Classification Plan.

Only allocated positions which have been approved by City Council may be filled, provided that the following positions can be approved by the City Manager without prior City Council approval: 1) temporary; and 2) emergency.

2.15 NEW POSITIONS

When a new position is created, no person shall be appointed or employed to fill the position prior to the position's assignment to a classification, unless otherwise provided by these Rules. The City Manager shall amend the Classification Plan to establish and assign an appropriate classification for the new positions approved by the City Council.

2.20 CLASSIFICATION MANUAL

This manual shall contain a job description, as well as knowledge, skills, abilities, education, experience, sample duties, and other minimum qualifications for all classifications listed in the Classification Plan. This manual is developed by staff and approved by the City Manager.

2.25 PREPARATION OF SALARY SCHEDULE

The City Manager shall prepare a salary schedule that establishes the salary ranges and steps for all City classifications. The Salary Schedule shall be amended or revised, as required.

2.30 APPROPRIATE SALARY LEVEL

Employees occupying a City position shall be paid a salary range and step established for that position's classification under the adopted Classification and Salary Schedule.

2.35 BENEFIT PLAN:

The City Council shall, at its discretion, adopt a Benefit Plan that establishes the benefits for all City employees. This Benefit Plan is described in the Employee Benefits Section of the City's Compensation and Leave Policies.

SECTION 3: TYPES OF APPOINTMENTS

3.05 TYPES OF APPOINTMENTS

Except for temporary vacancies, all vacancies shall be filled by transfer, promotion, demotion, or from candidates on an appropriate eligibility list, if one is available. In the absence of eligible candidates in one of the above categories, temporary appointments may be made in accordance with these Rules.

3.10 EMERGENCY APPOINTMENTS

To meet immediate requirements of an emergency condition which threatens life or property, the City Manager may create positions and employ such persons as temporary employees as may be needed for the duration of the emergency. If not determined otherwise by an applicable provision or by an Emergency Operations Plan approved by the City Council, the method of hiring for emergency appointments shall be subject to the discretion of the City Manager. All such appointments shall be reported to the City Council as soon as possible, and shall be compensated at an appropriate hourly rate as approved by the Human Resources Director.

3.20 ACTING PAY

When an employee is assigned to perform the significant duties and responsibilities of a higher level position on a full-time basis for more than thirty (30) calendar days, a temporary salary adjustment shall be made to reflect the increase in responsibility until the employee ceases to perform such out-of-class work. All acting assignments must be pre-approved by appropriate management staff, the HR Director and the City Manager in advance unless there is an emergency situation.

An employee who is determined to be working at a higher level in an acting capacity shall be compensated at the rate in the new salary range, which comes nearest to, but not less than, five percent (5%) higher than the rate he or she held in the previous salary range. The higher salary rate payable shall be retroactive to the first day of the acting assignment as approved by City management.

Individuals appointed to work out-of-class must meet minimum qualifications of the higher classification, and must be capable of handling major duties of the higher level classification without any more supervision than another would in the same job.

The mere performance of certain portions of the higher position, or only performing the less demanding responsibilities until the position is filled, does not constitute working out-of-class.

If the higher classification is in a different bargaining unit than the employee's regular classification, the employee would only receive the salary change, not a change in benefits or unit.

At the end of such assignment, the employee performing the temporary assignment shall be returned to his/her original position and salary rate with any merit or salary adjustments, as appropriate. At any time during the out-of-class assignment, an employee may be removed from that appointment without right of appeal or hearing.

Nothing herein shall be construed as limiting management's authority to assign City employees temporarily to different or additional work duties and responsibilities for the purpose of responding to emergencies. While working in an out-of-class assignment, an employee shall continue to accrue, and have recorded, normal step increases in the employee's regular position. Should this assignment continue for 12 months or more, without a merit increase, the employee shall be entitled to a merit increase on the anniversary of the 12th consecutive month (based on performance), which is the lesser of a five (5) percent increase over the salary he or she received in the lower position, or the top of the salary schedule for the new position, if there is room within the range, upon approval of the City Manager. The City shall not rotate employees in and out of higher position classification assignments in order to avoid paying out-of-class compensation.

3.25 TRANSFER

An employee may transfer from his or her present position to a vacant position, in the same classification, or a comparable classification, within the same department or to another department. For purposes of this Section, a comparable classification is defined as one with the same salary range which involves the performance of similar duties that require substantially the same general qualifications. A transferred employee shall retain his or her rate of pay and his or her anniversary date for purposes of merit pay increases. No employee shall be transferred to a position for which he or she does not possess the minimum qualifications. A transfer shall not be used to effect a promotion, demotion, advancement or reduction in pay. An employee who voluntarily transfers to a lower position may be Y-rated. The employee who desires to transfer must request the appropriate form from the Human Resource Director. The Human Resource Department is under no obligation to notify employees of each potential transfer opportunity. Once the transfer request is received by the Human Resources Department, the Human Resource Director shall inform the Department Head of the request. The employee may be required to compete in an open selection process.

Unless otherwise provided for in these Rules, an employee must be employed with the City for at least six (6) months, or until the employee has completed his or her probationary period, before applying for a transfer. An employee may be requested to defer his or her transfer until his or her current position has been filled, but typically, two-weeks notice will be given to the employee's current department.

A request for transfer to a vacant position may be initiated by an employee or the employee's Department Head. The City Manager may order a transfer for the purposes of economy, efficiency, or for reasons related to the best interest of the City. Such a determination by the City Manager shall not require the consent of the employee, either Department Head, or the Human Resources Director.

3.30 PROMOTION

When it has been determined that a vacant position will be filled by promotional appointment, the Human Resources Director shall authorize a competitive promotional examination in order to fill the position, as stated in these Rules.

When an employee is appointed to a promotional position, that employee shall be paid at a level within the higher salary range which is the lesser of a five (5) percent increase over the salary he or she received in the lower position, or the top of the salary range for the new position. In accordance with the provisions in Section 5.15, any employee who is promoted within City service shall be required to successfully complete a probationary period in the new position. (*Refer to Section 4.75*)

3.35 DEMOTION

An employee may be demoted because his or her ability to perform the required duties of his or her position falls below standard, for disciplinary purposes, or for any other reasons as outlined in these Rules. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications. The position which has been made vacant by demotion shall then become subject to the provisions of these Rules which govern appointments.

An employee shall not be required to serve a probationary period in the position to which he or she is demoted unless he or she has not completed the probationary period in the higher position. In such cases, the employee shall be required to complete his or her unfinished probationary period in the lower position. The employee shall retain the anniversary date he or she had in the higher position.

- A. Involuntary Demotion: An involuntarily demoted employee, who is placed in a position at a lower salary than the position he or she formerly occupied, shall be placed at a pay level within the lower salary range which is closest to, but lower than, the employee's salary rate in his or her former position. A demotion which is effected for disciplinary reasons, pursuant to Section 9.35, shall be subject to the disciplinary appeals process.
- B. Voluntary Demotion: A voluntary demotion to a lower position and lower salary may be requested by an employee for any reason. Such a voluntary demotion shall require the approval of the Human Resources Director, the employee's present Department Head, and the Department Head under whom the employee will serve, if applicable.

The voluntarily demoted employee shall be placed at a pay level within the lower salary range which is closest to, but lower than, the employee's salary rate in his or her former position. In lieu of a reduction in salary, the City Manager may approve a Y-rated salary for a voluntarily demoted employee.

3.40 RECLASSIFICATION

Existing positions, where the duties have changed materially so as to necessitate reclassification, shall be reclassified by the City Manager to a more appropriate classification, whether new or existing, with the exception of reclassification from training

or internship positions. Except for training or internship positions that are reclassified, the selection of a candidate to fill a reclassified position must be made competitively, unless the incumbent from the reclassified position has been performing the duties for more than one year or unless specifically waived by the City Manager. Such determination must be approved by the City Manager. Regardless of the circumstances, the City Manager may require a competitive examination, and no incumbent shall have a right to be appointed to a reclassified position. No person shall be appointed or employed to fill a reclassified position unless the said reclassified position has been incorporated in the Classification Roster as provided by these Rules. A simple title change is not a reclassification and requires only City Manager approval.

The employee or Department Head may submit a request for a job audit to the Human Resources Director who shall determine if the reclassification is justified and provide a recommendation to the City Manager for approval. The City Manager has the authority to reclassify any employee whose reclassification is justified so long as the position is listed in the existing Classification Roster. If the position is not listed, the City Council must approve the reclassification. Since there is no money budgeted for that specific reclassification increase (normally 5%), the department shall fund for the City Manager-approved reclassification from its general personnel account for the balance of the current fiscal year. The department shall place and fund the reclassified position in the following year's personnel budget. Reclassifications are normally done with the adoption of the fiscal year budget, but may be done at other times.

Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions, promotions, or unit modifications. The Human Resources Director may conduct objective, non-competitive examinations to establish qualifications for the position.

The salary of an employee in a position that is reclassified shall be determined as follows:

- A. Classification with Same Salary Range: If the position is reclassified to a classification with the same salary range as the previous classification, and if the incumbent is appointed to the reclassified position, the salary rate and the anniversary date of the employee shall not change. The provision shall also apply to the change of classification title, provided there is no change in the basic duties of the classification.
- B. Classification with Higher Salary Range: If the position is reclassified to a classification with a higher salary range than the previous classification, and if the incumbent is appointed to the reclassified position, he or she shall be compensated a pay level within the new salary range which is the lesser of five (5) percent higher than his or her previous salary level or the top of the salary range for the new position. The incumbent's anniversary date shall not change.
- C. Classification with Lower Salary Range: If the position is reclassified to a classification with a lower salary range than the previous classification, and if the incumbent is appointed to the reclassified position, the City Manager may approve a Y-rate salary for the employee if the employee's old salary is above the top of the salary range for the new position. Otherwise, the employee's new salary shall be placed at a pay level which yields a salary closest to, but not less

than, the current salary. The incumbent's anniversary date shall not change. Normally, benefits will not be Y-rated, unless specifically approved by the City Manager.

The effective date of reclassification shall coincide with the first working day of a pay period after the reclassification is approved by the City Manager. Any completely new classification, one not listed in the Classification Roster, must be adopted by the City Council before it is approved.

3.45 LAYOFFS/REDUCTION-IN-FORCE/RECALL

The City Manager may lay off permanent and probationary workers at any time for lack of work, budgetary reasons, technological changes, or other City actions that necessitate a reduction in the work force. At least four weeks notice shall be given to any employee who is to be laid off. At the City Manager's discretion, a demotion or transfer to another department or classification may be made to prevent a layoff provided the employee is qualified by education and/or experience and is capable of performing the duties of the classification. The Department Heads, in consultation with the Human Resources Director, and as approved by the City Manager, will affect the layoffs.

Reduction in Force

When it becomes necessary to reduce the work force in the City, the City Manager shall designate the job classification, division, department, or other organizational unit in order to effect a reduction in the work force. Contract, temporary, seasonal, or initial probationary employees in the same job classification as ones proposed to be reduced within the City shall be laid off first. Although the City may elect to do so, it is not required to allow laid off employees to "bump" employees in other classifications. Probationary promotional employees who are laid off shall be returned to their former classification. Employees who accept lower positions or transfers in lieu of lay-off shall be placed at a pay level within the salary range of the new position, which yields a salary closest to current salary.

Order of Layoff

The order of layoff of career employees shall be made in accordance with a system which favors retention of the more meritorious employees, based upon evaluation of the following factors in the listed order of importance:

- A. The most recent performance evaluation record once finalized and filed in Human Resources except when an employee has less than one year seniority with the City. In that case, only seniority will be used.
- B. Documented disciplinary actions or formal recognition of meritorious performance during the preceding twelve (12) months.
- C. Seniority (length of service in a career position):
 - 1. in the city
 - 2. in the classification
 - 3. in the department

For employees who are equal in performance and seniority, as established in A-C above, preference will be given to those with the most veteran's preference points (excluding military retirees with 20 or more years).

Other exceptional circumstances to deviate from this policy may include the desirability of maintaining a department or work unit with adequate staffing to perform required service, and maintaining employees in the classification, department, or section who have the ability to perform work available.

Seniority:

Seniority is determined from the day of official appointment to a City department as a regular employee, provided that any regular employee, who, as a result of promotion, transfer, or voluntary demotion, is appointed to a regular position in another department, shall for purposes of layoff, carry seniority previously acquired over to the new department.

Seniority shall continue to accrue during periods of Annual Leave, layoff not exceeding two (2) years, any authorized leave of absence of less than three (3) months, or any call to military service for the duration of the call to duty. Seniority shall not accrue during any other break in continuous service.

Other Policies:

The City may call back as a temporary employee, within the first year after layoff, any laid off employee who is on the reinstatement list when the employee is qualified to fill a vacancy of a full-time position. Once that temporary employee has worked for one year in that capacity in the City, he or she shall be reinstated as an "at will" employee with no property rights, but shall receive career benefits until such time as a career position is budgeted. Unless two years have elapsed from the day of lay-off, he or she shall be placed in that career position.

Any employee who receives an involuntary transfer shall have automatic "bumping rights" to the classification said employee was involuntarily transferred from for up to six (6) months from the effective date of the involuntary transfer in the event of layoff.

Reassignment:

An employee who would otherwise be terminated for failure to accept reassignment may terminate and be placed on the Reinstatement List if the employee is being reassigned to a position previously occupied by an employee who was laid off within twenty (20) working days of the effective date of the reassignment.

An employee who chooses to terminate and have his/her name placed on the Reinstatement List under this section shall notify the department in writing of his/her decision at least three (3) working days prior to the effective date of reassignment. Such termination shall be on the same date as the reassignment would have been effective.

Reinstatement List:

The name of every regular employee who is laid off, transfers, or elects to demote to a formerly held classification in the same department for longer than one pay period due to a Reduction-in-Force, shall be placed on the Reinstatement List. Vacancies to be filled within a department shall be offered, first in order of performance, to individuals named on the Reinstatement List who at the time of the Reduction-in-Force, held a position in the same job classification within the department as the vacancy to be filled.

Individual names may be removed from the Reinstatement List for any of the following reasons:

- A. The expiration of two (2) years from the date of placement on the list.
- B. Re-employment with the City in a regular full-time position in a department other than that from which the employee was laid off.
- C. Failure to respond within 14 calendar days of mailing a certified letter regarding availability for employment.
- D. Failure to report to work within 14 calendar days of mailing of a certified letter containing a notice of reinstatement to a position, absent mitigating circumstances.
- E. Request in writing to be removed from the list.

Status on Re-employment:

A regular employee who has been laid off or terminates in lieu of reassignment and is re-employed in a regular position within two (2) years from the date of his layoff or termination shall be entitled to:

- A. Buy back and thereby restore all Annual Leave credited to the employees' account on the date of layoff or termination and at the same rate as it was sold originally. This restoration must be requested in writing within 30 days of returning to work and must be fully paid back within six (6) months of the return to work.
- B. Restoration of seniority accrued prior to and accrued during layoff.
- C. Credit for all service prior to layoff for the purpose of determining the rate of accrual of Annual Leave.
- D. Placement in the salary range as if the employee had been on a leave of absence without pay if he/she is reinstated to the same job classification in the same department from which he/she was laid off or terminated.

Recall:

Those former employees in a classification who were laid off shall be recalled first in order of performance merit to be used in any City-wide position for which the former

employee qualifies, unless exceptional circumstances occur of which the concerned employee shall be fully apprised in advance.

No person from outside City employment shall be hired in a career position in the deleted classification until all those displaced due to layoffs or transfers are recalled to their former classification or one classification lower in the same career ladder as the one in which the employee was laid off.

Continuation of Benefits:

Those who are laid off shall have their medical insurance benefits continued to the end of the second month following the date of their layoff in the event that they are not covered by another medical plan at that time.

SECTION 4: RECRUITMENT AND SELECTION

4.05 EQUAL EMPLOYMENT GOALS AND POLICIES

In adopting these Rules, it is the goal of the City to employ the most qualified individuals and to achieve excellence in serving the needs of the community. Employment and promotions in the City shall be based upon merit and qualifications and shall be free from political influence and discrimination based upon religion, age, sex, marital status, race, color, national origin, ancestry, pregnancy, medical condition, mental/physical disability, sexual orientation, including gender identity, or political affiliation, unless sex or physical ability is a bona fide occupational qualification.

Although not expressed in the classification specifications or job announcements, all persons applying for or holding any position in the City shall be required to meet the following general qualifications to a reasonable degree: integrity, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume and fulfill the responsibilities of the employment, good health, and physical and mental abilities compatible with the work assignment. Where the position requires the driving of a motor vehicle, the applicant or employee must have a valid California Driver's license and is expected to drive the motor vehicle safely. The foregoing general qualifications shall be deemed to be part of the minimum qualifications of each classification specification or job announcement and need not be specifically set forth therein.

No residency requirements shall be enforced by the City of Moreno Valley. Extensive efforts shall be undertaken to make local residents aware of personnel openings, encouraging them to apply for any positions for which they qualify, and providing them with full due consideration. It is the City's intention to create an environment wherein employees will want to live and work in this community.

4.10 PERSONNEL REQUESTS

To initiate the filling of an authorized vacant position, the responsible Department Head shall submit to the Human Resources Director a completed Personnel Request Form containing at least the following information:

- A. The classification (job) title;
- B. The justification for filling the position, including its budgeted cost code; and
- C. The duties, responsibilities and qualifications of the position in accordance with the Classification Plan.

Each request shall be reviewed and approved by the Human Resources Director and the City Manager or designee.

4.15 JOB ANNOUNCEMENTS

Job announcements providing information about the position, its title and pay, its major responsibilities and duties, minimum and other qualifications, where and when to apply, and the last day on which applications will be accepted shall be prepared and distributed

by the Human Resources Department. All positions to be filled will be publicized by posting announcements on the City's official bulletin boards and in such other places deemed advisable by the Human Resources Director. Employees may suggest additional locations.

Notice of open competitive examinations shall generally be posted a minimum of ten (10) working days before the filing deadline for applications unless it is in the best interests of the City to do a shorter recruitment, as approved by the City Manager. Notice of promotional openings shall be posted a minimum of five (5) working days before the filing deadline for applications.

4.20 PERSONNEL APPLICATIONS

Applications for employment, transfer, or promotion with the City shall be made on forms provided by the Human Resources Department. All information required by the application shall be provided and the applicant shall certify as to the truth thereof. Any material false statement or omission on the application shall, absent mitigation, disqualify the application and may be cause for termination or other disciplinary action if the applicant is or subsequently becomes an employee of the City regardless of when the error is discovered. Resumes and other supplementary information may be submitted and attached to the application for consideration, but may not be used as a substitute for the application.

In order to be considered, an application must be received by 4:00 p.m. on the final day of the advertised recruitment period. A late application shall be accepted from a qualified current City employee only under the following circumstances:

- A. The employee must submit a written letter to the Human Resources Director accompanied with a completed application for the position at least two working days prior to the first interview or testing phase; and
- B. The employee must provide documentation establishing that he or she was absent from work on an authorized leave continuously from the date the position was first posted to the date the application period closed.

4.25 RECRUITMENT

It shall be the City's policy to recruit and hire the best-qualified persons available regardless of religion, age, sex, marital status, race, color, national origin, ancestry, pregnancy, medical/physical condition, sexual orientation, including gender identity, mental/physical disability, or political affiliation, unless sex or physical ability is a bona fide occupational qualification. While recognizing the need for introduction of persons from outside City employment at all levels, the policy of the City is to transfer or promote persons already employed by the City when their qualifications, training, work performance, and work experience are determined to be comparable to applicants from other sources. The Human Resources Director shall recommend to the City Manager whether the recruitment shall be open or promotional, on the basis of assuring an adequate number of candidates with appropriate skills to constitute a competitive merit process.

Except as specifically provided otherwise in these Rules, selection for a position in City employment shall be by one of the following types of examinations.

- A. Open Competitive: Examinations which are open to all persons who possess the indicated minimum qualifications as set forth in the job announcement. Applicants for open competitive examinations may, but are not required to, be employees of the City.
- B. In-House Competitive: Examinations which are open only to City employees who possess the indicated minimum qualifications as set forth in the job announcement.
- C. Temporary Position: Employees may be hired on a temporary basis through either a temporary agency or by the City itself. The City Manager approves these positions. These persons may be hired without competitive examination.

Any variations to these procedures shall be reviewed by the Human Resources Director and approved in writing by the City Manager. The City Manager may select a candidate for Department Head solely based on a review of the applicant's application and/or resume from among those screened by the Human Resources Director as finalists.

4.30 EVALUATION OF APPLICATIONS

Each application shall be reviewed to determine if the applicant satisfies minimum educational experience, type and years of job related experience, certificates or licenses and any other requirements.

Selection techniques shall be impartial and relate to those areas which will adequately and fairly indicate the relative capacity of the applicants to perform the duties and responsibilities of the position to which they seek appointment.

The selection procedure may consist of personal interviews, performance tests, evaluation of work performed, work samples, assessment centers, physical agility tests, other written tests, review and investigation of personal background and references, medical examination, psychiatric examination, or any combination thereof. The Human Resources Director may at his or her discretion include as a part of the examination process, tests which determine whether applicants meet minimum qualifications.

In all examinations the minimum grade or standing for which eligibility may be earned may be based upon all factors in the examination, including educational requirements, experience, and other qualifying elements as shown in the application of the candidate or other verified information. Failure in one part of the examination may be grounds for declaring the applicant as failing in the entire examination, or as disqualified for subsequent parts of an examination.

4.35 CANDIDATES' EXAMINATION INSPECTION

If a selection procedure consists of a written examination, the applicant shall be given written notice of his or her tests results. By appointment with the Human Resources Department, an applicant shall have the right to review his or her own written test within ten (10) working days after the examination results are mailed out. However, no

applicant shall be allowed to examine the test key as part of his or her examination inspection.

Any error in rating or grading shall be corrected if it is called to the attention of the Human Resources Director at the time the applicant reviews his or her examination. Any applicant whose corrected score meets or exceeds the examination's established passing score will be placed on the applicable eligibility list for the position, if one exists. Any correction shall not invalidate an appointment or offer of employment that has been made previously.

4.40 VETERANS POINTS

The final score of a veteran who requests employment preference and submits proof of active duty (such as a DD214) shall receive five (5) additional percentage points, provided that he or she has already met minimum qualifications pursuant to Section 4.30, and attained a passing grade in the examination, if applicable. To be eligible for veterans' preference, the candidate must have received an honorable discharge from the Armed Forces of the United States and served on active duty during a period of war or tension as determined by the Veterans Administration. A disabled veteran, who is currently rated by the United States Veterans Administration as ten (10) percent or more disabled as a result of a service-connected disability incurred on active duty in federalized service during a period of war or tension as determined by the Veterans Administration, who requests employment preference and submits proof of such disability shall receive five (5) additional percentage points, for a total of ten (10) additional percentage points. Such percentage points may be awarded to widows or widowers of veterans upon request for such preference and submission of proof of eligibility.

The provisions hereof, relating to veterans' preference, shall not apply to any promotional examination.

4.45 NEPOTISM POLICY

An applicant for a position who has a relative employed by the City may not be denied the right to file an application for employment and compete in the examination process. Following examination, if the applicant is successfully certified as eligible, he or she may be employed in a department, division, or office in which a member of his or her immediate family is employed. Such employment shall be denied if the Human Resources Director determines that such employment would potentially create a conflict of interest or have a potentially adverse impact on supervision, safety, security, or morale, or if the employee would be in a position where he or she would directly supervise, or be supervised by, a member of his or her immediate family.

For the purposes of this policy, a "relative" or "immediate family member" shall be defined to include the following: mother, father, sister, brother, spouse, domestic partner, children of domestic partner, daughter, son, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandmother, grandfather, granddaughter, grandson, aunt, uncle, first cousin, niece, and nephew. Step-parents may be included if they are members of the immediate family, depending on the current situation.

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

Where two relatives are working in the same department, division, or office at the time these Rules are adopted, or if an event occurs in which a familial relationship is established between two employees who work in the same division or office (i.e. if a marriage results in a spousal or in-law relationship), the relationship shall not be deemed a "prohibited relationship" unless the employees' mutual employment creates a potential conflict of interest or has a potentially adverse impact on supervision, safety, security, or morale, and so long as neither employee is in a supervisory capacity over a member of his or her immediate family.

If, as stated above, a familial relationship exists or is established, the employees may continue in their positions so long as the conditions of a prohibited relationship are not met. If, in the determination of the Department Head, such a prohibited relationship does or would exist, the Department Head shall submit the reasons for his or her determination to the Human Resources Director for review. The Human Resources Director shall have one week to investigate the Department Head's findings and determine if a "prohibited relationship" does exist.

If the Human Resources Director's review confirms that a prohibited relationship exists, he or she shall submit his or her results to the Department Head. At this time, the Department Head shall promptly inform the employees of the City's intention to transfer one of the employees to a vacant position of comparable pay and duties in another City division or office, provided that such a vacant position exists, the transferee is qualified therefore, and no offer of employment to fill the vacant position has been made to another eligible candidate. If a position of comparable pay and duties is not open, but one in a lower classification is vacant, either of the employees may elect to voluntarily demote to the lower position, provided that the vacant position is in another department, division, or office, the employee is qualified to fill the position, and the position has not been offered to another candidate. Any voluntary demotion which occurs as a result of this section shall be in accordance with the provisions set forth in Section 3.35. In the event that a transfer or voluntary demotion is not feasible within the time limit set herein, the affected employees shall decide which of them will resign from City employment.

If a transfer or voluntary demotion is not feasible and neither employee has submitted a letter of resignation three weeks after the determination that a prohibited relationship exists, the Human Resources Director and Department Head shall determine which of the employees shall be terminated in good standing. Regardless of which procedure is utilized, the transfer, voluntary demotion, resignation, or termination in good standing shall become effective one month after the Human Resources Director has concurred with the Department Head's determination that a prohibited relationship has been established. This one-month time limit may be extended up to an additional two months with written approval from the City Manager, provided that personal or organizational considerations mandate such an extension.

Except as hereinafter provided, an employee who has been terminated in good standing because of the operation of this Section, may be reinstated to the position which such employee held at the time of termination, or to a position of equal seniority, status, and pay. In order for the employee to be eligible for reinstatement, he or she must be reinstated to a position in a department, division, or office where a prohibited relationship would not be established (or re-established), the position must be open, and the employee must still meet the qualifications for the position. This right of reinstatement shall be effective only through the ninety (90) days immediately following the effective date of the employee's termination in good standing, and shall take precedence over a right of reinstatement which has been derived from a voluntary resignation in good standing. Commencing on the ninety-first (91st) day after the effective date of the termination, the terminated employee shall have a co-equal right of reinstatement with employees who have voluntarily resigned in good standing, up to an additional nine (9) months.

With the exception of the Human Resources Director's review, as provided in this section, any decision to transfer, voluntarily demote, resign, or terminate an employee in good standing (pursuant to this Section), is not subject to any appeal or grievance procedure.

4.50 DRIVING SAFETY CHECK

A verifiable and acceptable driving record and proof of liability insurance shall be required of each final candidate for employment whose position requires the employee to drive a City vehicle or if the employee receives a vehicle allowance or mileage reimbursement. Verification of acceptable driving records of all employees may be conducted periodically. Driving a City vehicle without possessing a valid driver's license is not permitted and may result in disciplinary action up to and including termination. An employee shall notify his/her supervisor immediately if his/her licenses expires, is suspended, or revoked.

4.55 ELIGIBILITY LISTS

Lists of applicants to be considered for job openings in a particular classification may be established for open competitive or promotional competitive positions. An eligibility list shall be a list of persons who have taken an open competitive or promotional competitive examination for an advertised City position and have qualified for said classification. Each such list shall bear an expiration date. The hiring department may appoint any candidate on the eligibility list, provided all candidates with higher rankings have been interviewed. The best qualified candidate, as determined by the hiring manager, on the eligibility list shall be hired.

Non-Management eligibility lists shall remain in effect for six (6) months or until exhausted, whichever occurs first. Management eligibility lists shall remain in effect for three (3) months. An eligibility list may be terminated at any time when less than three (3) eligible candidates remain. The Human Resources Director shall have the right to extend an eligibility list for one or more periods not to exceed in total one (1) year from the original date of certification.

The Human Resources Director may remove a name from an eligibility list for any of the following reasons:

- A. If the eligible person accepts an appointment with the City to a career position of the same or higher classification. Acceptance of a temporary appointment at any level will not in itself be cause for removal from an eligibility list. An eligible person may refuse an appointment to a particular position and request to remain on the eligibility list.
- B. If the eligible person requests in writing removal from the list.
- C. If the eligible person fails to respond within ten (10) calendar days to a notification or letter which has been mailed to the person's last address on file with the City.
- D. If the eligible person is unable to accept any offered position.
- E. If a person on a promotional eligibility list resigned from City employment.
- F. If other circumstances, such as conviction of a crime involving moral turpitude or loss of a required license, make the person ineligible.
- G. If the eligible person has not been offered an appointment after interviewing for three (3) separately budgeted positions which are to be filled from the same eligibility list.

Placement on an eligibility list does not guarantee employment with the City of Moreno Valley.

If a vacancy exists in a classification for which there is no appropriate eligibility list, the Human Resources Director may prepare a list from one or more existing related lists by selecting names of eligibles from eligibility lists for classifications which are assigned to the same or higher salary range and which have minimum qualifications similar to those of the classification in which the vacancy exists.

4.60 FINAL DECISIONS ON SELECTION

The Department Head or designee shall recommend a final candidate for appointment to a vacant position to the City Manager. All appointments shall be subject to Human Resources Director's review and City Manager final approval before becoming effective. If the selected candidate accepts the appointment and reports for duty within the agreed upon time, the applicant shall be deemed appointed to the position. If the selected candidate does not report to duty within the agreed upon time, the candidate shall be deemed to have declined the appointment. By mutual agreement of the Department Head, the Human Resources Director, and the candidate, the date of the appointment may be changed. Upon the affected employee's written petition, effort shall be made to accommodate current City employees who are or will be on an approved leave as of the date of appointment and thereby unable to report for duty at the designated time.

4.65 PRE-EMPLOYMENT PHYSICAL

Each person accepting employment with the City shall be required pass a pre-employment physical and pre-employment drug test at a City-designated medical facility at City cost before an appointment to such employment becomes effective. This Section

shall also apply to changes of employment within the City when the new position places substantially more physical demands upon the employee.

4.70 EMPLOYMENT ELIGIBILITY VERIFICATION

In compliance with law and with regulations of the United States Department of Justice and the Immigration and Naturalization Service, the City of Moreno Valley requires that each person hired by the City complete Section I of the Employment Eligibility Verification Form I-9 to verify that the person is eligible for employment in the United States.

4.75 PROBATIONARY PERIOD

The first six (6) months, or any duly extended longer period, of all new and promotional employment in a career position shall be deemed a probationary period. The probationary period shall commence upon the effective date of the appointment.

During the probationary period, an employee may be terminated without the right of appeal, hearing or resort to any grievance procedure if his or her performance is deemed in any way unsatisfactory or below City standard by the City Manager, upon recommendation of the Department Head. At the conclusion of the probationary period, if the employee's performance does not meet City standards but is not altogether unsatisfactory, the probationary period may be extended up to an additional six (6) months, at the discretion of the City Manager. The decision to extend the length of an employee's probationary period must be based on justifiable reasons and must be made prior to the expiration of the original six (6) month probationary period. Such a decision shall not be appealable or grievable.

An employee who fails to complete his or her promotional probationary period satisfactorily shall be reinstated to the position in the same classification from which he or she was promoted unless discharged from City service as provided in these Personnel Rules. Before an employee may promote, they must first successfully complete original probation.

Crossing Guards shall be required to serve a 650-hour probationary period after becoming regular crossing guards. At the end of a successful probationary period, Crossing Guards shall become eligible for a merit pay increase. An Alternate Crossing Guard shall be deemed "at will/part-time" regardless of the number of hours worked.

4.80 CRIMINAL CONDUCT – INELIGIBILITY FOR EMPLOYMENT

Except as otherwise hereinafter provided, no person convicted of a misdemeanor involving moral turpitude or a felony shall be eligible for employment in the service of the City; however, the City Manager may disregard such conviction if he/she finds and determines that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction.

Only the City Manager, Employee Relations Officer, City's Attorneys, Human Resources Director, and other Human Resources staff are authorized to have access to the "State

Summary Criminal History Information” as provided for in Section 11105 of the Penal Code of the State of California.

4.85 FINGERPRINTING

To facilitate the City’s ability to perform complete background checks on its employees, new City employees will be fingerprinted and their backgrounds researched to ensure that there is nothing which would hinder their ability to perform their job satisfactorily or create any unnecessary liability for the City.

4.90 RESIGNATION

Employees who desire to terminate their service with the City shall submit a written resignation to the Department Head at least two weeks prior to the effective date of the resignation. Failure to comply with this requirement may be cause for denying future employment with the City.

4.95 REHIRE

Any career employee who voluntarily or involuntarily resigns or separates and is later rehired, may forfeit all previous seniority and benefits and does not need to be rehired at his/her former classification or pay level, except in the case of lay-off. The rehired employee may be considered the same as a new hire. With approval of the City Manager, a former employee who is eligible for rehire may be rehired by appointment rather than competitively, but may still be placed on six months probation upon return.

SECTION 5: PERFORMANCE EVALUATIONS AND SALARY ADJUSTMENTS

5.05 SALARY AT APPOINTMENT

Except as otherwise stated in this Section, all new employees shall be appointed at the 'A' Step of the salary range for the position. When the proposed employee's education, training, experience, and current salary are deemed superior and justify a higher starting salary, the Department Head may offer employment up to the 'C' Step of the salary range without obtaining City Manager approval.

If the Department Head recommends appointing the employee at a pay level above the 'C' Step, City Manager approval must be obtained prior to making an offer of employment. All final appointments are subject to City Manager approval, regardless of the pay level at which the employee is appointed.

When hiring new Department Heads, the City Manager may authorize certain added incentives to aid in the recruitment process. Some added inducements might be the authorization of a moving allowance, additional Annual Leave, educational expenses, etc. Such incentives may be authorized only if in conformance with a written policy, adopted by resolution of the City Council.

5.10 EMPLOYEE PERFORMANCE EVALUATION

The Performance Assessment Review (PAR) is the employee performance evaluation tool. Regular reports on forms prescribed by the Human Resources Director shall be made as to the efficiency, competency, conduct, and merit of all employees appointed by the City Manager. Performance evaluations are required to be given at the following times: three (3) months and six (6) months while on probation, and annually thereafter on the employee's anniversary date. An employee who received a rating of "Needs Improvement" will be eligible to be re-reviewed in six (6) months. Any decision to extend an employee's probationary period must be made prior to the expiration of the original probationary period. Any evaluation which warrants a merit increase but is not completed by the designated review date shall be retroactively paid back to that review date. In addition to those occasions referenced by this Section, a supervisor may render a performance evaluation when performance issues arise, whether positive or negative; when there is a change in assignment; and/or when there is a change in supervisor or management.

During the performance evaluation meeting, the employee and supervisor shall review and discuss the employee's significant accomplishments, training, problem or improvement areas, and future development and objectives. After reviewing the job descriptions, duties, and any established performance standards for that position, an evaluation shall be made by the supervisor as to whether the employee's performance meets City standards. An explanation must accompany any unacceptable or conditional judgment. The employee shall have an opportunity to review his or her performance evaluation report and agree or disagree with it. Based upon the Performance Assessment Review, the supervisor may make appropriate recommendations regarding a possible merit increase, or other action.

The employee shall have the right to attach a written response to the corresponding performance evaluation in his or her personnel file. This response must be made within ten (10) working days of receiving the evaluation.

If a career employee's written objection to his/her evaluation is concurred with by the Department Head, the evaluation may be revised accordingly. If there is no denial of merit increase nor an overall below-City standard rating, the Department Head's decision shall be final and conclusive with regard to the validity of the objection.

If a career employee is not in agreement with a performance evaluation which results in an overall below-City Standard rating (other than one which results in denial of a merit increase or in any other direct monetary detriment to the affected employee), the employee may, within ten (10) working days after receipt of the evaluation, request a review of such evaluation by his or her Department Head. If the employee is not in agreement with the determination of the Department Head, the employee may, within ten (10) working days after receipt of the determination of the Department Head, request a further review by the City's Human Resources Director, whose decision shall be final and conclusive.

If a performance evaluation results in a denial of a merit increase or in any other direct monetary detriment to the affected career employee, the employee may, within ten (10) working days after receipt of the evaluation, request a review thereof by his or her Department Head. If not in agreement with the determination of the Department Head, the employee may, within ten (10) working days after receiving the determination of the Department Head, request a further review of the evaluation by the City's Human Resources Director, whose decision shall be final and conclusive.

In either of the foregoing situations, if the career employee's Department Head prepared the evaluation in question, the employee may omit review by the Department Head and proceed directly to the next level of review by the Human Resources Director.

Probationary employees may attach written responses to their probationary evaluations and submit them to the Department Head for consideration, however, such employees have no appeal rights.

The employee and supervisor must sign and date the report. If the employee refuses to sign the report, the supervisor shall note this fact and any circumstances surrounding the employee's refusal on the Performance Assessment Review. Copies of the Report shall be distributed to the employee, the Department Head, and the Human Resources Department.

5.15 PROGRESSION ON MERIT PAY

A. Career Full-time and Career Part-time Employees shall earn merit pay increases based on meeting or exceeding satisfactory performance of duties in the overall rating rather than simple longevity, as follows:

1. Normal Progression

From the date of employment until the successful conclusion of the probationary period, no merit pay increase shall be granted. At the end of

a successful probationary period, the employee shall become eligible for a merit pay increase provided that the employee's overall performance has satisfactorily met City Standards. Thereafter, eligibility for merit pay increases shall occur at 12-month intervals provided the employee's performance is satisfactory, until such time as the employee reaches the top of the salary range available for his or her position. Employees must achieve an overall "meets job requirements" to be deemed as having met City Standards. An employee who receives an overall performance rating less than "meets expectations" will not receive a merit increase. An employee who receives a rating of "Needs Improvement" will be eligible to be re-reviewed in six (6) months.

2. Promotional Progression

From the date of promotion until the successful conclusion of the probationary period, no merit pay increase may be granted. When an employee is promoted to a classification with a greater salary range, his or her salary increases to an appropriate salary step within the salary range of the new position. An employee who is promoted shall be compensated at the pay level within the new salary range which is the lesser of five (5) percent higher than the pay level he or she held in the previous salary range or the top of the salary range for the new position.

All promoted employees who successfully pass their promotional review period are eligible for a step merit pay increase within the salary range of their position, again provided satisfactory performance is achieved. A promoted employee is eligible for another merit pay increase, annually thereafter, from the date of the promotional review until their salary reaches the top of the salary range.

- B. Temporary and Seasonal Employees It is the policy of the City of Moreno Valley to grant a merit pay increase to temporary employees after the first 1,000 hours of service, provided the performance is satisfactory. The next increase would occur after completion of 3,000 hours, as long as performance remained satisfactory, and every 2,000 hours thereafter, until such time as the employee reaches the top of their salary range. If a merit increase is warranted, it will be based on an abbreviated evaluation form similar to the one used during probation for a career employee. A temporary or seasonal employee may receive a performance evaluation when his or her period of service concludes to determine whether he or she is eligible for rehire and may be evaluated more frequently at the discretion of the supervisor. This performance evaluation may also be used as a basis for considering salary in the event the employee is rehired.
- C. All Crossing Guard employees who have successfully completed training shall become eligible for a merit pay increase. Regular Crossing Guards shall become eligible for a second merit pay increase upon completion of six hundred and fifty (650) hours of service; and shall then be eligible for merit adjustments once in each succeeding period of thirteen hundred (1,300) hours of continuous service, provided that performance meets City standards.

SECTION 6: ATTENDANCE AND HOURS OF WORK

6.05 WORKWEEK AND OVERTIME

For purposes of applying the overtime requirements of the Fair Labor Standards Act (FLSA), the workweek for City employees shall begin at 12:01 p.m. Friday and end at 12:00 noon the following Friday. For any illness or emergency absence from work, the employee must notify the supervisor within the first half hour of normal reporting time when possible.

6.06 OVERTIME COMPENSATION

Overtime compensation shall be provided to City employees as follows:

- A. Executive Management, Division Management, and Professional/Administrative/Management Employees are salaried employees and shall not receive overtime compensation. Employees in these categories shall receive administrative leave hours, as specified in Section 7.25.
- B. Non-Exempt and Part-time Employees may receive overtime compensation in the form of paid time or compensatory time-off, at a time-and-one-half rate. The choice of compensation method is the employee's. Employees in these categories may accrue compensatory time to a maximum cap of 120 hours. The City Manager may allow accrual beyond the maximum if circumstances warrant. Overtime will be paid for hours worked in excess of 40 hours in a workweek in accordance with the Fair Labor Standards Act (FLSA). In addition, career employees will be compensated with overtime for any hours actually worked in excess of 9 hours in a workday for those on a modified schedule or 8 hours in a workday for those on a regular schedule. Part-time Career Employees must use the 9-hour workday for overtime. Career employees will also receive overtime pay for hours worked on a City designated holiday or for a "Call Back" or "Call Out" as described in sections 15.05 and 15.10.
- C. An employee who has accumulated the maximum amount of compensatory time shall not work overtime on a compensatory time basis until the accumulation has been reduced to less than the maximum accumulation allowed under these Rules. This in no way limits or caps paid overtime.

For Non-Exempt positions, which do not meet one of the FLSA exemption categories, overtime hours worked shall be compensated for time actually worked in excess of 40 hours in a workweek. In addition, and in accordance with the MOU, Career Non-Exempt employees shall be compensated for time actually worked in excess of 9 hours in a workday and/or 40 hours in a workweek for those employees on a modified work schedule or 8 hours in a workday for those on a regular work schedule. A paid holiday shall count as time labored towards the 40-hour workweek for the purposes of overtime compensation. Annual Leave, or compensatory time will not be included as time worked for purposes of calculating overtime.

Overtime for all Non-Exempt employees shall be compensated in one of the following two ways:

- A. As paid time at the one-and one-half rate of pay; or
- B. As compensatory time as accrued at the one and one-half rate of pay.

Prior to overtime being authorized, the employee and his or her supervisor shall agree as to how the employee shall be compensated (i.e. paid time or compensatory time). If the employee and supervisor do not agree on the method of compensation, the supervisor may ask another employee to perform the overtime work. If the supervisor requires that a particular employee perform the overtime, yet they cannot agree on the method of compensation, then the employee shall be given the choice of how he or she wishes to be compensated. Compensatory time accumulated under these Rules and Regulations is vested time and must be utilized or paid in conjunction with termination of employment.

6.08 COMPLIANCE WITH FAIR LABOR STANDARDS ACT

The City is committed to complying with the Fair Labor Standards Act and therefore prohibits improper deductions from FLSA exempt employees' pay. The City will promptly remedy any violations of this policy by reimbursing an affected employee for any amounts which have been improperly deducted from the employee's pay.

Any employee who believes that an improper deduction has been made from his/her pay should submit a complaint to the Human Resources Department as soon as possible. The Human Resources Department shall promptly investigate the complaint and render a written decision as soon as is reasonably possible. If the complaint is determined to be justified, the employee shall promptly be reimbursed in the amount improperly deducted. The City shall thereupon restate its good faith commitment to future compliance with the Fair Labor Standards Act.

6.10 NO GUARANTEE OF HOURS

Nothing contained in these Rules shall be construed to constitute a guarantee of minimum hours of work per day or per work week or of days of work per work week, provided that when reasonably possible at least 14 calendar days advance notice shall be given to each employee whose work hours are to be reduced. When economic conditions dictate, management may direct a reduction of hours, a furlough, or a reduction-in-force.

6.15 STAND-BY AND CALL-BACK POLICY

Policies relating to stand-by and call-back duty shall be established by the City Manager. *(For more information on stand-by and call-back requirements and compensation, see Section 15.)*

6.20 TIME SHEETS

All City employees must complete time sheets showing hours worked and leave taken. Salaried employees are not subject to having their pay reduced for less than 8 hour increments when no other authorized leaves are available to them. The City may make deductions from paid leave accruals for periods of less than 8 hours. Time sheets must be signed by the individual employee, the employee's supervisor, Division Manager and,

where required, Department Head. Time sheets will be reviewed and audited by the Finance Department. Notice of any correction(s) to the time-sheet will be sent to the employee and the Department Head. Such corrections will be deemed final unless questioned by the employee within thirty (30) days after the notice of correction has been given to the employee. Unresolved matters may be taken to the Human Resources Director for a final determination.

6.25 CONSTRUCTIVE RESIGNATION

An employee who is absent, without authorized leave, for three (3) or more consecutive work days is deemed to have resigned. If the Department Head, with the concurrence of the Human Resources Director, determines that extenuating circumstances exist, the resignation may be rescinded, in which case, absence may be covered by leave, with or without pay, if so approved by the Department Head.

6.30 LUNCH AND BREAK POLICY

Employees may take one break in the morning (before 11:00 a.m.), and one in the afternoon (after 2:00 p.m.). Break periods shall not exceed fifteen (15) minutes each. One paid break period is allowed for each 4-hour work period. Part-time employees are not entitled to a paid break unless they work longer than four hours.

Lunch periods shall be at least thirty (30) minutes, but no more than sixty (60) minutes per day. Employees are expected to conform their lunch hours in accordance with department schedules. As department schedules may not permit all employees to take lunch between 12:00 noon and 1:00 p.m., the Department Head may authorize staggered lunch periods throughout the late morning and afternoon. Part-time employees must work six or more consecutive hours to receive an unpaid 30-minute lunch break. If the part-time employee is alone, he/she may be authorized to eat at the work-site on paid time.

An employee who takes a break from his/her normal work station to smoke is using part of the 15-minute break. Employees in transit in the conduct of City business while smoking does not constitute a smoke break.

Break and lunch periods may be taken only in the time period for which they are designated and may not be accrued. Extenuating circumstances, as determined by the immediate supervisor, may establish cause for variation from the scheduling of break and lunch periods.

Salaried employees are expected to conform generally to the established standard for all employees. Although flexibility is provided for salaried employees to exercise judgment in maintaining their work schedule, this schedule should not be to the detriment of work production.

SECTION 7: LEAVES

7.10 ANNUAL LEAVE

In lieu of accruing separate banks of holiday, floating holiday, vacation, sick hours, and administrative leave time where applicable, employees will accrue annual leave. Effective December 14, 2007, accrued vacation banks for current employees will be converted to annual leave on an hour-for-hour basis.

Annual Leave Usage

Some of the appropriate uses of this leave time include the following:

- A. To enable employees to get paid on days so designated as legal holidays by the City Council which includes New Year's Day (January 1), Dr. Martin Luther King, Jr. Day (3rd Monday in January), President's Day (3rd Monday in February), Memorial Day (last Monday in May), Independence Day (July 4th), Labor Day (1st Monday in September), Veteran's Day (November 11th), Thanksgiving (4th Thursday in November), Day after Thanksgiving (Friday after Thanksgiving), Christmas Eve (December 24th), and Christmas Day (December 25th).
- B. To provide recuperation time for an employee incapacitated due to illness, injury, or other medical disability;
- C. To allow for the quarantine of an employee exposed to a contagious disease which results in the enforced quarantine of an employee in accordance with public health regulations;
- D. To attend to the urgent health needs of immediate family members;
- E. To attend medical or dental office appointments;
- F. To enable employees to conduct important personal business during normal working hours;
- G. To provide time for periods of rest and relaxation; or
- H. In other instances consistent with all existing Rules and Regulations as authorized by the employee's Executive Manager or representative.

When personal emergencies or situations of personal necessity arise, annual leave may be granted over the telephone within 30 minutes of start time unless special and extenuating circumstances prohibit employees from calling in, but the caller must identify the specific reason for the emergency or necessity and follow up with a written request. Employees are encouraged to accrue annual

leave balance as a protection against the adverse affects of short- or long-term absences due to a major illness or injury.

Minimum Use: During each calendar year, each full time career employee shall use at least 168 hours of annual leave, with approximately, 88 hours of this leave provided to enable employees to get paid on days so designated as legal holidays by the City Council when City facilities are closed. Part-time career employees are required to use forty (40) hours of annual leave. Part-time career employees should use a portion of these hours for holidays, as appropriate. Further, employees are urged to retain a reasonable bank of annual leave in case of unexpected illnesses or injuries to either themselves or family members.

All employees shall generally make a request for said leave to the executive manager in sufficient time to plan work schedules. Consequently, executive management is responsible for planning work schedules to allow each employee to take that leave each calendar year and each employee is responsible for using it. Failure to use the minimum required hours of such leave shall result in City Manager review of the circumstances surrounding such failure. Failure to follow the minimum usage may result in disciplinary action if conditions warrant.

Paid annual leave shall continue to accrue in accordance with the provisions during any authorized period of leave with pay. All annual leave shall be scheduled and taken in accordance with the best interest of the City and the department or division in which the employee is assigned.

If an employee needs to be absent from work on a given day due to any unexpected reason, he/she must notify the supervisor by telephone within the first half hour of normal reporting time or earlier if possible.

Reporting Annual Leave: The reporting of the use of annual leave should normally be in increments of a quarter of an hour for non-exempt employees and one hour increments for exempt employees will be used whether the employee works a full or partial day.

Physician's Certificate: An employee absent on unscheduled annual leave in excess of three (3) consecutive working days due to illness or injury, may be required by his/her executive manager to submit a written statement by a physician certifying that the employee's condition prevented the employee from performing his/her duties. The executive manager may also require a written statement that such employee is able to resume his/her normal duties. Management must list reasons for requesting the doctor's excuse for annual leave of less than three (3) consecutive working days. An employee may be placed on medical certification in instances when leave has not been pre-approved and the employee has exceeded the minimum use requirement for Annual Leave.

Leave Donation: Up to 24 hours of annual leave may be voluntarily donated from one employee to another out of a humanitarian need when the recipient employee has no leave accrued per City Manager's approval. No more than 480 total hours of leave may be donated to an individual employee. Donated annual leave will be taken from the forfeitable portion of leave balances.

Annual Leave Accrual

Annual leave time will accrue on a bi-weekly basis for twenty-six (26) pay periods a year. Each career employee shall have annual leave time accrue for each pay period starting from the first day of probationary appointment. Accrual rates are based on years of service.

Employees shall receive annual leave benefits on a pro-rata basis, calculated by the number of hours paid as a percentage of a forty (40) hour workweek. Employees, as outlined in the City's Benefit Plan, shall receive annual leave accruals as follows:

- A. Executive Management Employees shall earn 14.77 hours of annual leave per pay period of service (approximately 384 hours per year). This accrual shall extend to 16.31 hours per pay period (approximately 424 hours per year) at the beginning of the sixth year and extend to 17.85 hours per pay period (approximately 464 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 2,080 hours of annual leave. This 2,080 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.
- B. Division Management Employees shall earn 13.85 hours of annual leave per pay period of service (360 hours per year). This accrual shall extend to 15.38 hours per pay period (approximately 400 hours per year) at the beginning of the sixth year and extend to 16.31 hours per pay period (approximately 424 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 2,080 hours of annual leave. This 2,080 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

Division Management Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 16.92 hours per pay period (approximately 440 hours per year), and may accrue up to 2,080 hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

- C. Professional / Administrative shall earn 13.08 hours of annual leave per pay period of service (340 hours per year). This accrual shall extend to 14.62 hours per pay period (approximately 380 hours per year) at the beginning of the sixth year and extend to 15.54 hours per pay period (approximately 404 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 2,080 hours of annual leave. This 2,080 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

PAM Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 16.15 hours per pay period (approximately 420 hours per year), and may accrue up to 2,080 hours of annual leave.

- D. Non-Exempt Employees shall earn 10.77 hours of annual leave per pay period of service (approximately 280 hours per year). This accrual shall extend to 12.31 hours per pay period (approximately 320 hours per year) at the beginning of the sixth year and extend to 13.23 hours per pay period (approximately 344 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the annual leave accrual rate as a recruitment tool. Employees in these categories may accrue up to 2,080 hours of annual leave. This 2,080 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

Non-Exempt Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 13.85 hours of annual leave per pay period (360 hours per year), and may accrue up to 2,080 hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

- E. Seasonal Employees/Crossing Guards with Leave Accruals shall accrue annual leave at a rate determined by their program agreement or contract.

Temporary Employees shall not normally accrue paid annual leave, but may take leave without pay as approved by their supervisors.

7.15 GRANDFATHERED LEAVE BALANCES

Prior Sick Time Accruals: Employees shall retain all existing sick leave hours accrued prior to the enactment of this policy. Although sick leave will no longer continue to accrue for employees, an employee's sick leave balance will be available for use in the event of an illness or injury, which qualifies for disability. This Grandfathered sick leave balance shall be available for cash out upon separation at a rate of 40% of the accrued balance for full time employees and 20% for part time employees. The remaining balance will be converted to PERS

service credit for retiring employees. Separating employees will forfeit the remaining balance.

Grandfather Clause: Sick leave balances as of 9/22/92 for Executive Management and Division Management employees shall be available for cash out upon separation at a rate of 60% of the accrued balance and 40% towards PERS service credit. When sick leave is taken, the hours last accumulated shall be utilized first.

Converted Vacation, Holiday, Floating Holiday, and Admin Leaves: Balances converted to annual leave will be cashed out upon separation at the 100% rate in effect prior to the enactment of this policy. When annual leave is taken, the hours last accumulated shall be utilized first.

Effective one time only, at the time of conversion to Annual Leave, total hours in excess of 1384 shall be excluded from the 2080 hour annual leave cap.

7.20 ANNUAL LEAVE CASH OUT UPON SEPARATION AND RETIREMENT

Separation from the City

Employees separating from the City are entitled to payment for 80% of their unused accrued annual leave balance. The remaining 20% will be forfeited.

Grandfathered leave balances will be cashed out upon separation in accordance with Section 7.15.

Retirement from the City

Employees retiring from the City are entitled to payment for 80% of their unused accrued annual leave balance. The remaining 20% will be converted to PERS service credit.

No compensation for annual leave will be awarded to current City employees until they terminate or retire.

Grandfathered leave balances will be cashed out upon separation in accordance with Section 7.15.

7.30 BEREAVEMENT LEAVE

Employees shall be allowed to utilize four (4) days of bereavement leave in the event of the death of an immediate family member. Immediate family in this instance shall be defined as mother, father, spouse, domestic partner, natural/step-children, children of domestic partner, mother-in-law, father-in-law, brother or sister, grandparent or grandchild. Step-parents may be included if they are currently members of the immediate family.

Employees will be allowed Annual Leave to be taken and/or advanced, if needed, up to ten (10) days in length in addition to bereavement in the event of a death in the employee's immediate family (parent, spouse, child, domestic partner, step-child, child of domestic partner, mother-in-law, father-in-law, brother or sister, grandparent or grandchild). Step-parents may be included if they are currently members of the immediate family.

7.35 JURY DUTY AND WITNESS LEAVE

No employee shall be dismissed or in any manner discriminated against for taking time off from work to serve as a juror or witness when required by law provided such an employee complies with the provisions of this Section. An employee called to serve as a juror or witness shall notify his or her supervisor at least one (1) week prior to the commencement of such service, unless extenuating circumstances exist.

Any employee of the City called as a juror or witness shall be entitled to be absent from his or her duties with the City shall receive their regular salary limited to one-hundred (100) hours each year for each of the following types of jury service: local and federal. This could be expanded, dependent on an unusual situation, which is subject to the approval of the City Manager. The employee shall obtain a jury calendar or assignment sheet weekly during such service. The employee shall have the jury calendar or assignment sheet signed by the jury clerk or commissioner and shall deliver this sheet to his or her supervisor at the end of each week to verify jury duty or witness service.

If a career employee on an alternative work schedule is summoned for jury duty, the Department Head or designee shall convert the employee's usual work shift to a regular five (5) day, Monday through Friday shift basis. A career employee required to serve on jury duty shall be entitled to his or her regular rate of pay, provided the employee deposits any fees for service, excluding mileage, with the City. A crossing guard, temporary, seasonal, or emergency employee called for jury duty will not be compensated for time lost while on jury duty, but shall be entitled to retain his or her jury fees.

Any employee required to be absent from work on behalf of the City by proper subpoena issued by a court or other legally empowered agency, shall be entitled to be absent from work at his or her regular rate of pay, provided that any fees, except mileage, are deposited with the City. A non-exempt employee required to be present as a witness in any other matter shall not be entitled to be paid during such absence. An exempt employee will be paid his/her regular rate of pay whenever required to provide testimony under oath in any proceeding related to City matters.

An employee who is released by the court from jury duty on any regularly scheduled work day shall contact his or her supervisor to find out whether he or she is required to return to work. An employee who is scheduled for stand-by duty while serving on jury duty shall be rescheduled for stand-by duty after the conclusion of jury duty, unless the employee agrees to serve both.

7.40 PREGNANCY DISABILITY LEAVE

Pregnancy disability leaves of absence shall be granted to employees medically disabled by pregnancy, childbirth, or related conditions, provided such leave shall not exceed four (4) months. At the commencement of a pregnancy disability leave of absence, employees will use accrued Annual Leave and/or compensatory time off, as well as disability pay, and thus, continuing to receive pay. City pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies except as modified herein. The use of accrued time-off shall not extend the length of the leave. The authorized absence is only for the duration of the disability up to four (4) months.

When an employee is on pregnancy disability leave, the City shall continue payment of benefit premiums for the employee and her dependents. The City shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the City by utilizing accrued allowances. If an employee files for disability, a doctor's certification is required. When the employee is no longer disabled, she may no longer continue pregnancy disability leave. If she chooses to remain away from work longer, she must apply for family leave. Annual Leave shall not accrue during a pregnancy disability leave of absence unless the employee is continuing to receive pay by utilizing accrued Annual Leave or compensatory time off. Employees on pregnancy disability leave may also be eligible for benefits under the City's Disability Program. Employees must file a claim in order to receive these benefits. Forms are available from the City's Human Resources Department.

Any employee who takes a pregnancy disability leave of absence shall have her anniversary date extended by the same length of time as the unpaid portion of the maternity leave. For purposes of this section, paid portions of pregnancy disability leave include only those portions for which payments are received on account of Annual Leave or compensatory time off. If an employee takes a pregnancy disability leave of absence while on probation, her probationary period shall be extended the same length of time as the pregnancy disability leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

A request for a pregnancy disability leave of absence should be submitted by the employee as soon as feasible after the employee learns of her pregnancy. The employee must provide a written statement from her physician indicating the date the physician believes the leave of absence should begin and the estimated date of birth. The City may require a pregnant employee who wishes to continue working to provide a physician's statement approving the continuance of her current work duties.

Before returning to work following a pregnancy disability leave of absence, the employee shall submit a physician's verification stating the employee's ability to return to work. Unless the leave is otherwise extended, at the end of the four (4) month pregnancy disability leave period the employee shall be required to return to work full time. If approved by the employee's physician, the Department Head and the Human Resources Director, the employee may choose the option of returning to work prior to the conclusion of the four (4) month period on either a full-time or part-time basis and receive pro-rated benefits.

Up to an additional two (2) months of pregnancy disability leave may be granted for medical reasons if the employee's physician provides a written statement indicating the employee's inability to perform her duties or any feasible "limited duties." Such an extension of pregnancy disability leave is subject to the approval of the City Manager whose decision is final and conclusive. Nothing herein shall guarantee an extension beyond the standard four (4) months of leave.

An employee may take both pregnancy disability leave and subsequently State family care and medical leave to be with a newborn. The employee is entitled up to four (4) months of pregnancy disability leave, plus an additional twelve (12) weeks using the State family care and medical leave provisions.

7.45 FAMILY CARE AND MEDICAL LEAVE

Leaves of absence shall be granted to employees who have full-time career service with the City during the previous 12-month period, for the reason of childbirth, adoption, foster care, parental care, serious family illness, or for an immediate family member or the employee's own serious health condition, provided such leave shall not exceed twelve (12) weeks of leave in a twelve (12) month rolling period. When both parents are employed by the City, the two employees are only entitled to receive a combined twelve (12) weeks for the birth, adoption, or foster care of a child.

At the commencement of a family leave of absence, employees shall first use all accrued Annual Leave or compensatory time off and, thus, continuing to receive pay. Pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies governing leave without pay, except as modified herein. The use of accrued time off shall not extend the length of the leave.

The City requires the following information on a certification of the need for this leave:

- A. The date on which the serious health condition commenced.
- B. The probable duration of the condition.
- C. In the case of caring for a family member, an estimate of the amount of time the employee needs to care for the individual.
- D. That the serious health conditions warrant participation of a family member to provide care during the period of treatment.

In the case of an employee's own serious health condition, if the employee is unable to perform the functions of his or her position, the City can seek second and third opinions at its cost.

A serious health condition means an illness, injury, or impairment, or physical or mental condition that involves one of the following: hospitalization; absence of three (3) days plus treatment; pregnancy; chronic conditions regarding treatment; permanent/long term conditions requiring supervision; or multiple treatments (non-chronic conditions).

When an employee is on unpaid family leave, the City shall continue payment of benefit premiums for the employee and his/her dependents. The City shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the City by utilizing accrued allowances. Annual Leave shall not accrue during a family leave of absence unless the employee is continuing to receive pay.

An employee who takes a family leave of absence shall have his/her anniversary date extended by the same length of time as the unpaid portion of the family leave. For purposes of this section, paid portions of family leave include only those portions for which payments are received on account of Annual Leave or compensatory time off. If an employee takes a family leave of absence while on probation, his/her probationary period shall be extended the same length of time as the family leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance. Family leave shall not constitute a break in service for purposes of longevity or seniority.

The employee should request a family leave of absence by submitting the proper form to his/her supervisor, signed by the Department Head, concurred by the Human Resources Director, and approved by the City Manager. Forms may be obtained in the Human Resources Department. For a more detailed understanding of this policy, the employee should read the complete family leave policy in the City's Administrative Policy Manual.

Employees may take 40 hours of Annual Leave per school year to consult with the school teachers or counselors of children, step-children, or children of domestic partners, or to attend their school activities. This time is to be taken against any leave accruals except sick leave. If no accrual is available, leave without pay may be used. As this is State law, supervisors must approve this leave up to 40 hours annually per child. The employee must provide evidence of this school appointment. Supervisors need not approve more than eight (8) hours in a month.

7.50 LEAVE OF ABSENCE WITHOUT PAY

Any employee who is absent from work and who is not on leave of absence with pay shall be considered to be on leave of absence without pay, if such leave has been authorized by the proper authorities.

This section is designed to grant special requests for leaves of absence without pay that are not specifically addressed in either the military leave, FMLA, or pregnancy disability leave sections of these Personnel Rules.

A leave of absence without pay must be approved by the appropriate Executive Manager. Leave without pay in excess of one week shall also require the approval of the Human Resources Director. No leave of absence without pay shall be granted unless the employee requests the leave in writing and includes the reason for the request. Approval by the appropriate authority shall be in writing. No leave of absence without pay pursuant to this Section shall be requested or authorized for the purpose of imposing disciplinary action upon any employee. The supervisor may require leave without pay in the event an employee is late for work or misses work without valid approval. In this case the supervisor would annotate the employee time sheet with leave without pay for the absent time.

An employee on a leave of absence without pay shall not receive compensation on accrued Annual Leave. After thirty (30) consecutive working days on a leave of absence without pay, contributions to retirement, life insurance, medical, dental, or other designated benefit plans shall be suspended until the employee is reinstated. However, upon approval of a leave of absence without pay, the employee may elect to continue his or her benefits coverage at his or her own expense, with the exception of retirement benefits, which may not be so continued. Any employee requesting a leave of absence without pay shall utilize all of his or her accrued compensatory time off or Annual Leave prior to the start of the leave without pay.

Any employee who takes a leave of absence without pay for more than 30 work-days in a calendar year shall have his or her anniversary date extended by the same length of time as the leave without pay. If an employee takes a leave of absence without pay while on probation, his or her probation period shall be extended the same length of time as the leave without pay. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Upon expiration of an approved leave of absence without pay, the employee shall be reinstated to the position he or she occupied at the time leave was granted. Unauthorized failure on the part of an employee to report to work upon expiration of the leave of absence without pay shall constitute job abandonment and will result in dismissal.

It is the responsibility of the employee to submit a written request for a leave of absence within two weeks before such leave would begin stating the reason for the request, the date such leave will begin, and the duration of the leave. A "Leave of Absence Request" form and a "Payroll Action Form" must also be completed. Failure of an employee to apply for leave of absence and complete all necessary forms will be considered to be absent without leave, and all City-paid benefits will be terminated. Any unauthorized absence of an employee from duty shall be deemed to be absent without pay and may be cause for disciplinary action. Failure to report for work or call in for three (3) consecutive workdays shall be considered a voluntary resignation.

7.55 MILITARY LEAVE

Military Reserve Leave shall be granted under the provisions of State Law, which, in pertinent part at the present time, defines military reserve leave as: "military duty ordered for purposes of active military training, encampment, naval cruises, special exercises, or like activity as such member, provided that the period of ordered duty does not exceed 180 calendar days in a fiscal year, including time involved in going to and returning from the duty, but not for inactive duty (for training) such as scheduled reserve drill periods."

For the purposes of this Section, "active military training" shall be defined as a period of training (i.e. encampment, naval cruises, special exercises, or like activities) that normally occurs once a year over a two-week interval. "Inactive duty for training" and "scheduled reserve drill periods" shall be defined as the weekend periods of training that are scheduled once a month. Such weekend drills do not conflict with normal working hours within the City.

Employees must submit a copy of military orders to their Department Head and the Human Resources Director prior to the beginning of the military leave period and as soon as the employee knows of the need to request such leave, except where military necessity dictates.

Employees shall receive their full regular pay during the first thirty (30) calendar days of "military leave" in any one fiscal year. After the first thirty (30) days of military leave in a fiscal year, employees will continue to receive the same compensation less any military pay up to one year during the period of active military leave.

Employees on a military leave of absence shall receive the same Annual Leave and the same rights and privileges to promotions, continuance in office, employment, reappointment to office, or reemployment that they would have enjoyed had they not been absent there from. Contributions to retirement, and medical and dental plans that are not otherwise provided by military coverage during active duty, shall be continued until the employee is reinstated, provided that the period of ordered duty does not exceed three (3) years.

Except for probationary employees, an employee's anniversary date shall be extended if his or her military leave of absence is in excess of thirty (30) days per fiscal year. If an employee's military leave of absence exceeds thirty (30) days per fiscal year, his or her anniversary date shall be extended the same length of time as his or her leave of absence, minus the first thirty (30) days (i.e. if the employee's military leave of absence is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee is required to perform military reserve duties while on probation, his or her probationary period shall be extended the same length of time as the military leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

The City shall reinstate those employees returning from a military leave of one year or less to the position they occupied prior to taking a military leave of absence or to a position of comparable seniority, status, and pay, if such position exists, upon presentation of a certificate of satisfactory completion of service and if such employees are qualified to return to their former positions. If no such comparable position exists, the employee shall have the same rights and privileges that he or she would have had if he or she had occupied the position when it ceased to exist and had not taken a temporary military leave of absence.

Any employee who, in time of war or national emergency as proclaimed by the President or Congress, is ordered by the military to active duty, shall have a right, if released, separated, or discharged under conditions other than dishonorable, to return to his/her former classification within one year after termination of his/her active service with the armed forces, but not later than six (6) months after the end of the war or national emergency. (See Government Codes 395.1, 146, and 395.05.)

7.60 ON-THE-JOB INJURIES AND WORKERS' COMPENSATION COVERAGE

All injuries and illnesses arising out of, and in the course and scope of employment with the City, including first aid injuries, shall be reported immediately to the appropriate

supervisor. The supervisor, upon receiving notice of the accident, shall be responsible for (1) giving the injured employee an "Employee's Claim For Workers' Compensation Benefits" (DWC-1) form within twenty-four (24) hours; and (2) immediately notifying the Risk Management of the accident in accordance with Labor Code provisions. The Risk Management shall be responsible for completing an "Employer's Report of Occupational Injury or Illness (form 5020)."

An employee incapacitated on account of an injury or illness arising out of and in the course and scope of employment may be entitled to:

- A. Medical care to cure the injury;
- B. Rehabilitation services necessary to return to work; and
- C. "Temporary disability" payments in lieu of lost wages, commencing three (3) days after the injury occurs.

If an occupational injury or illness is severe and requires immediate medical attention, first aid should be rendered and medical treatment should be obtained at the closest City-designated medical treatment facility. For severe accidents occurring outside the City limits, medical treatment should be obtained at the closest medical facility. Use of paramedic services is automatically authorized if the injury is life threatening.

In the case of an occupational injury that requires medical attention within the first twenty-four (24) hours or develops symptoms after the first twenty-four (24) hours following the injury, the employee shall immediately notify his or her supervisor and the employee's supervisor shall notify the Risk Management. If the employee has not submitted a properly completed "Employee Notification of Personal Physician" form to the Risk Management for treatment of job-related injuries, all medical treatment shall be provided through the City's designated medical service providers for the first thirty (30) days after the date of the injury. If the employee has submitted a properly completed "Employee Notification of Personal Physician" form to the Human Resource Department for treatment of job-related injuries, an appointment may be scheduled with the employee-designated medical service provider. The employee shall notify the Risk Management prior to scheduling the appointment, if he or she has chosen to be treated by an employee-designated medical service provider.

A career employee who is disabled by injury or illness arising out of and in the course and scope of his or her duties shall suffer no loss in City pay or accrued Annual Leave for the first three (3) days of absence from work because of such disability. If a career employee's absence persists in excess of three (3) days, the employee may be eligible for "temporary disability" payments. State law shall determine the "temporary disability" payment an employee can expect to receive from Workers' Compensation Insurance. City policy allows for career employees incapacitated by reason of an injury or illness arising out of and in the course and scope of his or her employment to receive a sum which, when added to the amount of temporary disability payment, will result in a payment equal to such an employee's regular compensation. This is for the first six (6) months and then 66-2/3% of the gross salary up to the maximum by Labor Code beyond the six (6) months after the injury. This applies unless the employee is hospitalized for greater than 90 days, or is not allowed by the City to return to light duty even though authorized by competent medical authority to return to limited duty. The City shall allow

the employee to use Annual Leave or compensatory time in order to equal his/her normal salary after the six (6) months. Once all accrued leave is exhausted, compensation would be 66-2/3% of gross salary and all leave benefits will cease to accrue. Such worker's compensation shall commence three (3) days after the injury occurs, or after temporary disability begins, and shall conclude with the termination of such a temporary disability, upon reaching a permanent and stationary condition, as determined by competent medical evidence, or upon the completion of one (1) year on-the-job injury leave, whichever comes first. Employees with injuries or illnesses that persist beyond six (6) months may be eligible for workers' compensation temporary or permanent disability payments. Workers' Compensation income is non-taxable.

Except for probationary employees, an employee's anniversary date shall be extended if his or her Worker's Compensation related injury or illness is in excess of thirty (30) days per fiscal year. If an employee's Worker's Compensation related injury or illness exceeds thirty (30) days per fiscal year, his or her anniversary date shall be extended the same length of time as the injury or illness, minus the first thirty (30) days (i.e. if the employee's injury or illness is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee experiences a Workers' Compensation related injury or illness while on probation, his or her probationary period shall be extended the same length of time as the injury or illness. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Workers' Compensation leave and benefits shall be granted to an employee upon presentation to the City of a properly completed claim form and presentation of a physician's certificate of temporary disability status. A claim denied by the Workers' Compensation Board, a written statement from the treating physician indicating that the employee's condition is permanent and stationary, or separation from City service shall terminate an employee's eligibility for Workers' Compensation leave and any applicable benefits for that particular injury or illness.

The City maintains its right to require that an employee receiving workers' compensation benefits see a City-designated physician on a periodic basis to determine the employee's disability status. When an employee is given a permanent disability rating by the Disability Rating Bureau of Workers' Compensation Appeals Board of the State of California, the employee may return to work provided that he or she can perform his or her assigned duties safely without endangering his or her health or safety, or that of others.

The City also maintains its right to require an employee to return to work on a limited or modified duty status, provided that he or she has received written authorization, including stated restrictions, from the City-designated physician as well as from the Risk Management and the Department Head. Such modified duty must be of a temporary nature, usually limited to 90 days.

The City should communicate in writing with the employee's authorized physician to obtain the modified duty authorization. It should provide the doctor with a description of the employee's regular duties as well as a description of all proposed modified duty to be assigned and provide a copy of that correspondence to the employee. The treating physician should provide to the City and the employee a written modified duty

authorization, including specific limitations and restrictions, as well as assignments the doctor authorizes the employee to perform.

An employee who declines a modified duty position, which meets the treating physician's requirements, may be subject to disciplinary action, up to and including termination. If an employee is medically stationary, but has not been released to his or her regular budgeted position and is one for whom a reasonable accommodation cannot be made, then that employee is subject to medical layoff.

Additional information concerning Workers' Compensation Leave or benefits may be obtained by contacting the Risk Management and by referring to Risk Management Policy 6.19, Modified Duty/Return to Work Policy.

7.65 VOTING LEAVE

In accordance with State law, the City of Moreno Valley encourages all employees to vote in local, state, and national elections. Employees are encouraged to vote outside of normal working hours. Under special circumstances, an employee who does not have ample time to vote outside of normal working hours may make arrangements with his or her supervisor to take up to two hours with pay in order to vote.

SECTION 8: CONDUCT AND DISCIPLINARY GUIDELINES

8.05 GENERAL STATEMENT OF POLICY

It is the City's belief that rules of conduct are most effective when they are written and communicated to employees and supervisors, consistently enforced, and the difference between major and minor forms of misconduct is recognized.

The City's goal is to administer discipline on an equitable and corrective basis. Effective discipline reinforces training by identifying rules and their reasons, correcting misconduct or improving job performance, serving as a deterrent through enforcement, and penalizing in relation to the severity of the offense and the employee's past record.

8.10 CUSTOMER SERVICE POLICY

Moreno Valley residents depend on each City employee to render service speedily, efficiently, effectively and courteously. The following guidelines express in part the expectations of how employees are to implement the customer service philosophy of the City:

- A. Employees shall keep themselves informed in order to perform their jobs effectively.
- B. Employees shall be concerned about the welfare of others.
- C. Employees shall be considerate, tolerant, patient and fair with others.
- D. Employees shall be cheerful and as positive as possible.
- E. Employees shall use their training and capabilities to provide residents and businesses with the best service possible. Every effort should be made to provide correct answers and positive results.

8.15 UNLAWFUL DISCRIMINATION

Any employee who harasses or unlawfully discriminates against any other person on the basis of the other person's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, pregnancy, political affiliation, mental/physical disability, or sexual orientation, including gender identity; or denies family and medical leave (FMLA), or pregnancy disability leave; or as retaliation against an employee for filing a harassment and/or discrimination complaint, shall be subject to discipline in accordance with these Rules.

8.20 STANDARDS OF CONDUCT

Employees are encouraged to excel in their work. City employees are prohibited from engaging in any conduct which could reflect unfavorably upon the City. The following standards are intended to govern the actions of all City employees during their course of employment. Employees who violate these standards shall be subject to appropriate disciplinary actions.

- A. Employees shall abide by and carry out the ordinances, resolutions, policies, procedures, and the rules & regulations of the City of Moreno Valley.
- B. Employees shall always conduct themselves in a manner which reflects credit to the City and creates positive morale among City employees.
- C. Employees shall operate all equipment safely and utilize safe means of carrying out their duties.
- D. Employees shall follow instructions for all equipment and property.
- E. Supervisors shall manage in an effective, considerate and fair manner.
- F. Subordinates shall follow instructions in a positive, cooperative manner.
- G. Employees shall provide service with courtesy and a smile and avoid arguments with the public and other employees. If citizens become difficult, they should be referred to a supervisor.
- H. Employees shall avoid interpersonal conflict with others as it may affect productivity or the City's image. It is not necessary for everyone to like everyone else, but it is necessary to treat everyone respectfully, professionally, and courteously.
- I. Employees shall dress appropriately. Although dress will vary with the type of work done, neatness, cleanliness, and a professional image are essential. Uniforms must be kept in good condition and worn while on duty, if required. All field personnel who are supplied uniforms will wear their complete uniform at all times while on the job. Exceptions may be granted on a case-by-case basis by the immediate supervisor.

Political buttons, or other attire that do not promote a professional image or may not provide adequate protection from work-related injuries shall not be worn while on duty.
- J. The use or possession of alcoholic beverage, illegal drugs, or controlled substances while on paid duty time, or working while under the influence thereof, will not be tolerated. Violation will result in disciplinary action, as outlined in Section 8.35 of these Rules. See Section 1.75 and 1.80 of the Rules.
- K. Employees should behave in their personal lives in such a manner as not to reflect discredit upon the City.

8.25 OBJECTIVE OF DISCIPLINARY GUIDELINES

The disciplinary guidelines outlined in Section 8 are intended to be standards for applying discipline on the job. The offenses listed are not intended as comprehensive coverage of the subject. The disciplinary actions listed are standards and guidelines. Individual circumstances may justify a supervisor, together with the Department Head and the Human Resources Director, administering more or less severe forms of

disciplinary actions than those listed in these guidelines. The disciplinary authority must use reasonable judgment and proper documentation in each individual instance.

All disciplinary actions should be consistently enforced. "Consistently enforced" does not mean that a supervisor must assign the same penalty in each case, but rather, that the supervisor take some form of disciplinary action for each infraction. The supervisor must also be able to justify the level of discipline imposed in a particular case by objective criteria.

Any variations to these procedures will be reviewed by the Human Resources Director and approved in writing by the City Manager.

8.30 MAJOR AND MINOR OFFENSES

There are two classes of disciplinary actions – major and minor.

- A. Major: Misconduct that directly affects the safety or health of other employees or customers or misconduct that directly affects the success or survival of the organization.
- B. Minor: Misconduct that interferes with the smooth, orderly, planned, and systematic progression of work.

8.35 LEVELS OF OFFENSES

There are four levels of offenses listed. A documented pattern which shows a history of recent disciplinary problems can result in cumulative or more severe disciplinary actions, including disciplinary suspension, reduction in pay, demotion, or dismissal. Moderating circumstances which may result in less severe disciplinary action include an employee's positive work record, outstanding accomplishments, length of service, and extenuating circumstances of the violation.

- A. Engaging in any of the following conduct will most likely result in dismissal:
 - 1. Theft, embezzlement, or fraud.
 - 2. Falsification, unauthorized removal, or alteration of official City records or employment applications.
 - 3. Possession of, use of, or working while under the influence of alcoholic beverages or other controlled substances during City working hours, while on City property, while operating City vehicles, or while subject to duty (i.e. stand-by).
 - 4. Assault, battery, or fighting an individual while on duty or under the guise of office.
 - 5. Illegal possession or brandishing of weapons or firearms on City premises or property, while on duty or under the guise of office.
 - 6. Acceptance of bribes or extortion.

7. Conviction of a felony or any crime involving moral turpitude.
8. Commission of an act involving moral turpitude, whether or not a conviction is obtained.
9. Harassment (as defined in Section 1.90 of these Rules) or unlawful discrimination against employees or others based upon race, color, age, marital status, pregnancy, sex, national origin, ancestry, ethnicity, religion, medical condition, mental or physical disability, or sexual orientation, including gender identity; or retaliation against an employee for filing a harassment and/or discrimination complaint; or denial of family and medical care leave or pregnancy disability leave.
10. Intentionally damaging property of value.
11. Job abandonment of three (3) consecutive work days with no notification or approved absence.
12. Material false statement or omission on the employment application.
13. Driving on City business with a suspended or revoked driver's license.
14. Continuing unsatisfactory job performance.
15. Felony eavesdropping or electronic recording of confidential communication without consent of all parties to such communication.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above mentioned disciplinary action.

B. Engaging in any of the following conduct will most likely result in disciplinary suspension without pay for five (5) to thirty (30) days, reduction in pay or dismissal depending upon the circumstances, accumulation, or pattern of offenses. Other recently documented violations along with this incident, or the repeating of such offenses will result in dismissal.

1. Intentionally misusing or abusing City property or property of another.
2. Disregard for major safety rules.
3. Insubordination by refusing a supervisor's legitimate order.
4. Unlawfully restricting work efficiency and production.
5. Attempting to provoke a fight on City premises, threatening or deliberately intimidating others through threat of physical force.
6. Unauthorized release of information, which has been validly classified as confidential.
7. Intentional mistakes or gross negligence causing damage.

8. Use of authority for personal gain.
9. Dishonesty, including falsifying time cards or other reports.
10. Driving on City business with an expired license.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above-mentioned disciplinary action.

C. Engaging in any of the following conduct will most likely result in a written reprimand on the first offense, a disciplinary suspension of one (1) to five (5) working days, reduction in pay, or demotion on the second offense, and possible dismissal on the third. Other recently documented violations in conjunction with this violation will result in more severe disciplinary action.

1. Unauthorized operation of tools, machinery or equipment.
2. Gambling on City property.
3. Disregard of minor safety rules including failure to report an injury or accident.
4. Abuse of authority.
5. Carelessness or inefficiency in completing assignments.
6. Unauthorized sleeping or unaccounted whereabouts while on duty.
7. Traffic violations, including preventable accidents, in City vehicles or while on City business.
8. Political activity which violates pertinent provisions of state or local law.
9. Unauthorized absences or excessive leave without pay.
10. Abusive language that is personally or professionally insulting or derogatory, directed at a person or persons with normal sensibilities, in their presence.
11. Failure to notify the employee's supervisor of the loss of a required certificate or license, including driver's license.
12. Statements or allegations which are malicious, vexatious, or not made in good faith and designed to discredit another individual or agency.
13. Garnishment on two or more different debts within any one-year period.

This is not an exhaustive list. Other violations of similar scope and nature will result in the above-mentioned disciplinary action.

- D. Engaging in any of the following conduct will most likely result in either an informal discussion or formal warning on the first offense and a written reprimand on the second offense. Further incidents will result in more serious disciplinary action, including possible disciplinary suspension, reduction in pay, demotion or dismissal. Other recently documented violations in conjunction with this violation will also result in more severe disciplinary action.
1. Creating or contributing to unsanitary conditions.
 2. Violation of smoking policy.
 3. Unauthorized soliciting of contributions.
 4. Distributing unauthorized printed matter on City time.
 5. Failure to meet production or performance standards.
 6. Engaging in behavior which prevents or hampers job performance.
 7. Tardiness in reporting to work or leaving work early without supervisor approval.
 8. Abuse of Annual Leave.
 9. Abuse of breaks or lunch time.
 10. Inability or unwillingness to work harmoniously with other employees.
 11. Failure to contact supervisor when late or absent.
 12. Failure to report change of vital information.
 13. Failure to observe reasonable standards of personal appearance.
 14. Failure to follow specified job instructions.
 15. Minor safety violations, including housekeeping rule violations.
 16. Frequent personal phone calls.
 17. Frequent violations of established departmental rules and procedures.
 18. Reading non-related material during work time when not authorized.
 19. Misrepresentation of facts which does, or may lead to, a disruption of City business.
 20. Posting or distributing materials or telling jokes, which are offensive to a person or persons with normal sensibilities.

This is not an exhaustive list. Other violations of similar scope and nature will result in the above-mentioned disciplinary action.

SECTION 9: DISCIPLINARY ACTIONS

9.05 DEFINITION OF DISCIPLINARY ACTION

“Disciplinary Action” means action taken by the Department Head or designee for disciplinary reasons, pursuant to these Rules, and consistent with the philosophy of progressive discipline where appropriate. Such disciplinary actions include (1) a formal warning, (2) a written reprimand, (3) disciplinary suspension, (4) reduction in pay, (5) demotion, (6) dismissal, or (7) any other action taken for disciplinary purposes.

9.10 INFORMAL DISCUSSION

Though not a disciplinary action, when a minor job performance problem develops, an informal discussion shall usually occur to assist the employee in clarifying and remedying the problem. An informal discussion is designed to clarify standards, policies and procedures or rules and regulations so that problems are resolved early and thus, the need to utilize disciplinary action may be avoided.

9.15 FORMAL WARNING

The formal warning shall be given in response to minor misconduct. The warning should be prompt, calm, and constructive, and every effort shall be made for the formal warning to be given in private. The supervisor should include in the formal warning a review of appropriate department standards and policies, employee performance expected in the future and consequences for failure to correct performance or behavior.

9.20 WRITTEN REPRIMAND

The written reprimand shall be given by the Department Head or designated authority when a formal warning has not succeeded in stopping the misconduct or when the misconduct is considered too serious to warrant a formal warning. Misconduct includes failure to meet City performance standards. The Department Head should first counsel the employee about the misconduct, as if giving a formal warning. At the end of the discussion, if no extenuating circumstances are discovered, the Department Head shall inform the employee that a letter of reprimand shall follow and shall be placed in his or her central personnel file located in the Human Resources Department. The written reprimand should include a full, accurate and factual statement of the reason for the reprimand including the date and time of the event which is the cause of the reprimand, if applicable, appropriate department standards and policies, employee performance expected in the future, and consequences for failure to correct performance or behavior.

9.25 DISCIPLINARY SUSPENSION

Disciplinary suspensions without pay are actions which generally deprive an employee of pay for any period up to thirty (30) working days and are usually given when serious misconduct or repetition of past problems for which the employee has been reprimanded require a strong management response. The nature of the offense, its severity and the circumstances dictate the length of suspension. Recurrence of the same or similar offenses can result in a second or third disciplinary suspension of progressively increased duration or in a dismissal. A disciplinary suspension is given an employee

when formal warnings or written reprimands have not been effective, or when the misconduct warrants more than a written reprimand.

Employees who are categorized as exempt under the Fair Labor Standards Act may only be suspended without pay for infractions of safety rules of major significance such as rules relating to the prevention of serious danger in the workplace or to other employees. Exempt employees may also be subject to disciplinary suspensions of one or more full days without pay for infraction of workplace conduct rules applicable to all City employees.

The City distinguishes between minor disciplinary suspension as one (1) to five (5) working days and major disciplinary suspensions as six (6) to thirty (30) working days. Minor suspensions can be used as steps in progressive discipline. Major suspensions are used as a more severe step in progressive discipline or where the act of misconduct does not warrant dismissal.

Department Heads shall institute disciplinary suspensions only after receiving approval from the Human Resources Director.

9.30 REDUCTION IN PAY

The reduction of an employee's base pay is the action given when a disciplinary suspension has not been effective, or when the misconduct is too serious for disciplinary suspension alone.

Department Heads shall institute a reduction in an employee's base pay only after receiving approval from the Human Resources Director.

9.35 DEMOTION

The Department Head may demote an employee for disciplinary reasons or because the employee's ability to perform the required duties falls below standards for that position, provided that the employee has been given a reasonable time to improve. Upon request of the employee, and with the consent of the appointing authority, demotion may be made to a vacant position. No employee shall be demoted to a position unless he or she possesses the minimum qualifications for such a position.

Department Heads shall institute a demotion only after Human Resources Director approval.

9.40 DISMISSAL

Dismissal or involuntary separation of an employee from City employment shall be imposed only when all other disciplinary measures have failed and the employee is deemed beyond rehabilitation or when an act of misconduct is deemed very serious. A career employee may be dismissed by the Department Head for just cause as outlined in these Rules.

Department Heads shall institute a dismissal only after Human Resources Director approval.

9.45 RESIGNATION – AN ALTERNATIVE TO DISCIPLINARY ACTION

At times, an employee may offer to resign instead of facing disciplinary action. By doing so, the employee loses the right to appeal. A resignation must be completely voluntary.

9.50 DOCUMENTATION OF DISCIPLINARY ACTION

All disciplinary actions should be fully documented and placed in the employee's personnel file.

A formal warning should be documented on a form prescribed by the Human Resources Director. The employee shall receive a copy of the documented formal warning, and a copy shall be placed in the employee's personnel file in the Human Resources Department. If the employee chooses to respond, that reply will also be placed in the employee's personnel file, and be attached to the supervisor's record of formal warning.

If the action taken is a disciplinary probation, a disciplinary suspension, a reduction in pay, a demotion, or a dismissal, documentation shall be in accordance with Section 10.20(1). A copy of all such disciplinary documents shall be placed in the employee's central personnel file located in the Human Resources Department. The employee shall sign and receive a copy of such disciplinary documents. If the employee refuses to sign the statement, that fact should be noted in writing by the supervisor.

9.55 EMPLOYEE REPRESENTATION

A represented employee is entitled to the presence of an Association representative during an investigative interview conducted by the manager whenever the employee reasonably believes that the interview might lead to or result in disciplinary action affecting any property right (i.e., suspension, pay reduction, demotion, or dismissal). The employee must request the representation. The manager is not obligated to inform the employee of the right to representation. The employee does not have a right to representation at every, or any, contact with a supervisor.

The employee does have the right to a specific representative. When the representative is a non-employee agent, the manager is not required to wait to hold the interview at a time the consultant would be available beyond 24 work hours. The employee and representative must be allowed a reasonable period of time to confer in advance of the interview.

SECTION 10: PROCEDURAL DUE PROCESS FOR DISCIPLINARY ACTIONS

10.05 ACTIONS THAT ARE NOT APPEALABLE

Denial of merit or pay increases, performance evaluations (except as provided in Section 5.10), informal discussions, oral counselings, formal warnings, and written reprimands cannot be appealed.

10.10 DISCIPLINARY ACTION SUBJECT TO SKELLY PROCEDURE

Prior to a disciplinary suspension, a reduction in pay, a demotion, or a dismissal of a career employee for disciplinary purposes, the procedure set forth in this Section shall be complied with.

Disciplinary suspensions of less than five (5) days may be immediately implemented so long as the "Skelly" procedure is then promptly followed. (Section 10.20).

10.15 ADMINISTRATIVE SUSPENSIONS WITH PAY

Pending investigation of an accusation against an employee, the City Manager may approve the temporary suspension of an employee with pay, pending the undertaking or completion of an investigation or opportunity to respond as may be required to determine if any disciplinary action shall be taken.

10.20 SKELLY PROCEDURE/DUE PROCESS

- A. **Written Notice:** The Department Head or designated authority shall give the employee a written notice of the proposed disciplinary action at least ten (10) working days prior to the effective date. The written notice shall be personally delivered to the employee or sent by certified mail to the employee's last known address.

The notice should include the following information:

1. A description of the proposed action to be taken and its proposed effective date or dates;
2. The specific grounds and particular facts upon which the action is proposed to be taken;
3. The employee's right to receive a copy of the written materials alleged to support the proposed action; and
4. A statement advising the employee of the right to respond, orally or in writing, and the time period in which to do so.

- B. **Employee Review and Response:** The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based. Within ten (10) working days after receipt of the written notice, the employee shall have the right to respond to the Department Head, orally or in writing, concerning the proposed action. Failure to respond within the time

specified may result in the employee's waiver of his or her pre-disciplinary procedural rights. By mutual agreement, the specified time period may be extended. Appeal shall be addressed to the Department Head regardless of which supervisor may have issued the Skelly Letter.

- C. Department Head Decision: The Department Head or designated authority shall, within ten (10) working days, provide a written decision to the employee after reviewing the employee's response, if any. The decision shall be personally delivered to the employee or sent by certified mail to the employee's last known address. The decision shall acknowledge the employee's response and shall be dated and signed by the Department Head. If disciplinary action is to be taken, the written response shall include a statement informing the employee of the right to appeal and the time period within which the appeal must be made.

If mutually agreed upon, the effective date of any proposed disciplinary action may be postponed to allow the Department Head enough time to adequately review the employee's response before making a decision.

10.25 APPEAL OF DEPARTMENT HEAD'S DECISION

A career employee may appeal a Department Head's decision within ten (10) working days of receiving the decision. An appeal shall be accompanied by a copy of the written notice of disciplinary action served on the employee, the Department head's written decision, a brief statement of the facts and reasons for the appeal and a brief statement of the relief requested.

If, within the ten (10) day appeal period, the employee involved does not file an appeal, unless good cause for the failure is shown, the action of the Department Head or designated authority shall be conclusive. If an employee withdraws the appeal, the employee waives the right to further review. Upon approval of the City Manager, the Human Resources Director may designate any other non-involved Department Head to act on his or her behalf on such matters. Appeals filed within the ten (10) day requirement shall be handled in accordance with the following provisions:

- A. Minor Disciplinary Suspension, Reduction in Pay, and Demotion: An employee may appeal a disciplinary suspension of 5 days or less, or a reduction in pay of 5% or less annualized by submitting a written response to the Human Resources Director within ten (10) working days after the employee has received the Department Head's decision. Such an appeal and decision of the matter is based only upon the written record.

The Human Resources Director shall render a written decision within ten (10) working days after receipt of the appeal. The Human Resources Director may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action. The Human Resource Director's written decision is the final and conclusive administrative review.

- B. Major Disciplinary Suspension, Reduction in Pay, and Demotion: Disciplinary suspensions of greater than 5 days, reductions in pay greater than 5% annualized, or any demotions from class to class may be appealed to the City Manager. The City Manager may designate a non-involved Department Head or

the Human Resources Director to hear the appeal and act on his behalf on such matters.

The City Manager or designee shall act as Hearing Officer and determine the hearing procedure. The hearing need not be conducted according to technical rules relating to evidence and witnesses. However, the City Manager shall ensure that the matter before him or her can be fairly determined on reliable evidence. The Hearing shall be conducted in accordance with Section 11.30.

The City Manager or designee shall render a written record of his or her findings, conclusion and decision as soon after the conclusion of the hearing as possible and in no event later than twenty (20) working days after conducting the hearing, unless the parties otherwise agree. The City Manager may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action. The City Manager's decision on the appeal is final and conclusive administrative review.

- C. Dismissal: An employee wishing to appeal a dismissal must submit a request for a hearing officer to the Human Resources Director within ten (10) working days from receipt of the Department Head's decision. An Appeals Hearing on the appeal shall be conducted in accordance with Section 11. Upon mutual agreement of the employee and the City Manager, the employee may waive the right to the Appeals Hearing and present the appeal directly to the City Manager. If the employee chooses to appeal the Department Head's decision directly to the Human Resources Director, the employee forfeits the right to appeal to a Hearing Officer.

At any hearing before the Human Resources Director, City Manager or a Hearing Officer, subpoenas may be issued in accordance with the Government Code.

10.30 AMENDED NOTICE OF DISCIPLINARY ACTION

At any time before an appeal is submitted for decision, the Department Head or designated authority may, with the consent of the Human Resources Director, amend the disciplinary action or provide a supplemental notice of disciplinary action.

A decision not to impose any disciplinary action should be accompanied by a directive from the Department Head to delete all references to the pending action from the employee's personnel file(s). Failure by the Department to make further investigations or to provide an additional written answer shall not affect the ability of the City to impose disciplinary action.

If the amended or supplemental notice of disciplinary action presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a response in accordance with Section 10.20, but the employee shall not be required to file a further appeal. Any objections to the amended or supplemental causes or allegations may be made verbally or in writing during the appeal interview.

SECTION 11: APPEALS HEARING PROCESS

11.05 SELECTION OF A HEARING OFFICER

Within ten (10) working days from receipt of the written request for an appeals hearing pursuant to Section 10.25, the employee or designated representative and management representative shall select a Hearing Officer from a designated list. A paid outside Hearing Officer is only allowed in cases involving dismissal. The Hearing Officer shall be selected by mutual agreement or by the alternate striking of names from a pre-determined or standing list of Hearing Officers. The party to strike the first name shall be determined by chance. Only Hearing Officers who do not require transcription services, other than only an electronically recorded record, are to be used unless both parties agree otherwise.

The list shall contain at least seven (7) names and not more than twelve (12) names of persons qualified and willing to serve as a Hearing Officer. Employees, employee representatives and management representatives shall submit nominees for the list of Hearing Officers. If the total number of nominees is greater than the maximum number allowed on the list, the list shall be narrowed to the maximum number by consultation between management and employee representatives utilizing the strike out process. If a person withdraws his or her name from a list bringing the number of names below the designated minimum number, a name shall be added to the list. The list shall be revised at least every three (3) years.

11.10 SCHEDULING THE HEARING

Both parties shall endeavor to schedule the hearing as soon as possible. It is recognized that the schedule of the Hearing Officer, who is mutually selected, is dependent upon his/her already established schedule and availability. The City and the bargaining unit will jointly endeavor to identify the Hearing Officer within ten (10) working days of the employee's written request for one. All affected parties shall be notified in writing of the date, time and place of the hearing at least five (5) working days prior to the hearing. The Hearing Officer, prior to or during the hearing, may grant a continuance for any reason he or she believes to be important to its reaching a fair and proper decision.

All hearings shall be closed unless the employee requests an open hearing. No still photographs, moving pictures, or television pictures shall be taken in the hearing room during a hearing.

11.15 HEARING REPRESENTATION

Each party shall have the right to represent themselves, to be represented by legal counsel, or to be represented by any other person of his or her choice, except that no supervisor or Department Head shall be represented in appeal matters by an employee whom he or she may supervise, and no employee shall be represented in appeal matters by a supervisor or Department Head.

11.20 RECORDATION OF HEARING

All appeal hearings shall be recorded. The Human Resources Director shall arrange for the production of any relevant City record.

11.25 HEARING EXPENSES

All expenses for a Hearing Officer, including but not limited to, per diem expenses, travel and subsistence expenses, and the cost of the hearing room will be borne equally by the City and the employee. Each party shall make arrangements for and pay expenses of witnesses that are called by such party, except that any City employee called as a witness shall be released from work without loss of compensation or other benefits to give testimony at the hearing.

Prior to the hearing, the Hearing Officer shall draw up a contract and each party shall sign the contract agreeing to these payment conditions and any payment terms. A copy of the contract shall be given to the employee and another shall be given to the Human Resources Director. The Hearing Officer shall retain the original contract.

11.30 HEARING PROCEDURE

The Hearing Officer shall give all interested parties a reasonable opportunity to be heard on relevant issues. The hearing procedure shall be determined by the Hearing Officer. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The Hearing Officer shall observe the intent of such rules to the end that the matter before him or her can be fairly determined on reliable evidence. All interested parties shall have the following rights:

- A. To call and examine witnesses;
- B. To introduce exhibits;
- C. To cross-examine opposing witnesses on any matter relevant to the issue, even if the matter is not covered in the direct examination;
- D. To impeach any witness regardless of which party first called him or her to testify;
- E. To rebut the evidence against them; and
- F. To present oral and written arguments.

11.35 HEARING OFFICER'S RECOMMENDATION

The Hearing Officer shall determine relevancy, weight, and credibility of testimony and evidence, and shall base his or her findings on the preponderance of evidence. Hearsay evidence shall be admitted and may be used for the purposes of supplementing or explaining any direct evidence, but if objected to, shall not be sufficient in itself to support a finding. The Hearing Officer shall submit a written record of his or her findings, conclusion and recommendation to the City Manager as soon after the conclusion of the hearing as possible and in no event later than thirty (30) working days after conducting

the hearing, unless the parties agree otherwise. The Hearing Officer may recommend sustaining, rejecting, or lessening the disciplinary action invoked against the employee.

11.40 CITY MANAGER'S DECISION

Upon review of the hearing record, the City Manager shall have the right to accept, modify or reject the Hearing Officer's recommendation. If the City Manager decides not to review this matter, the decision of the Hearing Officer on the appeal shall be the final administrative action. Within ten (10) working days, the City Manager should deliver a copy of his or her written decision to the employee. The decision of the City Manager shall be the final administrative action.

SECTION 12: GRIEVANCES

12.05 MATTERS SUBJECT TO GRIEVANCE PROCEDURES

A “grievance” is a job-related complaint by an employee regarding the terms and conditions of employment which arise out of a specific fact situation or transaction, other than discipline, that result in an alleged inequity or damage to the employee. The solution of any such grievance is wholly or partially within the province of the City to rectify and will involve the interpretation or application of existing ordinances, rules, regulations, or policies administered by the employee’s Department Head or designated authority concerning wages, hours, other terms and conditions of employment.

12.10 MATTERS NOT SUBJECT TO GRIEVANCE PROCEDURES

The following matters are not subject to the grievance procedure:

- A. Employee discipline.
- B. Oral or written warnings, reprimands, or counselings.
- C. Employee performance evaluations.
- D. Management of the City generally and issues of City or Department policy.
- E. Necessity and organization of any service or activity conducted by the City including the expansion or reduction of services or workforce.
- F. Determination of the nature, manner, means, technology, and extent of services to be provided to the public.
- G. Methods of financing.
- H. Types of equipment or technology to be used.
- I. Determination of and/or change in facilities, methods, technology, means and size of the work force by which City operations are to be conducted.
- J. Determination of and change in the location, number of locations, relocations and types of operations, processes and materials to be used in carrying out City functions.
- K. Work assignments and schedules in accordance with requirement as determined by the City.
- L. Establishment, implementation, and modification of productivity and performance programs and standards.
- M. Reductions in force or layoffs for lack of work or other non-disciplinary reasons.
- N. Establishment and approved modifications of job classifications.

- O. Determination of standards, policies and procedures for selection, training, and promotion of employees.
- P. Establishment, implementation, and modification of Departmental organizations, supervisory assignments, chains of command, and reporting responsibilities.
- Q. Levels of compensation, pay, and benefits based upon budgetary and fiscal considerations.

12.15 FREEDOM FROM REPRISAL

No employee shall be subject to coercion or disciplinary action for discussing a request or complaint with his or her immediate supervisor, or for filing a grievance petition.

12.20 CONSOLIDATION

Grievance petitions involving the same or similar issues, filed by employees in the same representation unit, may be consolidated for presentation at the discretion of the person hearing the petitions.

12.25 RESOLUTION

Any grievance petitions resolved at any step of the grievance procedure shall be considered conclusive.

12.30 WITHDRAWAL

Any grievance petition may be withdrawn by the grievant at any time, without prejudice.

12.35 RESUBMISSION

Upon consent of the person hearing the grievance petition and the grievant, a petition may be resubmitted to a lower step in the grievance procedure for reconsideration.

12.40 EMPLOYEE REPRESENTATION

If requested, an employee may have representation in the preparation and presentation of the grievance at any step in the formal grievance procedure, except that no supervisor or Department Head shall be represented by an employee whom he or she may supervise, and no employee shall be represented by a supervisor or Department Head.

The employee(s) and one employee representative are entitled to be released from work for a reasonable period of time in order to present the grievance.

12.45 MISCELLANEOUS

If an employee is given a legitimate order that he or she wishes to grieve, the employee must first complete the assignment and file a grievance later unless the assignment endangers the health or safety of the employee or others or if the requested assignment violates the employee's constitutional rights.

12.50 INFORMAL GRIEVANCE PROCEDURE

Every effort should be made to resolve a grievance through discussion between the employee and the employee's immediate supervisor, unless extenuating circumstances exist. If the employee is not satisfied with the decision reached through the informal discussion or if extenuating circumstances exist, the employee shall have the right to file a formal grievance in accordance with Section 12.55.

12.55 FORMAL GRIEVANCE PROCEDURE

Step I

If the employee is not in agreement with the decision rendered in the informal grievance procedure, an employee shall have the right to present a formal grievance to the Department Head within ten (10) working days after the occurrence of the incident causing the grievance, if applicable. Otherwise, the right to file a grievance petition shall be waived.

All grievances shall be submitted on the form prescribed by the Human Resources Director and no grievance petition shall be accepted until the form is complete. The written grievance shall contain a clear, concise statement of the grievance and facts upon which it is based, rule, regulation, or policy allegedly violated, and the specific remedies sought.

The Department Head should render a written decision within ten (10) working days after receipt of the written grievance.

Step II

If the grievance is not satisfactorily resolved in Step I, the employee shall have the right to submit the written grievance to the Human Resources Director within ten (10) working days after the Department Head's decision is received by the employee.

The Human Resources Director should render a written decision within ten (10) working days of receipt of the written grievance.

Step III

If the grievance has not been satisfactorily resolved in the Step II, it may be appealed to the City Manager within ten (10) working days after Human Resources Director's decision is received by the employee.

The City Manager may accept or reject the decision of the Human Resources Director, and should render a written decision within ten (10) working days after receipt of the written grievance. The decision of the City Manager shall be final and conclusive.

If mutually agreeable, a meeting may be conducted involving all affected parties at any step in the grievance procedure prior to the rendering of a decision.

GRIEVANCE PROCEDURES			
<u>STEP</u>	<u>CONTACT</u>	<u>FILE</u>	<u>DECISION</u>
Informal	Supervisor	N/A	Immediate
Step I Formal	Department Head (from incident)	10 working days from filing	10 working days
Step II Formal	Human Resources Director	10 working days from Step I	10 working days from filing decision
Step III Formal	City Manager	10 working days from Step II	10 working days from filing decision

The City Manager may delegate non-involved Department Heads to act on behalf of the City Manager to render an appeals judgment in these processes. The findings and recommendations they render will be advisory to the City Manager whose ultimate decision will be final.

12.60 TIME LIMITS

Grievance petitions shall be processed from one step to the next within the time limit indicated for each step. Time limits shall be strictly enforced. Any time limits established in this procedure, may be waived or extended by mutual agreement confirmed in writing. Any grievance petition not carried to the next step by the grievant within the prescribed time limits shall be deemed resolved upon the basis of the previous disposition.

SECTION 13: EMPLOYEE RECORDS AND FILES

13.05 PERSONNEL FILES

- A. Central Personnel Files: The Human Resources Department shall maintain a central personnel file for each City employee indicating the employee's name, title of position, the department assigned, salary, changes in employment status, performance evaluations, disciplinary documents and such other information as may be considered pertinent by the Human Resources Director. Copies of documents concerning disciplinary actions taken by the supervisor or Department Head must be placed in the employee's central Personnel file. There will be no disclosures of this information to third parties except as authorized by State or Federal law or as duly authorized in writing by the employee.

Personnel files shall be kept in locked, fireproof files located in the Human Resources Department.

- B. Payroll Files: The Finance Department shall maintain a file for each City employee showing the name, title of position, the department assigned, salary, changes in employment status, W-4 forms, payroll deductions and such other information as may be considered pertinent by the Finance Director. There will be no disclosures of this information to third parties except as authorized by State and Federal law, or as duly authorized in writing by the employee to third parties.

Nothing herein shall prohibit the City from keeping or placing documents in an observation file for the purpose of investigating alleged criminal conduct. For the purposes of this Section, an observation file shall not be considered a personnel file, and an employee or his or her designated representative shall not have access to observation files nor receive copies of documents placed in such files.

Unless required for a criminal investigation, an observation file on an employee shall remain open for a maximum of six (6) months. If disciplinary action by the City is warranted or if the employee is found guilty of criminal activity, documents in the observation file shall be placed in the employee's personnel file(s).

13.10 DOCUMENTS IN PERSONNEL FILES

Upon request of the employee, an employee may place documents in his or her respective personnel file that commends his or her job performance with the City or demonstrates educational attainment.

Disciplinary documents shall be placed in personnel files in accordance with Section 9.50. An employee shall be provided a copy of any documents placed in his or her personnel file(s), and may review his or her file on request.

If no further conduct requiring disciplinary action occurs, and at the employee's written request, documents concerning minor disciplinary actions shall be removed from an employee's personnel file after one (1) year or upon their incorporation in a performance evaluation, whichever occurs first. If no further conduct requiring disciplinary action

occurs and at the employee's written request, documents concerning major disciplinary actions shall be removed from an employee's personnel file after three (3) years, provided that such documents may be retained thereafter if they establish a pattern of conduct extending past the three (3) year period. With good cause, a department may grant an employee's request to remove the document from the employee's personnel file(s) sooner than the indicated time frames, with the concurrence of the Human Resources Director.

13.15 ACCESS TO FILES

No person other than the City Manager, City Attorney, Special Legal Counsel, Human Resources Director, Human Resources staff, the employee's hiring Department Head, immediate supervisor, current Department Head, current Division Head, or their designated representatives shall have access to an employee's central or department personnel file. The Department Head must approve in writing anyone below him/her before that authorized person may review a subordinate's central personnel file. No person other than the Finance Director, payroll division staff, City Manager, City Attorney, or Human Resources Department staff shall have access to an employee's payroll file. Upon appointment, an employee or a person designated in writing by the employee for such purpose may inspect the contents of his or her respective personnel file(s). Upon paying the reasonable cost associated therewith, except as provided in Section 13.10, an employee or his or her designated representative may obtain copies of any documents contained in the employee's personnel file(s).

The employee may file a grievance regarding the contents of his or her personnel file(s) in accordance with the Grievance Procedure regulations outlined in Section 12.

13.20 DISCLOSURE OF INFORMATION

No direct information contained in the personnel files shall be disclosed concerning any current or former City employee other than the employee's job title, inclusive dates of employment, work location, salary, work phone number, departmental assignment, and the nature of separation, resignation, or termination, to any person other than the City Manager, City Attorney, Special Legal Counsel, Human Resources Director, Human Resources staff, the employee's Department Head, Division Manager or their designated representatives. An employee or former employee may authorize access to or the disclosure of information from their file only when written permission is provided to the Human Resources Department.

Nothing herein shall preclude nor specifically deny the use of any information in personnel files in any phase of a disciplinary or probationary action.

13.25 CHANGES-IN-STATUS

It is the employee's responsibility to notify the Human Resources Department of any changes in his or her address, phone number, marital status, dependent status, name change, training certificates, or other pertinent information.

13.30 APPLICATION RETENTION

Applications submitted by candidates for City employment become the property of the City and must be retained for at least three (3) years.

13.35 DESTRUCTION OF PERSONNEL RECORDS

Personnel records, including employment applications, shall be destroyed only in accordance with the provisions of the City's system for the destruction of public records and then in accordance with other applicable law.

SECTION 14: EMPLOYEE BENEFIT POLICIES

Benefits for City employees shall be provided as outlined in the City's Benefit Plan. Further information on these benefits may be obtained by contacting the Human Resources Department.

The City retains the right to alter the benefit plan, if it finds such changes to be in the best interest of the City.

14.05 BENEFIT BANK

The City has adopted a "flexible or cafeteria" plan that will cover certain City benefits (i.e., medical, dental, vision care, etc.). Employees, other than those listed below, are not eligible for benefit bank benefits. City employees shall receive a negotiated amount of money as approved by City Council, and consistent with the current MOU, on a yearly basis in order to "purchase" benefits from the plan. These benefits are paid on a 24-pay period basis. Employees may change benefit elections only during open enrollment periods unless there is a qualifying event. Qualifying events may include, but are not limited to emergency hardships, changes in employment, or changes in family status such as, births, deaths, adoptions, marriages, or divorce.

- A. Career Full-time Employees shall receive a negotiated amount as approved by the City Council, and consistent with the current MOU, with which to purchase benefits. New benefit amounts may become effective January 1st of each year.
- B. Career Part-time Employees shall receive a negotiated amount as approved by the City Council, and consistent with the current MOU, with which to purchase benefits. New benefit amounts may become effective January 1st of each year.
- C. As part of the cafeteria plan, all full-time employees, except City Council members, must purchase group medical insurance coverage for themselves, or provide proof of other medical coverage, i.e., through one's spouse's coverage, military, etc. If the City Council deems it in the City's best interest, the City, at its option, may require all employees to purchase the City's preferred coverage and not allow verification of other coverage. Once this individual medical coverage has been purchased or verified, employees may purchase any of the following options with the balance:
 - 1. Medical Insurance: Once medical insurance has been purchased for the employee, he or she may also choose to purchase excess coverage for him-or-herself or insure any dependents. Eligible employees may choose from a variety of health care providers as offered by the City. Medical benefits, plan costs, and any deductible costs may vary depending upon the insurance carrier offered by the City and chosen by the employee. Those who choose to use other kinds of medical coverage must report any change in that coverage within two (2) weeks of any change of active status. Failure to do so will result in immediate enrollment in a City offered medical plan.

2. Dental Insurance: Employees may purchase dental insurance for themselves and any dependents. Dental benefits and any deductible costs may vary depending upon the insurance carrier chosen by the employee.
 3. Vision Care: Coverage must be purchased for all full-time career employees and may be purchased for any dependents, based upon vision care plans available to City employees.
 4. Supplemental Insurance: Employees may purchase supplemental insurances for themselves or their dependents.
 5. Dependent Care (Child and Elder): Employees may purchase dependent (child and elder) care reimbursement coverage through a flexible spending account. Documentation of payments with tax identification number of the provider must be submitted to receive reimbursement. Unreimbursed funds will be forfeited at the end of the year.
 6. Medical Expense Reimbursement: Employees may purchase medical expense reimbursement through a Flexible Spending Account. Documentation of expenses and payments must be submitted to receive reimbursement. Unreimbursed funds will be forfeited at the end of the year.
 7. Annual Leave Buy: Employees with unspent bank dollars may purchase up to two weeks of Annual Leave hours per year. This option is available only at open enrollment. Annual Leave hours bought must be used within the benefit year purchased. Unused Annual Leave which has been purchased will be returned to the benefit bank for cash out to the employee.
 8. Cash Out Option: Employees who would have unspent bank dollars for the calendar year will receive the leftover balance as a taxable cash payment. Council members are not eligible by State law for any cash-out option of unspent bank dollars. Annual Leave hours must be requested in writing during open enrollment each year.
 9. Use or Lose Provision: Flex dollars may not be carried over from one plan year to the next, according to IRS regulations. Employees who have left over funds and who do not elect additional Annual Leave hours will be paid in cash. This amount will be subject to Federal and State withholding taxes.
- D. Temporary Employees are not normally entitled to the benefits of the City's cafeteria plan.

14.10 MANAGEMENT PACKAGE

Certain categories of employees are entitled to a management benefit package as a percentage of their gross annual salary. The dollar amount shall change as salary increases are received during the year. This amount will be disbursed on a 24-pay period basis. These employee categories and percentages are as follows:

- A. Executive Management Employees shall receive six (6%) percent of their gross annual salary.

- B. Division Management Employees shall receive four (4%) percent of their gross annual salary.
- C. Professional/Administrative/Management Employees shall receive two (2%) percent of their gross annual salary.

This management package percentage amount may be expended in any of the flexible benefit plan options previously discussed. Other benefit options will be made available as they are approved by the City Council in accordance with applicable IRS guidelines.

14.12 AUTO ALLOWANCE:

The City provides taxable auto allowance benefits as follows:

- A. Executive Management Employees shall receive a monthly auto allowance, as budgeted.
- B. Division Management Employees shall receive a monthly auto allowance, as budgeted.

As outlined in the City's Vehicle Policy, certain employees may be assigned a City vehicle on a long-term basis, in lieu of the monthly auto allowance. Employees who utilize personal vehicles for City business, but do not receive an auto allowance, shall be reimbursed at the Federal mileage reimbursement rate.

If any of the above employees are assigned a City vehicle, no auto allowance will be provided.

14.15 POST RETIREMENT MEDICAL BENEFITS

- A. Annuity Programs: Effective January 1, 2001, the City of Moreno Valley shall contribute a monthly amount to each non-exempt full-time career employee for an annuity program for 20 years or until termination or retirement, for the purpose of funding retiree medical premiums. New hire probationary employees shall not be eligible to receive the monthly contribution until the successful completion of their probationary period. The effective date of their first contribution will commence the next full month after they have passed probation.

Effective January 1, 2002, after two full years of employment, the monthly contribution to the annuity program shall increase per the negotiated language as approved by City Council. This shall go into effect the next month after their two-year-anniversary date has passed.

Each bargaining unit has selected separate annuity programs.

- 1. Contributions for the MVCEA bargaining unit are being paid into an insurance/annuity program chosen by the MVCEA.

In the event MVCEA ceases to be the recognized representative of bargaining unit employees, the control and administration of this program

shall transfer to management and the responsibility for same shall be the exclusive jurisdiction of management.

Employees may at their option contribute a portion of their compensation to the annuity subject to IRS restrictions through payroll deductions.

2. Contributions for the management bargaining unit are being paid into a Voluntary Employee Beneficiary Trust (VEBA), which manages the investment and distribution of the funds.

- B. City Paid Retiree Medical Benefit: Effective January 1, 2001, upon retiring, the City shall pay a minimum of the monthly fee required by PERS for enrollment of retirees. Employees who retire after at least two years of service with the City shall be eligible to receive a benefit which is the lesser of the cost of medical coverage for the retiree and spouse, or the amount stipulated in the following table:

<u>EFFECTIVE DATE</u>	<u>MAXIMUM EMPLOYER CONTRIBUTIONS</u>
January 1, 2007	up to \$168.73 per month
January 11, 2008	up to \$243.73 per month
January 2, 2009	up to \$318.73 per month

To receive the Retiree Medical Benefit, the retiree must submit documentation of payment for medical insurance coverage. Documentation for those enrolled with PERS Health is provided by PERS. In the event of the retiree's death, the surviving spouse continues to be eligible to receive the benefit.

14.20 PERS MEDICAL COVERAGE FOR RETIREES

The City shall contribute a monthly employer fee for retiree medical coverage with the Public Employees Retirement System (PERS), per negotiated contract language as approved by City Council. Retirees must convert to Medicare at age 65.

14.25 CITY RETIREMENT PLAN

The City provides retirement benefits for all employees through the Public Employees Retirement System (PERS). The City pays both the employee's and employer's contributions into the plan. At its option, the City may change its retirement system provider upon adoption by the City Council. Prior to any changes in retirement benefits, those eligible for retirement must be notified at least 30 days in advance. Current retirement benefits are available as follows:

- A. Career Full-time Employees receive fully-paid PERS retirement benefits.
- B. Career Part-time Employees receive fully paid PERS retirement benefits after 1,000 hours. Before that point, the employee will have the employee's portion deducted from salary.
- C. Part-time/Seasonal, Temporary Employees, and Crossing Guards who are not eligible for PERS, are required to contribute 7.5% of earnings to a PST "457" deferred compensation program. Contributions to this plan will be made through

payroll deduction. Employees are eligible for participation in the PERS retirement plan after 1,000 hours worked in a fiscal year; however, they are responsible for the cost of their employee portion of PERS payment.

PERS refunds may be issued ONLY if the member has permanently separated from all PERS-covered or reciprocal employment. Or, if members have been on an unpaid leave of absence for at least six (6) months, they may request a refund of their contributions prior to returning to active employment.

14.30 IRC SECTION 125 PLAN

The City has available to all full-time employees, and those who qualify for the City's group medical coverage, an Internal Revenue Code (IRC) Section 125 account. The monthly cost of plan administration will be borne by those eligible employees who voluntarily elect to enroll. The Health Reimbursement Option is not available until the employee has passed initial probation (normally at six months). An employee's un-expensed redirected Plan contributions from his/her salary account are forfeited and returned to the City at the end of the calendar year. See the Summary Plan Description for details.

14.35 IRC SECTION 457 PLAN

The City has available to all employees an Internal Revenue Code (IRC) Section 457 Account. Participation is voluntary for career employees. It is mandatory for temporary employees who are not yet eligible for, or enrolled in PERS.

Deferred compensation is an IRS-approved method of deferring federal and state income taxes on savings until retirement. Taxes are paid, on both savings and earnings, when they are withdrawn during retirement, or upon separation from City employment.

An employee may defer a maximum amount consistent with the most recent guidelines supplied by the IRS. The employee may increase, decrease, stop and restart voluntary contributions at any time by contacting the Human Resources Department.

In accordance with IRS rules, an employee may not withdraw these assets unless there is a bona fide emergency which is unforeseeable, unbudgetable, severe, beyond the employee's control, and must represent a last resort. A request for emergency withdrawal must be documented and supported in writing to the Human Resources Director.

14.36 IRC SECTION 401A PLAN

Certain management employees may voluntarily enter into a 401(a) Money Purchase Plan to provide additional retirement benefits. The employee contribution is a mandatory fixed amount for everyone within a management group, and is limited to the maximums allowed by law. Open Enrollment is the only opportunity to join the plan. Once enrolled, the participant must remain in the plan. Participant contributions are structured with pre-tax dollars. Earnings accrue tax deferred. Participants may contribute to both a deferred compensation and a money purchase plan. Accounts are individual and loans may be made from the account.

14.40 LIFE INSURANCE

The City provides term life insurance coverage for all City employees. Coverage becomes effective on the first day of the month which follows the first thirty (30) days of employment with the City. The premium is paid by the City. The amount of coverage is determined as follows:

- A. Executive Management and Division Management Employees shall receive term life insurance at an amount, which is three (3) times their salary (rounded to the nearest thousand) not to exceed \$300,000.
- B. Professional/Administrative/Management Employees shall receive term life insurance at an amount, which is two (2) times their annual salary (rounded to the nearest thousand).
- C. General Non-Exempt and Career Part-time Employees shall receive term life insurance at an amount, which is two (2) times, their annual salary (rounded to the nearest thousand) or \$50,000.00, whichever is greater.
- D. The City's death benefit to survivors of a member who dies prior to retirement shall be the PERS 1959 Survivor Level IV Option (Section 21574). It provides for a monthly allowance for the surviving spouse with two children \$2280, spouse and one child \$1900, and spouse alone \$950. The City's retired member PERS lump sum death benefit paid to beneficiaries is \$500.

14.45 DISABILITY INSURANCE

Disability Insurance is determined as follows:

A. City Disability Insurance:

The City provides short-term disability insurance to all Career employees who work a minimum of thirty (30) hours per week and who are disabled primarily as a result of a non-work-related illness or injury. This benefit commences after 30 calendar days of disability. In order to be eligible for benefits, an employee must be totally disabled for one month before benefits become payable. For the first twenty-four (24) months of a disability, "totally disabled" means that a former employee is prevented by disability from doing all the material and substantial duties of his or her job. If the disability persists beyond twenty-four (24) months, the former employee is re-evaluated to determine whether he or she can be rehabilitated for another career. If the employee can be rehabilitated, the employee is eligible for Rehabilitative Employment Services. If the employee cannot be rehabilitated for any career, total disability payments will continue.

An eligible employee may receive sixty-six and two-thirds (66 $\frac{2}{3}$ %) percent of his or her salary, up to a maximum monthly amount of \$11,000. This income is subject to taxes because the premiums are paid for by the City. Any other income benefits an employee may receive as a result of employment shall be

subtracted from the monthly benefit payment. An eligible employee may continue to receive benefits up to the age of sixty-five (65). Between the ages of sixty-five (65) and seventy (70), benefits are awarded on a sliding scale. The remaining amount shall be taken from applicable leave accruals until they are exhausted and the person goes on leave without pay, see Section 7.40, Pregnancy Disability Leave and Section 7.50, Leave of Absence Without Pay.

The City agrees to maintain a long term disability salary continuance program that pays the above described benefits for job-related disabilities when the employee is still on the City's payroll after a minimum 180 calendar day elimination period up to age 65. Workers' Compensation information can be found in Section 7.60 of the City of Moreno Valley's Personnel Rules.

B. Continuation of Accruals and Benefits

The City shall extend payment of the medical insurance contribution for career full-time employees up to an additional ninety (90) calendar days during a twelve-month period while an employee is disabled due to a non-work-related illness or injury. Such an extension of medical coverage shall take effect when existing coverage would otherwise expire. Employees not classified as career full-time shall not accrue any leave or receive any benefits once all of their accrued time (Annual Leave or compensatory time) has been exhausted.

14.50 UNEMPLOYMENT COMPENSATION

As required by State law, all City employees are covered under the California Unemployment Compensation Program. Further information can be obtained by contacting the local State of California Employment Development Department or the Human Resources Department.

14.55 EMPLOYEE ASSISTANCE PROGRAM (EAP)

Depending on budget and other considerations, the City may provide an employee assistance program. The EAP provides short term counseling and other services to assist employees and their families to deal with personal and emotional problems which affect or might potentially affect their job performance. This counseling is confidential and free to the employee.

14.60 MEDICARE

By law, employees hired after April 1, 1986, must have a certain percentage (currently 1.45%) deducted from their gross pay for Medicare. The City will deduct the employee contributions in accordance with Federal law. The City shall pay the employer's share, which is equal to the employee's share.

The above policies are based on Federal law and may change from time to time.

SECTION 15: SPECIAL COMPENSATION

15.05 STAND BY

A stand-by roster shall be comprised of City employees from designated departments or divisions who have volunteered to be on call and available to work after regular working hours. A stand-by assignment period shall be for seven (7) consecutive calendar days starting on Friday at 4:00 p.m. An employee on stand-by will be permitted to take home a City vehicle equipped with appropriate tools and supplies for use when called out on stand-by. The City will pay general employees (non-Animal Control Officers) a dollar amount per the negotiated language of the current MOU, as approved by City Council, per regular shift, Monday through Friday, and for weekends and holidays.

The designated department or division supervisor shall be responsible for scheduling his or her employees for stand-by duty and for providing duty rosters to the Police Department. The Police Department will be given a roster of employees with their stand-by duty dates, home telephone numbers, and pager numbers and codes. Once assigned to specific stand-by duty, employees may not trade stand-by assignments, except with the prior approval of the designated supervisor.

For general employees, compensation for call out hours worked will be paid at time-and-one-half for the number of hours actually worked. A minimum of two (2) hours shall be credited as time worked for each call out. For the purpose of this Section, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home. An employee on stand-by will be compensated an additional dollar amount, per the negotiated language, as approved by the City Council, for each 7-day week of stand-by duty. Stand-by pay is at the rate of an amount per the negotiated language as approved by the City Council per day (M-F). Stand-by pay will be increased to an amount per the negotiated language in the current Memorandum of Understanding, per day for weekends and holidays.

For Animal Control Standby (Night Truck), the City will pay a dollar amount, per the negotiated language as approved by City Council per regular shift, Monday through Friday, and pay an amount, per the negotiated language as approved by City Council for weekends and holidays. Call out pay will be at the overtime rate with a one-hour minimum. Work time includes 15 minutes each way of travel time for the trip to and from work or the actual time, whichever is less.

An employee assigned to stand-by duty must be available to respond to emergency calls at all times. This requires that the employee remain within fifteen (15) minutes travel time of his or her normal work station during the entire stand-by period. The employee must refrain from consuming alcoholic beverages or other substances which could impair his or her effectiveness or safety on the job. Violation of this policy shall result in disciplinary action, as outlined in Section 8.35 of the Personnel Rules.

Nothing herein shall be construed to require that the City establish stand-by duty for employees in any department or division.

15.10 CALL-BACK

In the event employees who are not assigned to stand-by duty are called back to work during normal off-duty hours to protect the public health or safety, they will be compensated at time-and-one-half for actual time worked, with a minimum of two (2) hours credit for each call out (one for Animal Control). For the purpose of this Section, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home. Call back shall be defined as having to return to work after having left work.

15.15 BILINGUAL PAY

Bilingual compensation will be implemented for staff who occupy positions designated as ones in which second language skills are utilized. Employees shall receive an amount per the negotiated language as approved by City Council.

15.16 SAFETY EQUIPMENT

Employees in qualified trade occupations will receive annual vouchers with a local vendor to purchase shoes, jackets, and/or Sam Brown belts in an amount per the negotiated language as approved by City Council.

SECTION 16: TRAINING

16.05 TRAINING

The City recognizes the importance of employee development and training. In an effort to improve the capabilities and effectiveness of City personnel, a training program has been established. This training effort shall be geared to both organizational improvement and individual employee development. This development shall not only be the responsibility of Department heads or supervisors, but shall be shared with employees in a total organizational effort.

16.10 IN-HOUSE TRAINING

Employees who have training, knowledge or expertise in a subject area, or have recently attended a seminar or conference in a given subject matter, may be asked to share this information with other employees. Such in-house training may be informal or formal depending upon the nature of the training and can include any variety of topics such as computers, copiers, telephones, supervisory, writing skills, etc.

16.15 DEPARTMENTAL TRAINING

City departments and divisions are encouraged to offer specialized training to their employees. Such training shall be the responsibility of the Department or Division Head and may include topics such as safety, equipment operation and other training in their specific fields of responsibility.

16.20 TRAINING COURSES

The City shall encourage local educational resources to offer courses and workshops at City facilities on matters in which employees of several departments may benefit. Such courses may be offered periodically in such areas as management, supervision, communications, time management, stress management, writing skills, etc.

16.25 SEMINARS AND CONFERENCES

Employees may attend seminars or conferences covering current issues and areas relevant to their positions under the following conditions:

- A. Employees must submit their request on forms prescribed by the Finance Department and follow all applicable procedures.
- B. Budgeted funds must exist for all such training and any travel. In-state attendance shall require Department Head approval while out of state travel shall require the approval of the City Manager.
- C. Employees must comply with the City's Administrative Travel Policy and provide necessary receipt documentation.
- D. Employees who have recently received such training must be willing to provide "in-house" training to other employees, if requested.

16.30 TUITION REIMBURSEMENT

Subject to the approval of the Department Head, Human Resources Director, and City Manager (or designee), employees may be reimbursed for the cost of pre-approved, job-related educational and other training courses based upon proof of successful completion. This proof includes a grade "C" or better of the course(s), and must be part of a program leading to an Associate's degree, undergraduate or graduate degree. Further, employees may be reimbursed for certain pre-approved, job related training courses based on the approvals as stated above.

Classes taken which are offered as part of the City's official training program do not count against tuition reimbursement.

Any educational or training course that is a requirement for continuation of employment or is an identified part of a job evaluation shall be paid for by the City. Any other educational course that is job-related may, if prior approval for reimbursement is given by the City Manager (or designee), be reimbursed at 100% or less after successful completion. All college or other graded classes shall require a minimum grade of a "C" in order to receive such reimbursement. Books or other materials shall only be paid if some defined benefit can be shown to the City (i.e. books become part of City reference library).

In general, training time during working hours shall be considered part of the job. Unless the City directs an employee to attend a specific training course, and the course is not available during work hours, training after hours shall be considered voluntary, and no additional pay, overtime or compensatory time shall be given by the City, unless advance special written approval is granted. Study time shall be considered completely voluntary.

Although the City encourages employees to pursue additional education, the City shall not pay for educational degrees or for education in general, but will only reimburse employees for required or job-related classes and training. No reimbursement shall occur if an educational class does not provide a benefit to the City. There is no mileage reimbursement for travel to and from educational classes. Required forms must be completed and necessary documentation (receipts and grades) must be provided, in order to receive reimbursement. Final and conclusive determinations of the reimbursement amount shall be made by the City Manager after review of the request and recommendations by the Department Head and the Human Resources Director.

16.35 TRAINING AND TRAVEL REIMBURSEMENT

Non-exempt employees shall receive training and travel reimbursement as provided in this Section.

Time spent in attending lectures, meeting, training programs, and similar activities during work time shall be counted as time worked only if authorized in advance and in writing by the employee's Department Head. No such authorization shall be given unless the lecture, meeting, program, or other activity is directly related to improving the employee's ability to perform his or her job.

Time spent in attending lectures, meetings, training programs, and similar activities shall not be counted as time worked where such attendance is outside of the employee's regular working hours, except in situations where the employee is directed by his or her Department Head to attend such lecture, meeting, training program, or similar activity. Leisure and meal times are not considered time worked unless they are part of the seminar.

Time spent by an employee traveling between the employee's residence and the regular workplace is not work time and shall not be treated as hours worked. When an employee is assigned by his or her Department Head to travel outside of the City, time spent traveling between the employee's home and assigned destination shall be treated as time worked, only to the extent that it exceeds the amount of time normally taken by the employee to travel between his or her residence and regular workplace.

When an employee is assigned to travel outside the City, return the same day, and he or she utilizes public transportation, the time spent traveling between the employee's home and the location of the public carrier (i.e. airport, bus station, train station) shall not be treated as time worked. However, time spent traveling to a final destination via public carrier is considered time worked.

Employees shall receive mileage and travel reimbursement in accordance with provisions outlined in the City's Administrative Travel Policy.

**The City of Moreno Valley
Personnel Rules & Regulations
Drug and Alcohol Free Workplace Policy**

APPENDIX A

TESTING FOR ALCOHOL AND DRUGS

Toward reaching this goal of a drug and alcohol free workplace, the City may conduct pre-employment drug or alcohol testing of applicants for City positions. Pre-employment drug or alcohol tests shall apply only to non-City employees; City employees who apply for another City position shall not be subject to pre-employment drug or alcohol tests. Any applicant who tests positive shall not be hired by the City.

The City also reserves the right to require than an existing employee undergo testing of the City determines that probable cause exists to believe that the employee is under the influence of any illegal drug or controlled substance, as identified in this Section. Employees who (1) refuse to submit to a drug or alcohol test immediately when requested by authorized City or law enforcement personnel; (2) refuse to submit to a search of personal properties if requested by law enforcement personnel; or (3) are "convicted" of a "criminal drug or alcohol statute" violation, shall be subject to the disciplinary procedures which are outlined in these Rules.

All City lockers, desks, cabinets, vehicles, phone voice mail, e-mail, computer files, and disks are the property of the City and are subject to search without the employee's consent by City management at any time with or without notice. Refusal to cooperate with a search may result in a disciplinary action, up to and including termination. Unless the Supervisors are directed otherwise by the Human Resources Director, employees will be given the opportunity to be present when the search is conducted.

In appropriate cases, such as a first offense, the City should make every effort to place an employee with an available employee assistance program or service for the purposes of rehabilitation, in-lieu of disciplinary action or criminal prosecution. If, in such cases, the employee refuses to attend an employee assistance program or service, he or she will be subject to the disciplinary procedures which are outlined in these Rules.

Any reports or complaints which are filed as a result of this Section or the "Drug and Alcohol Free Workplace Policy" and are determined to be malicious, vexatious, or not in good faith, shall not be tolerated. In such cases, the complaining individual shall be subject to disciplinary action. This applies to all managers, supervisors, and other employees who file a report or complaint which relates to drug or alcohol use.

A. EMPLOYEE RESPONSIBILITIES

An employee shall:

1. Not report to work or be subject to duty (i.e., paid stand-by time) while the employee's ability to perform his or her duties is materially impaired due to drug and/or alcohol use.
2. Not report to work with alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) in their systems or the odor of alcohol on their breath, or possess or utilize such substances while they are on duty or subject to duty or during meal periods or breaks.
3. Not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while on-call, on breaks, or during meal periods.
4. Not directly or through a third party sell, purchase or provide drugs and/or alcohol to any person, including any employee, while either employee or both employees are on duty or subject to duty.
5. Submit immediately to a drug and/or alcohol test when requested by an authorized City representative, who has probable cause to suspect drug or alcohol abuse or material impairment there from. The employee may request a representative when being tested for probable cause. The representative may be a bargaining unit representative or another employee of choice who shall be immediately available.
6. Before beginning work, notify his or her supervisor when taking any drug or medication (non-prescription or prescription), which may interfere with the safe and effective performance of duties or operation of City equipment. In the event there is a question regarding an employee's ability to perform assigned duties safely and effectively while using such drugs, clearance from a qualified physician may be required before the employee is allowed to resume his or her regular duties.
7. Have the opportunity, within twenty-four (24) hours (or by the close of the next business day) of request by an authorized City representative, to provide verification of a current prescription for any potentially impairing drug or medication which is identified in a drug test. The prescription must be in the employee's name.
8. Employees shall notify their supervisor of any criminal drug and/or alcohol statute conviction for a violation, no later than five (5) days after such conviction.
9. In the event that an employee suspects that his or her manager or supervisor is under the influence of drugs and/or alcohol, the employee may submit a written or oral complaint, which contains detailed evidence regarding the allegation of substance abuse to his or her department head or the Human Resources Director. Such complaints, if made in good faith, may be made without fear of reprisal. If the written or oral complaint establishes probable cause, the manager or supervisor may be requested to submit to a drug and/or alcohol test.

B. MANAGEMENT RESPONSIBILITIES

Managers and Supervisors shall:

1. Be responsible for enforcing this policy in a fair and consistent manner.
2. Work with the Human Resources Department to encourage employees to utilize an available employee assistance program when the employee's job performance is deteriorating or unsatisfactory, the employee does not respond to supervisory remedies, or when a specific on-the-job incident is cause for concern. As the supervisor's role is to monitor job performance, the supervisor should not attempt to diagnose an employee's problem.
3. Request through the Human Resources Department that an employee submit to a drug and/or alcohol test when a manager or supervisor has probable cause or a reasonable suspicion that an employee is impaired or under the influence of drugs or alcohol while on the job or subject to duty.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs and/or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- Slurred speech;
 - Alcohol or other suspicious odor (i.e. marijuana on breath);
 - Unsteady walking and movement
 - An accident involving City property where it appears that the employee's conduct may be at fault;
 - Physical or verbal altercation;
 - Wide and severe mood swings;
 - Blank, glassy-eyed stare;
 - Inability to perform work properly;
 - Behavior which is unusual for the employee;
 - Possession of drugs and/or alcohol in the workplace or on City property.
4. Work with Human Resources and document within forty-eight (48) hours of requesting an employee to submit to a drug and/or alcohol test, in writing, the facts constituting reasonable suspicion that the employee in question is impaired or under the influence of drugs and/or alcohol.
 5. Remind the employee of the requirements and disciplinary consequences of this policy when encountering an employee who refuses an order to submit to a drug and/or alcohol analysis. Where there is reasonable suspicion that the employee is impaired, or under the influence of alcohol or drugs, the manager or supervisor shall require the employee to remain

on the premises for a reasonable amount of time until an authorized City representative or law enforcement representative can arrange to transport the employee to a testing facility, or home in the event of the employee's refusal to submit to a drug or alcohol test. Any time spent remaining on the premises at the request of a supervisor or manager or time spent for City-required drug and/or alcohol testing shall be considered work time and shall be paid for by the City.

6. Not confiscate prescription drugs or medications from an employee who has a valid prescription for such. The prescription must be in the employee's name.
7. Deal with suspected offenders as discreetly, inconspicuously, and respectfully as possible.
8. Notify their Department Head or designee, and Human Resources, when they have probable cause to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City. If the Department Head or designee concurs that there is probable cause to believe that an employee is in possession of illegal drugs, the manager or supervisor shall not physically search employees or their personal possessions, but should request that they remain on the premises until the appropriate law enforcement agency has arrived. Also, the department head or designee shall notify the Human Resources Department as soon as possible.
9. May search areas which are jointly or fully controlled by the City after conferring with the Human Resources Department. In the event such an area is occupied by a Peace Officer all searches shall be consistent with Government Code Section 3309 (Police Officer Bill of Rights).
10. Management shall not use authority under these rules to unlawfully harass, intimidate, or discriminate against employees.

C. ENFORCEMENT

Employees reasonably believed to be impaired, or under the influence of drugs and/or alcohol, shall be prevented from engaging in further work and shall be monitored for a reasonable time until he or she can be safely transported from the work site. In no event should the individual be allowed to operate a vehicle while impaired, including driving home from work.

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

D. PHYSICAL EXAMINATION AND PROCEDURE

A drug and/or alcohol test may be administered by the City for any substance which could impair an employee's ability to effectively and safely perform the

functions of his/her job. All testing (including the sample collection, chain of custody and laboratory services) shall be conducted in accordance with Substance Abuse and Mental Health Services Administration (SAMHSA) and Department of Health and Human Services approved procedures.

E. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

Post-Employment Offer Medical Examination

A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standard, duties or responsibilities.

If a drug screen is positive, and a result of the post-employment offer medical examination, the applicant must provide, within twenty-four (24) hours (or by the close of the next business day) of request, bona fide verification of a valid current prescription for the drug identified in the drug screen to the Human Resources Department. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

During Medical Examinations or Drug and/or Alcohol Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide, within twenty-four (24) hours (or by the close of the next business day) of request, bona fide verification of a valid prescription for the drug identified in the drug screen, to the Human Resources Department. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action, up to and including discharge.

If a drug and/or alcohol test is positive, the City shall conduct an investigation to gather all the facts. The decision to discipline or discharge will be carried out in conformance with this section.

F. CONFIDENTIALITY

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate, confidential medical folder that will be securely kept under the control of the Human Resources Director. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request.

SUPPLEMENT TO THE DRUG AND ALCOHOL FREE WORKPLACE POLICY;
CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY; AND
PROCEDURE PURSUANT TO THE DEPARTMENT OF TRANSPORTATION
REGULATIONS

Effective January 1, 1996, the City of Moreno Valley must comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991 and subsequent revisions. Specifically, the City must comply with the regulations of the Federal Motor Carried Safety Administration (FMCSA). Adoption of a policy is one of the City's obligations under the regulations. Where applicable to the City, the requirements of those regulations are reflected in this policy. This policy sets forth the rights and obligations of covered employees. If you are an employee covered under these new requirements, you should familiarize yourself with the Policy provisions BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT.

In addition, employees are required to comply with the applicable provisions of the supplement to the Drug and Alcohol Free Workplace Policy.

A. EMPLOYEE QUESTIONS

The regulations required that employers designate a person to answer employee questions about drug and/or alcohol testing. Employees shall refer any questions regarding his or her rights and obligations under the new regulations to the Designated Employer Representative (DER) which is the Human Resources Director or designee for this federally mandated program.

B. COVERED EMPLOYEES

Overall, the regulations cover drivers of commercial motor vehicles. A driver is any person who operates a commercial motor vehicle on a full-time, casual, intermittent, as-needed, or occasional basis. Employees in these job classifications may be required to drive commercial motor vehicles at least on an occasional basis.

Therefore, employees in those job classifications (and applicants for such positions) are considered a covered employee subject to the provisions of this policy. For the purposes of the post-employment offer medical examination, the term "driver" includes persons applying for employment in a position requiring the driving of a commercial motor vehicle on at least an occasional basis.

New employees or employees shall be given a copy of this policy at the time they commence employment with the City. All covered employees currently employed by the City at the time this policy is adopted shall be given a copy thereof within ten (10) days of its adoption. All covered employees will also be asked to sign the Acknowledgement / Receipt Form indicating receipt of a copy of this policy. This policy shall be posted immediately and was effective on January 1, 1996.

C. COVERED COMMERCIAL VEHICLES

The regulations cover drivers of the following commercial motor vehicles:

1. A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
2. A vehicle with a gross vehicle weight of at least 26,001 pounds.
3. A vehicle designed to transport sixteen (16) or more passengers, including the driver; or
4. A vehicle used to transport those hazardous materials found in the Hazardous Materials Transportation Act.

D. SAFETY-SENSITIVE FUNCTIONS

The performance of any of the following on-duty functions by a covered employee in connection with that employee's operation, or scheduled operation, of a commercial motor vehicle is considered to be a safety-sensitive function.

1. All time at a carrier or shipper, plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment such as brakes, steering mechanism, lights, tires, horn, windshield wipers, mirrors, or coupling devices; or otherwise inspecting, servicing, or conditioning any commercial motor vehicle.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle, or time spent performing driver requirements relating to accidents.

E. PROHIBITED CONDUCT

Covered employees may not have a measurable amount in their system or be in possession of controlled substances or alcohol during any work hours. Further, the regulations specifically prohibit certain conduct prior to performing and while performing safety-sensitive functions. The following conduct is prohibited and may result in discipline, up to and including termination:

1. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions while having an alcohol concentration level of 0.04 or greater.
2. Performing a safety-sensitive function within four (4) hours after using alcohol.
3. Being on duty or operating a vehicle, as described in Section C, while possessing alcohol.
4. Using or possessing alcohol while performing a safety-sensitive function.
5. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions when the employee has used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee (who in turn must notify his/her supervisor) that the substance does not adversely affect the employee's ability to safely operate a vehicle.
6. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions if the employee tests positive for controlled substances.
7. Refusing to submit to any alcohol or controlled substances test required by this Policy. A covered employee who refuses to submit to a required drug/alcohol test shall be treated in the same manner as an employee who tested 0.04 percent or greater on an alcohol test or tested positively on a controlled substance test.
8. A refusal to submit to an alcohol or controlled substances test required by this Policy includes, but is not limited to:
 - A refusal to provide a urine sample drug test.
 - An inability to provide a urine sample within the three (3) hour allowed time without a valid medical explanation.
 - A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test.
 - An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation.
 - Tampering with, attempting to adulterate, or substituting the urine specimen or collection procedure.
 - Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested.

- Leaving the scene of an accident without authorization from a supervisor or manager (who, in conjunction with the Human Resources Department, shall make a determination whether to send the employee for a post-accident drug and/or alcohol test), unless the employee has a valid reason for not obtaining such authorization.
9. Consuming alcohol during the eight (8) hours immediately following an accident, unless the covered employee has been informed that his/her actions have been discounted as a contributing factor, or if the employee has been tested.
 10. Use of prescribed drugs are not in direct violation of the City's policy, however inappropriate use or prescribed use that may substantially impair job performance, alter behavior, and/or create a risk to the health and safety of the employee or others, is in direct violation of the City's policy.

In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Action of 1988.

Covered employees are also reminded that they shall inform their supervisors of any over the counter or prescription medication prior to engaging in any safety-sensitive function.

F. CONSEQUENCES FOR EMPLOYEES FOUND TO HAVE ALCOHOL CONCENTRATION LEVELS OF 0.02 OR GREATER BUT LESS THAN 0.04

An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 shall be removed from his/her safety-sensitive position for at least twenty-four (24) hours. Such an employee may be subject to discipline up to and including termination. The City shall then retest the employee. Before the employee may be returned to his/her safety-sensitive position, the employee's alcohol concentration must indicate a concentration below 0.02 percent.

G. CIRCUMSTANCES UNDER WHICH DRUG AND/OR ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES

1. Post-Employment Offer Testing
 - a. All applicants (whether by initial application or in connection with a transfer) for positions involving the performance of safety-sensitive functions shall be required to submit to post-employment offer/pre-duty drug testing. Applicants will not be hired for or transferred to a safety-sensitive position if they do not pass the test or if they refuse to consent to a drug/alcohol test.
2. Post-Accident Testing

- a. Post-accident drug and alcohol testing shall be conducted on employees following an accident involving injury(s) and/or repair costs.
 - b. Post-accident alcohol tests shall be administered within two (2) hours following an accident and no test may be administered after eight (8) hours. A post-accident drug test shall be conducted within thirty-two (32) hours following the accident.
3. Post-Accident Testing (urine sample)
- a. Conducted after accidents on safety-sensitive employees who have been in an accident involving a human fatality; or a citation has been issued in one of the following situations:
 - i. There has been bodily injury with the need for immediate medical attention away from the scene, or
 - ii. There has been disabling damage to any motor vehicle requiring tow away. (Refer to Federal Motor Carrier Safety Regulations, sections 391.113 and 391.117).

Following an accident, the employee shall remain available for drug and/or alcohol testing, or may be deemed to have refused to submit to testing. This rule does not require the delay of necessary medical attention for injured people following an accident, nor does it prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.

4. Random Testing

Covered employees will be subject to random alcohol and drug testing as follows:

A random alcohol test will be administered just prior to the employee performing a safety-sensitive function (i.e. driving), while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function. The City will subject at least ten (10) percent of the total number of covered employees to random alcohol testing per year.

A random drug test will be administered to at least fifty (50) percent of the total number of covered employees per year. A covered employee may be subjected to drug testing even on a day in which the employee is not expected to perform a safety-sensitive function. To ensure that the process is in fact random, all covered employees, whether or not they have been chosen for testing in the past, will remain in the pool of employees for each subsequent period. This procedure assures that the probability of any individual being selected each period is always the same, whether or not the individual was selected in previous period.

On the date an employee is selected for random drug and/or alcohol testing, his/her supervisor will verify he/she is on the list of those to be tested.

5. Reasonable Suspicion Testing

“Reasonable suspicion” means that the trained supervisor believes that the actions, appearance, speech, body odors, or conduct of an on-duty employee are indicative of the use of drugs or alcohol. The witness must directly observe the behavior. Hearsay or second-hand information is not sufficient cause to require an employee to submit to a drug and/or alcohol test. The determination that a reasonable suspicion exists to require an employee to undergo an alcohol concentration test must be based on short-term specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech, or body odors of the employee. The determination must be based upon observations of the trained supervisor making the determination, and may not be based upon hearsay.

The trained supervisor may not rely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test. The trained supervisor witnessing the impairment must document the specific observations under which the reasonable suspicion is based.

The reasonable suspicion alcohol test will be administered within two (2) hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight (8) hours following the observation.

To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and/or alcohol test will attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substance use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

Any reports or complaints which are filed as a result of this section and are determined to be malicious, vexatious or not in good faith, shall be subject to disciplinary action. This applies to all managers, supervisors, and other employees who file a report or complaint which relates to alcohol use.

6. Return to Duty/Follow-up Testing

A covered employee who has violated any of the prohibitions of this Policy must submit to a return-to-duty test before he/she may be returned to a position requiring the performance of safety-sensitive functions. The test result must indicate an alcohol concentration of less than 0.02 percent or a verified negative result on a controlled substances test. In addition, because studies have shown that the relapse rate is highest

during the first year of recover, the employee will be subject to follow-up testing, which is separate from the random testing obligation. The employee will be subject at least six (6) unannounced drug and/or alcohol tests during the first year back to the safety-sensitive position following the violation.

A substance abuse professional can direct additional testing during this period or for an additional period up to a maximum of sixty (60) months from the date the employee returns to duty. The Substance Abuse Professional can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the Substance Abuse Professional determines that additional testing is no longer necessary and is supported by the employer. Follow-up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drug use when the Substance Abuse Professional has reason to suspect other drug or alcohol use during the follow-up period.

H. PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL

1. Alcohol Testing

Alcohol testing shall be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration. Non-EBT devices may be used for initial screening tests.

A screening test shall be conducted first. This initial screening may be accomplished using a saliva test kit. If the result is an alcohol concentration level of less than 0.02 percent, the test is considered a negative test. If the alcohol concentration level is 0.02 percent or more, a second confirmation test using the EBT shall be conducted.

The procedures that shall be utilized by the lab for collection and testing of the specimen are attached hereto as Appendix "B".

2. Drug Testing

Drug testing is a two-stage process. First, a screening test is performed. If it is positive for one or more drugs, then a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. The GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

All urine specimens are analyzed for the following drugs:

- Marijuana (THC Metabolite)
- Cocaine
- Amphetamines

- Opiates (including Heroin)
- Phencyclidine (PCP)

Drug testing will be conducted pursuant to the procedures set forth in Appendix "C"

I. REFUSAL TO SUBMIT TO A DRUG AND/OR ALCOHOL TEST

As set forth in this Policy, a covered employee who refuses to submit to any required drug and/or alcohol testing shall be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test.

A job applicant who refuses to consent to a drug and/or alcohol test will be denied employment with the City of Moreno Valley. An employee's failure to submit to drug and/or alcohol testing required by the City for any reason may result in disciplinary action, up to and including termination.

Where there is reasonable suspicion that the employee is then under the influence of drugs and/or alcohol, the manager or supervisor shall arrange for the employee to be safely transported home after the testing. An employee shall not be permitted to transport him/herself.

J. CONSEQUENCES OF FAILING A DRUG AND/OR ALCOHOL TEST

It is the employee's responsibility to inform the City if he/she has a substance abuse problem and needs assistance to solve the problem, prior to taking (and possibly failing) the drug and/or alcohol test.

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination in accordance with this policy.

If a covered employee is not terminated, the employee:

1. Must be removed from performing any safety-sensitive functions.
2. Must submit to an examination by a substance abuse professional. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment to cure his/her drug or alcohol abuse. The City is not required to pay for this treatment
3. May not be returned to his/her former safety-sensitive position until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) that indicates an alcohol concentration level of less than 0.02 percent or a negative result on a controlled substances test.
4. Shall be required to submit to unannounced follow-up testing after he/she has been returned to his/her safety-sensitive position.

K. ALCOHOL MISUSE OVERVIEW

A drug is any chemical substance that produces physical, mental, emotional or behavioral change in the user. Alcohol is a drug. It is a central nervous system depressant that slows the body's functions. For some people, the use of alcohol can become addictive. The body develops a tolerance for alcohol, thus needing more of the drug to achieve the same effects. Once addicted to alcohol, the body experiences withdrawal symptoms when alcohol is not present in the bloodstream. Alcohol addiction, or alcoholism, is a disease. If left untreated, alcoholism is progressive as the damage to the body continues, and if unchecked may be ultimately fatal.

Alcohol misuse, alcohol abuse and alcoholism affect an individual's work performance. Alcohol, even in very small amounts, affects the user's judgment, reflexes, thinking ability, coordination, and attention. Alcohol is particularly dangerous when an individual needs to make a decision and act in an emergency or unfamiliar situation. Alcohol in a person's bloodstream affects one's ability to operate a vehicle or complex machinery, and to perform any safety-sensitive related tasks. Coming to work with a "hangover" also affects an employee's ability to perform. Hangover symptoms may include diminished clarity in thinking, tremors that reduce fine motor coordination, and flu-like feelings that decrease alertness and well being.

Alcohol misuse, alcohol abuse and alcoholism also affect an individual's personal and family life. Heavy alcohol drinkers have more illness and medical conditions requiring treatment. Financial and legal complications from excessive drinking are common problems. In the late stages of alcoholism, the individual's life is centered on alcohol; family, job, friends (except drinking buddies) are unimportant and ignored.

The following are indicators that alcohol may be a problem in an individual's life:

- Excessive use of Annual Leave because of heavy drinking or hangover.
- Monday and Friday absences from work; days before and after holidays.
- Making repeated promises to family/friends to "cut down" or stop drinking.
- Needing increasing amounts of alcohol to "feel good" or "get high."
- Morning shakes or tremors that are relieved by taking a drink.
- Being arrested for drunk driving.
- Refusing to participate in leisure activities where alcohol is unavailable.
- Experience periods of "blackout" when drinking (not remembering some events or situations that occurred while drinking).

- Mood swings and unreasonable resentments towards others.

ALCOHOL FACT SHEET

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical or mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

A. SIGNS AND SYMPTOMS OF ALCOHOL USE

1. IMMEDIATE EFFECTS OF ALCOHOL

- Odor of alcohol on breath
- Initial stimulation followed by depressed nervous system.
- Flushed skin
- Glazed appearance of eyes
- Slowed reaction rate
- Slurred speech
- Dulled mental processes
- Lack of Coordination

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

2. CHRONIC AND LONG TERM HEALTH EFFECTS

The chronic consumption of alcohol that averages three or more servings per day of an alcoholic beverage over time may result in the following health hazards: (one serving of beer is 12 oz., one serving of wine is 6 oz., and one serving of 80 proof liquor is 1.5 oz.)

- Nutritional deficiencies and sleeping difficulties
- Impaired short-term memory and the inability to concentrate
- Brain and nervous system damage
- Liver damage
- Digestive problems (gastric ulcers)

- Higher likelihood of stroke, coronary problems
- Disease of the pancreas and kidneys
- Birth defects in children of heavy-drinking women (up to 54 percent of all birth defects are alcohol related)
- Physical and psychological dependence (up to 10 percent of all people who drink alcohol become dependent on alcohol and can be termed “alcoholic.”)
- Increased cancer of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma

3. ALCOHOL’S EFFECTS ON SOCIETY

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetime.
- The rate of separation and divorce in families with alcohol dependency problems is seven times the national average.
- Forty percent of family court cases have alcohol-related problems.
- Alcoholics are 15 times more likely to commit suicide than other segments of the population.

4. WORKPLACE ISSUES

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage through the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is six times more likely to have an accident than a person who is sober.

5. CONFIDENTIALITY PROCEDURES FOR INTERNAL CONTROL

Laboratory reports or test results shall not appear in an employee’s general personnel file. The Human Resources Department will keep information of this nature under their control in a separate confidential medical file. Supervisors, managers, and other staff with such knowledge are not to discuss or disclose the results of any employee’s drug and/or

alcohol tests with other employees, except under approved reasons as delineated by City policy.

The Human Resources Director or designee may disclose reports or test results to City management on a strictly need-to-know basis and to the tested employee upon request.

Employee's confidentiality is also protected with regard to disclosure by supervisors of any over-the-counter or prescribed medications, when the employee has notified the supervisor of such use as mandated by this policy.

The City may disclose test results without the employee's consent only when:

- a. The information is compelled by law or by judicial or administrative process;
- b. The information has been placed at issue by the employee in a formal dispute between the employee and the City;
- c. The information is necessary to administer an employee benefit plan; or
- d. The information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

**The City of Moreno Valley
Personnel Rules & Regulations
Drug and Alcohol Free Workplace Policy**

APPENDIX B

Each employer shall establish an employee education and training program for all covered employees including:

A. EDUCATION

The education component shall include display and distribution to every covered employee of informational material for employee assistance, if available.

B. TRAINING

1. 1. **Covered employees.** Covered employees must receive at least sixty (60) minutes of training on the effects and consequences of prohibited drug use, including alcohol; on personal health, safety, and the work environment; and on the signs and symptoms that may indicate prohibited drug abuse.
2. 2. **Supervisors.** Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least sixty (60) minutes of training on the physical, behavioral, and performance indicators of probable drug use, including alcohol, and at least sixty (60) minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

The local governing board of the employer or operator shall adopt an anti-drug and alcohol misuse policy statement. The statement must be made available to each covered employee, and shall include the following:

- a. The identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employer's anti-drug use and alcohol misuse programs.
- b. The categories of employees who are subject to the provisions of this part.
- c. Specific information concerning the behavior and conduct prohibited by this part.
- d. The specific circumstances under which a covered employee will be tested for prohibited drugs and/or alcohol misuse under this part.
- e. The procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and

the integrity of the drug and alcohol testing process, safeguard the validity of the test results and ensure the test results are attributed to the correct covered employee.

- f. The requirement that a covered employee submit to drug and/or alcohol testing administered in accordance with this part.
- g. A description of the kind of behavior that constitutes a refusal to take a drug and/or alcohol test, and a statement that such a refusal constitutes a violation of the employer's policy.
- h. The consequences for a covered employee who has a verified positive drug or confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR part 40.
- i. The consequences, as set forth in FTA Part 655.35 of subpart D, for a covered employee who is found to have an alcohol concentration of 0.02 or greater but less than 0.04.
- j. The employer shall inform each covered employee if it implements elements of an anti-drug use or alcohol misuse program that are not required by this part. An employer may not impose requirements that are inconsistent with, contrary to, or frustrate the provisions of this part.

Each employer shall provide written notice to every covered employee, and to representatives of employee organizations, of the employer's anti-drug and alcohol misuse policies and procedures.

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APPENDIX C

A. ALCOHOL TESTING PROCEDURES

All testing will be conducted in accordance with alcohol testing procedures as required by 49 CFR.40 using the following procedures:

1. The employee arrives at the testing site.
2. If the employee does not arrive at the designated time for testing, the supervisor or designee will be contacted for instructions.
3. The I.D. of the employee to be tested is verified by examining a photo I.D. If the I.D. cannot be established, the Breath Alcohol Technician (BAT) will attempt to notify the employee's supervisor to establish a positive I.D. If that is not possible, the process stops.
4. If the employee being tested requests it, the Breath Alcohol Technician (BAT) should present his/her I.D.
5. Once the employee's I.D. is established, Step 1 of the United States Department of transportation Breath Alcohol Testing Form (DOT) will be completed.
6. The employee will complete Step 2 on the DOT form, signing the certification. If the employee refuses to sign; it is regarded as a refusal to take the test.
7. The employee shall be tested for alcohol using a saliva test kit or screening alcohol breath test. If test results are negative on this screening test, a copy of the DOT form will be completed noting the results, and a copy provided to the employee. One will be forwarded to the supervisor and one will be retained by the BAT.
8. If the screening test indicates an alcohol level greater than 0.02, an EBT test is required as follows:
 - a. The employee and BAT shall read the sequential test number displayed on the Evidential Breath Testing (EBT) device for the test.
 - b. The employee will open an individually sealed mouthpiece in view of the BAT and attach it to the EBT according to instructions.
 - c. The employee will blow forcefully into the mouthpiece for at least six seconds or until the EBT indicates that an adequate amount of breath has been obtained.

- d. The BAT completes Step 3 of the DOT testing form.
- e. The employee will sign Step 4 of the DOT testing form stating that the information on the form is accurate and that the employee must not perform safety-sensitive duties or operate heavy equipment if the results are 0.02 or greater.
- f. If the test results are less than 0.02 on this test, a copy of the form will be provided to the employee. The test process is complete and a copy will be forwarded to supervisor and one will be retained by the BAT. If the test results are greater than 0.02 on this test, an EBT confirmation test will be conducted as follows:
 - i. The BAT will explain that a confirmation test will be conducted.
 - ii. The employee must stay in the room observed for a fifteen (15) minute waiting period. During this period, the employee may not eat, drink, or put any object or substance into his/her mouth.
 - iii. The confirmation test will be conducted no less than fifteen (15) minutes after the initial EBT test, but within thirty (30) minutes of the completion of the initial list.
 - iv. The confirmation test will be completed according to Steps H-M of this procedure.
 - v. If the result of the confirmation test is different from the EBT screening test, the confirmation test will be considered the accurate result.
 - vi. If the results are still greater than or equal to 0.02 on the confirmation test, the BAT will contact the employee's supervisor for further instructions before releasing the employee from the test site.
 - vii. Employees with a reading of 0.02 or more are not to drive or engage in any safety-sensitive operations until further notice from their supervisor and in accordance with this policy.
 - viii. All results will be transmitted in conformity to confidentiality procedures outlined below.

B. DRUG TESTING PROCEDURES

1. The urine specimen will be split into two bottles labeled as "primary" and "split" specimen. Both bottles will be sent to the lab.

2. If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has 72 hours to request that the split specimen be analyzed by a different certified lab.
3. The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine.
4. If the test is positive for one or more drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis.
5. All drug test results will be reviewed and interpreted by a physician before they are reported to the employee and then to the City.
6. With all positive drug tests, the physician (a.k.a. medical review officer [MRO]) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative."

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APPENDIX D

**REASONABLE SUSPICION OBSERVATION FORM
(STRICTLY CONFIDENTIAL)**

EMPLOYEE NAME:

DAY/TIME OF INCIDENT:

SUPERVISOR #1 NAME:
(Optional)

SUPERVISOR #2 NAME:
(Optional)

The following checklist is to be completed when an incident has occurred which provides reasonable suspicion that an employee is under the influence of a prohibited drug substance or alcohol. The supervisor(s) note all pertinent behavior and physical signs or symptoms, which lead you to reasonable belief that the employee has recently used or is under the influence of a prohibited substance. Mark each applicable item on this form and any additional facts or circumstances, which you have noted.

A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION

1. Observed/reported possession or use of a prohibited substance
2. Apparent drug or alcohol intoxication
3. Observed abnormal or erratic behavior
4. Arrest or conviction for drug-related offense
5. Evidence of tampering on a previous drug test
6. Other (e.g., flagrant violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job). Please specify.

B. UNUSUAL BEHAVIOR

1. Verbal abusiveness
2. Physical abusiveness
3. Extreme aggressiveness or agitation
4. Withdrawal, depression, mood changes, or unresponsiveness
5. Inappropriate verbal response to questioning or instruction
6. Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria, confusion). Please specify.

C. PHYSICAL SIGNS OR SYMPTOMS

1. Possessing, dispensing, or using controlled substance.
2. Slurred or incoherent speech.
3. Unsteady gait or other loss of physical control; poor coordination.
4. Dilated or constricted pupils or unusual eye movements.
5. Bloodshot or watery eyes.
6. Extreme fatigue or sleeping on the job.
7. Excessive sweating or clamminess to the skin.
8. Flushed or very pale face.
9. Highly excited or nervous.
10. Nausea or vomiting.
11. Odor of alcohol.
12. Odor of marijuana.
13. Dry mouth (frequent swallowing/lip wetting).
14. Dizziness or fainting.
15. Shaking hands or body tremors/twitching.
16. Irregular or difficult breathing.
17. Runny sores or sores around nostrils.
18. Inappropriate wearing of sunglasses.
19. Puncture marks or "tracks".
20. Other (Please specify.)

D. WRITTEN SUMMARY

Please summarize the facts and circumstances of the incident, employee response, supervisor actions, and any other pertinent information not previously noted. Please note the date, times, and location of reasonable cause testing or note if employee refused test. Attach additional sheets as needed.

Signature of Supervisor #1 Date/Time

Signature of Supervisor #2 Date/Time

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APPENDIX E

I. THE CITY OF MORENO VALLEY DRUG AND ALCOHOL PROGRAM MANAGER (DPMA) AND DESIGNATED EMPLOYER REPRESENTATIVE (DER)

The City of Moreno Valley has designated the Human Resources Director or designee, as the Drug and Alcohol Program Manager (DAPM), and as the Designated Employer Representative (DER) to answer questions about the City of Moreno Valley's anti-drug and alcohol misuse programs.