CITY OF RANCHO PALOS VERDES

MANAGEMENT EMPLOYEE PERSONNEL RULES

ADOPTED:
JANUARY 31, 2002

AMENDED:
DECEMBER 20, 2005
MAY 1, 2007
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RULE I

EXEMPT EMPLOYEES

(ADOPTED 01/31/02)

Management employees covered by these Rules are exempt from the overtime pay requirements of the federal Fair Labor Standards Act and, therefore, shall not be eligible for overtime compensation or compensatory time off. Nothing in these Rules shall be construed to require an action that will invalidate an employee's exempt status. The City Manager shall have the authority to waive or modify any requirement or action that would otherwise invalidate an employee's exempt status.

RULE II

DEFINITION OF TERMS

(ADOPTED 01/31/02, AMENDED 05/01/07, AMENDED 08/02/11)

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

SECTION 1 – CONTINUOUS EMPLOYMENT/SENIORITY: Total full-time spent in the employ of the City, including all days of attendance at work, and approved leaves of absence whether paid or non-paid, but shall not include unauthorized absences, time spent between employment with the City, suspensions or layoffs of more than thirty (30) days.

SECTION 2 – CITY: The City of Rancho Palos Verdes.

SECTION 3 – CITY MANAGER: The duly appointed City Manager of the City of Rancho Palos Verdes or his/her designee.

SECTION 4 – COMPETITIVE SERVICE: The competitive service established by Section 2.46.040 of the Rancho Palos Verdes Municipal Code.

SECTION 5 – DEPARTMENT HEAD: The City Clerk, Building Official, director of any department and deputy director of any department. These classifications are included in this definition solely for the purpose of inclusion in the Management Employee Personnel Rules in accordance with Rancho Palos Verdes Municipal Code Section 2.46.050(L) and for no other purpose. Salary, benefits, and duties of management employees shall be set forth by separate resolution of the City Council or as otherwise determined by the City Manager.

SECTION 6 – EMPLOYEE: Department Heads and the Deputy City Manager, as defined in Municipal Code Section 2.46.040 and these Management Employee Personnel Rules, and compensated through the City payroll, who are scheduled to work at least forty (40) hours or more per week. The terms “employee,” “management employee” and “manager” may be used interchangeably in these Rules.

SECTION 7 – EVALUATION DATE: A date established by the City Manager, a date adjusted as required for any break in service, or a date adjusted in accordance with the merit increase schedule outlined in Rule IV (REGULAR COMPENSATION/ PERFORMANCE EVALUATIONS) and annually thereafter.

SECTION 8 – MANAGEMENT EMPLOYEE or MANAGER: The Deputy City Manager, Department Heads, and any other position set forth in Table 1 of these Management Employee Personnel Rules or as Table 1 may be amended by the City

Council from time to time subject to these Management Employee Personnel Rules, see “employee.”

SECTION 9 – PERSONNEL OFFICER: The City Manager shall serve as the Personnel Officer as outlined in Municipal Code Section 2.46.030.

SECTION 10 – RULES: The Management Employee Personnel Rules.

SECTION 11 – TERMINATION: The cessation of employment with the City.

SECTION 12 – WORK WEEK: A regular schedule of forty (40) hours in a seven day period, the scheduling of which may vary from time to time based on the workforce needs of the City as determined by the City Manager.

RULE III

SCOPE OF APPLICATION, EXCLUSIONS AND AT-WILL EMPLOYMENT STATUS

(ADOPTED 01/31/02, AMENDED 05/.01/07, AMENDED 08/02/11)

SECTION 1 – APPLICATION AND EXCLUSIONS:

(a) The Management Employee Personnel Rules apply to all management employees as defined in these Rules.

(b) Independent contractors and volunteers are not employees of the City and are not management employees. Similarly, employees in the competitive service, probationary employees, part-time employees, temporary employees, and emergency employees are not management employees. However, Rule IX (NONDISCRIMINATION POLICY) and Rule X (VIOLENCE IN THE WORKPLACE) shall apply to independent contractors, volunteers, employees in the competitive service, probationary employees, part-time employees, temporary employees, and emergency employees, and to applicants for management positions.

SECTION 2 – AT-WILL EMPLOYMENT STATUS:

(a) Management employees are at-will employees who serve at the pleasure of the City Manager, and may be disciplined or terminated at any time without prior notice or cause, and without any right of appeal.

(b) The imposition of discipline, the issuance of a performance evaluation or rating, or the implementation of any employment action against or with regard to any management employee (including but expressly not limited to, the granting of a promotion or demotion to another management position, the assignment or granting of any compensation rate, a reduction in pay, or any merit advancement, and/or the imposition or completion of any probationary period) shall not modify or remove the at-will status of any management employee.

RULE IV

REGULAR COMPENSATION/PERFORMANCE EVALUATIONS

(ADOPTED 01/31/02, AMENDED 08/02/11)

Compensation shall be determined from a salary schedule of ranges established by a Resolution of the City Council. Each range spread shall be approximately thirty percent (30%) from the bottom of the range to the top of the range. During the annual budget deliberations, the City Council shall establish a pool of funds to be used by the City Manager for employee merit increases, if general fund reserves are estimated to be sufficient to cover the cost associated with such a merit pool.

SECTION 1 – INITIAL EMPLOYMENT: The rate of compensation for initial employment in any classification shall be determined by the City Manager at his/her sole discretion based upon the experience, education, skills and ability of the employee.

SECTION 2 – MERIT ADVANCEMENT WITHIN A RANGE: The only reason for advancement within a range shall be meritorious performance in an employee's assigned duties:

(a) Meritorious performance shall be determined by the overall rating on the employee's performance evaluation.

(b) Merit increases shall be based on meritorious service and granted only if sufficient funding is available within the City Manager's merit pool. Granted increases shall be effective on the same day in which the employee's evaluation date falls, whether or not the performance evaluation is conducted on the evaluation date.

(c) An employee may be advanced within his/her range in accordance with the merit pay program determined annually by the City Manager.

(d) The City Manager shall make a final determination on all proposed merit increases based upon the overall rating on the employee's evaluation and the funds available in the City Manager's merit pool.

(e) When an employee demonstrates exceptional ability and proficiency, such employee may be advanced within his/her range with the approval of the City Manager, in his/her sole discretion, within available funding, without regard to the minimum length of service provisions contained in this section. Advancements under this sub-section (e) shall not change the employee's regular evaluation date.

SECTION 3 – TOP OF THE RANGE: In no case shall an employee's regular salary exceed the maximum of the range established by resolution of the City Council.

RULE V

LEAVES

(ADOPTED 01/31/02, AMENDED 08/02/11)

(a) Time spent by an employee on an approved paid leave shall not be construed as a break in service or employment, and rights accrued at the time the leave is granted shall be retained by the employee. Additionally, a leave of absence, with pay or without pay, granted to any employee shall not create a vacancy in the position. For the duration of any such leave of absence, the duties of the position may be performed by another employee on an acting assignment, an independent contractor or a temporary employee, provided that any person so assigned shall possess the minimum qualifications for such position.

(b) Except as otherwise permitted by law, all requests for leave shall be in writing, and shall be sent to the City Manager. The request shall include the expected start and ends dates of the leave, and any certifications required by the provisions of this Rule. An employee shall provide as much advance notice of the need for leave as practicable. Generally, when the need for the leave is foreseeable, the employee shall try to provide at least ten (10) days' notice prior to the commencement of the leave. Failure to provide advance notice of the need for leave may be grounds for delaying the start of the leave.

SECTION 1 – VACATION LEAVE:

(a) Employees are entitled to accrue paid vacation leave under the following schedule:

Length of Employment	Vacation Accrual Rates	Maximum Accumulation
Beginning of 1st month through 2 years	6.67 hours per month	160 hours
Beginning of 3rd year through 5 years	8 hours per month	192 hours
Beginning of 6th year through 15 years	10 hours per month	240 hours
Beginning of 16th year and more	8 additional hours per year for each year of service up to a maximum of 160 hours per year	Twice the annual accrual not to exceed 320 hours (i.e. 256, 272, 288, 304 or 320 hours, as applicable)

(b) Vacation leave may be accumulated to a maximum of two year's worth of accrued vacation leave. For specific amounts, see table, above. Once an employee reaches the maximum vacation leave, which may be accumulated, the employee shall

cease to accrue any further vacation leave until the amount accumulated falls below the maximum.

(c) The scheduling of vacation leave must be approved in advance by the City Manager. Employees shall submit a written request to schedule vacation leave to the City Manager within a reasonable amount of time prior to the desired date and may be granted in accordance with the work force needs of the City.

(d) Employees will have the option to be paid for up to fifty percent (50%) of accrued vacation leave allowed by these Rules with the approval of the City Manager, according to procedures and deadlines established by the City Manager.

(e) Employees will have the option to be paid for vacation leave that exceeds the maximum allowed by these Rules if a requested vacation leave is received and denied by the City Manager due to the work force needs of the City, not less than thirty (30) days prior to exceeding the maximum accrual.

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

(g) Upon termination from employment, employees shall be paid for accumulated vacation leave up to a maximum amount that may be accumulated by these Rules.

(h) Vacation leave may be used for medical appointments, pregnancy disability leave and leave pursuant to the federal and California family and medical leave statutes.

SECTION 2 – ADMINISTRATIVE LEAVE: In addition to an employee's earned vacation leave, each employee covered by these Rules may be granted up to sixty-two (62) hours of administrative leave off per fiscal year at the sole discretion of the City Manager.

(a) The scheduling of administrative leave must be approved in advance by the City Manager. Employees shall submit a written request to schedule administrative leave to the City Manager within a reasonable amount of time prior to the desired leave. In the exercise of the City Manager's discretion, he/she shall consider the work force needs of the City.

(b) Administrative leave may not be accumulated to the next fiscal year.

(c) Upon termination from employment, employees shall not be granted and accordingly are not entitled to be paid for administrative leave.

(d) Administrative leave may be used for medical appointments, pregnancy disability leave and leaves provided pursuant to the federal and California family and medical leave statutes.

SECTION 3 – SICK LEAVE:

(a) Employees earn paid sick leave at the rate of eight (8) hours for each full calendar month of continuous employment with the City.

(b) Unused sick leave may be accumulated to a maximum of seven hundred twenty (720) hours.

(c) In order to receive paid sick leave, an employee must notify the City Manager at the earliest possible time, generally before 8:30 a.m. on the day that the leave will be used. Such notice shall provide the fact and the reason for the leave. Failure to provide reasonable notice will be cause for denial of sick leave with pay for the period of the absence. The City Manager may require written verification of the cause of absence.

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

(e) Employees who use more than twenty-seven (27) consecutive sick hours shall be required to furnish a physician's certificate stating that the employee is able to safely return to work. A physician's certification may be requested if a supervisor has reason to believe that sick leave is being abused. Regardless of the length of the sick leave used, the supervisor has the authority to determine if the employee is abusing the sick leave benefit.

(d) Sick leave may be used for medical appointments, pregnancy disability leave, leaves provided pursuant to the federal and California family and medical leave statutes and to care for an employee's spouse, child(ren), parent(s) or spouse's child(ren) or parent(s) due to illness.

(e) Upon termination or dismissal from employment, employees shall not be granted, and accordingly are not entitled to be paid for accumulated sick leave.

(f) This section shall be interpreted and applied in a manner consistent with applicable federal and California law.

SECTION 4 – WELLNESS LEAVE: Employees are eligible to earn four and one-half (4 ½) hours of paid wellness leave for ten (10) consecutive weeks of perfect attendance without using any sick leave time.

(a) Prospectively, the ten (10) week period shall be calculated from June 2, 1991.

(b) A maximum of nine hours of wellness leave may be accumulated.

(c) Upon termination or dismissal from employment, employees shall not be granted, and accordingly are not entitled to be paid for wellness leave.

(d) Wellness leave may be used for pregnancy disability leave and leaves provided under the federal and California family and medical leave statutes.

SECTION 5 – BEREAVEMENT LEAVE: Paid bereavement leave shall not be considered accrued leave which an employee may use at his/her discretion, but is granted by reason of the death of a member of the employee's immediate family, consisting of an employee's spouse and employee's or their spouse's child, parent, sibling, stepparent, stepchild and grandparent. An employee may take a maximum of three (3) working days of bereavement leave each time a death occurs within the employee's immediate family. In order to receive paid bereavement leave, the employee must notify the City Manager at the earliest possible time, generally before 8:30 a.m. on the day that the leave is first requested. In the event the employee must travel out of state in connection with the bereavement, the employee shall be allowed two (2) additional working days of bereavement leave for each incident.

SECTION 6 – JURY DUTY:

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

(b) Employees will be paid their regular wages, less jury duty pay (other than mileage or subsistence allowances) or may elect to forfeit the jury duty warrant to the City and receive full City wages.

(c) Written evidence of jury duty attendance shall be presented to the Personnel Officer.

(d) Employees shall continue to report to work on those days when excused from jury duty, and on which the employee can work at least four (4) hours during his/her regular workday.

SECTION 7 – LEAVE OF ABSENCE WITHOUT PAY: The City Manager may grant an employee leave of absence without pay for a period not to exceed four (4) months in accordance with the work force needs of the City. Additionally, the City Manager may apply such conditions as he/she deems warranted in the best interest of the City. No such leave shall be granted except upon written request of the employee. Leave under this section shall only be granted to an employee under circumstances where the employee is not otherwise eligible for pregnancy disability leave or family and medical leave as provided under applicable law and Sections 8 (Pregnancy Disability Leave) and 11 (Family and Medical Leave), respectively of this Rule. Approval shall be in writing and a copy filed with the Personnel Officer.

(a) A leave of absence without pay shall not be construed as a break in service or employment, however, paid leave benefits, increases in salary, and other similar benefits shall not accrue to a person granted such leave during the period of absence.

(b) Use of a leave of absence without pay for a purpose other than that requested, may be cause for forfeiture of reinstatement rights. Failure on the part of an employee on such a leave to report to work promptly at its expiration may be cause for discharge.

(c) An employee reinstated after a leave of absence without pay shall receive that same step in the salary range that he/she received when the leave of absence began. Time spent on such leave without pay shall not count towards service for increases within the salary range, and the employee's evaluation date shall be set forward one (1) month for each thirty (30) consecutive calendar days taken.

(d) The City shall maintain group health insurance coverage for an employee (including dependent coverage) while the employee is taking a medical leave of absence under this section at the level and under the conditions coverage would have been provided by the City if the employee had not taken such leave. In the event an employee does not return to work following the leave, the City reserves the right to recover the premiums or other sums the City paid for group health insurance coverage during the period of the leave.

(e) The employee is responsible to pay the entire cost of all applicable health and life insurance premiums and other insurance premiums (such as long term disability and accidental death and dismemberment) during a non-medical leave of absence without pay that exceeds thirty (30) calendar days. In addition, in advance of taking the leave, the employee must make written arrangements with the finance department to pay for the costs of such coverage. Premiums shall be paid within the time specified by the City or as otherwise required by the applicable insurance or benefit program.

(f) If the leave of absence without pay was for medical reasons, prior to resuming regular duties, an employee shall furnish the Personnel Officer with a physician's certificate stating that the employee is able to return to work.

SECTION 8 – PREGNANCY DISABILITY LEAVE:

(a) An employee who is temporarily disabled and unable to work due to pregnancy, childbirth or related medical condition may take a leave of absence without pay for up to four (4) months. Leave taken under the pregnancy disability leave policy runs concurrently with family and medical leave under federal law, but does not run concurrently with family and medical leave under California law. In accordance with federal and state law, the combined maximum amount of time that an eligible employee may take for pregnancy disability leave and family and medical leave is approximately seven months (four (4) months plus twelve (12) workweeks).

(b) All requests for pregnancy disability leave shall be in writing, and shall be sent to the City Manager. The request shall include the expected start and end dates of the leave, and the medical certificate required by this section.

(c) An employee shall provide as much advance notice of the need for pregnancy disability leave as practicable. Generally, the employee shall provide at least thirty (30) days' advance notice.

(d) An employee requesting a pregnancy disability leave shall provide the City Manager with a certificate from a health care provider on an form supplied by the City that the employee is disabled by pregnancy, childbirth or related medical condition. Failure to provide the required certification in a timely manner (within fifteen (15) days of the leave request) may result in denial of the leave request until such certification is provided. Recertification is required if leave is sought after expiration of the time estimated by the health care provider. Failure to submit a required recertification can result in termination of the leave.

(e) Prior to returning to work, an employee who took pregnancy disability leave must provide the City Manager with a certificate from a health care provider that the employee's disability has ceased and the person is able to return to work.

(f) A pregnancy disability leave of absence shall not be construed as a break in service or employment.

(g) Use of pregnancy disability leave for a purpose other than that for which it was granted shall be cause for discharge and forfeiture of reinstatement rights. To the extent permitted by law, failure on the part of the employee on pregnancy disability leave to report to work promptly at its expiration shall be cause for discharge.

(h) Except as otherwise provided by law, upon timely return from pregnancy disability leave, the employee shall be reinstated to her original job. If the employee cannot be returned to her original job, she shall be returned to a substantially similar position, unless either there is no substantially similar position available or filling the substantially similar position would substantially undermine the City's ability to operate safely and efficiently.

(i) An employee reinstated to her original job after a pregnancy disability leave of absence shall receive the same salary that she received when the leave of absence began. If the time spent on such leave was without pay, the time shall not count toward service for increases within the salary range or paid leave benefits, and the employee's evaluation date shall be set forward one (1) month for each thirty (30) consecutive calendar days taken.

(j) The City shall maintain group health insurance coverage for an employee (including dependent coverage) while the employee is taking pregnancy disability leave at the level and under the conditions coverage would have been provided by the City if

the employee had not taken the leave. In the event an employee does not return to work following a pregnancy disability leave, the City reserves the right to recover the premiums or other sums the City paid for group health insurance coverage during the period of the leave.

(k) This section shall be interpreted and applied in a manner consistent with applicable federal and California law.

(l) Pregnancy disability leave shall be unpaid, except that an employee may use any accumulated paid vacation leave, sick leave, compensatory time, administrative leave or wellness leave provided for in this Rule.

(m) Pregnancy disability leave may be taken intermittently or on a reduced work schedule when medically advisable, as determined by the employee's health care provider. When an employee's need to take leave intermittently or on a reduced work schedule is foreseeable based on planned medical treatment, the employee may be transferred to an available alternative position for which she is qualified that has equivalent pay and benefits in order to better accommodate the periods of leave.

SECTION 9 – MILITARY LEAVE: Military leave and military spouse leave shall be granted in accordance with applicable federal and California law.

SECTION 10 – PAID HOLIDAY LEAVE:

(a) Subject to the restrictions described below, employees shall receive paid leave at his/her straight hourly rate for the following designated City holidays:

(1) The last Monday in May;
(2) July 4;
(3) The first Monday in September
(4) The fourth Thursday in November
(5) The day after the fourth Thursday in November
(6) The period between and including December 24 and January 1 (Saturdays and Sundays and other non-work days excepted); and
(7) One day as a floating holiday which shall be designated yearly by the City Manager.

(b) If July 4th falls upon a Saturday, the Friday before is the observed holiday, and if the date falls upon a Sunday, the Monday following is the observed holiday.

(c) In order to be eligible for holiday pay, an employee must work the last scheduled workday before and the first scheduled workday after the holiday unless the employee is taking approved paid leave. The City Manager shall waive this requirement when necessary to maintain an employee's exempt status.

(d) If a holiday falls during an employee's approved vacation leave period, the employee shall be paid for the holiday and shall not be charged with a vacation day for the day the holiday is observed.

(e) If a holiday falls during an employee's approved sick leave period, the employee will be paid for the holiday and will not be charged with a sick day for the day the holiday is observed.

(f) Employees on non-paid leave of absence for any reason are ineligible for holiday benefits for holidays that are observed during the period they are on a non-paid leave of absence.

(g) Upon termination or dismissal from employment, employees shall not be granted, and accordingly are not entitled to be paid for a floating holiday.

SECTION 11 – FAMILY AND MEDICAL LEAVE:

The City will provide eligible employees with family and medical leave, as required by California and federal law pursuant to the federal Family and Medical Leave Act of 1993 ("FMLA") and the California Family Rights Act ("CFRA"). Unless otherwise provided, "Family and Medical Leave" under this Section means leave pursuant to the FMLA and CFRA.

Rights and obligations which are not specifically set forth in this Section are contained in the Department of Labor regulations implementing the FMLA and the regulations issued by the California Department of Fair Employment and Housing ("DFEH") implementing the CFRA. This Section shall be interpreted in a manner consistent with the requirements of the regulations issued by the U.S. Department of Labor (29 C.F.R. Sections 825.100, et seq.,) the National Defense Authorization Act ("NDAA") for 2008, Uniformed Services Employment and Reemployment Rights Act ("USERRA"), the California Military & Veterans Code, and the regulations issued by the DFEH (2 Calif. Code of Reg. Section 7297.0, et seq.), and as such regulations and statutes may be amended from time to time.

(a) All employees who have worked for the City at least twelve (12) months and a minimum of one thousand two hundred fifty (1,250) hours during the twelve (12) months prior to a request for leave are eligible for an unpaid leave of absence for the following reasons:

(1) The birth of a child of the employee and to care for the child.

(2) The placement of a child with the employee through adoption or a foster care program.

(3) To care for the employee's spouse, child or parent if the spouse, child or parent, or the spouse's child or parent has a serious health condition.

(4) The serious health condition of the employee that makes the employee unable to perform the functions of his or her position.

(5) Leave for Treatment of Substance Abuse. Leave for treatment of substance abuse may qualify for Family and Medical Leave under the FMLA, provided all other eligibility requirements (including but not limited to, serious health condition, inpatient care and continuing treatment) are met. However, an employee's absence due to his/her use of a substance does not qualify as a serious health condition. The treatment must be provided by a health care provider, or by a provider of health care services on referral of a health care provider. This Section does not prevent the City from taking action against any employee who commits misconduct, or any employee who violates the Drug-Free Workplace Act, or any other substance abuse policy adopted by the City. An eligible employee may also take Family and Medical Leave under the FMLA to care for a covered family member who is receiving treatment for substance abuse.

(6) Qualifying Exigency Leave. An eligible employee may take up to twelve (12) weeks of leave under the FMLA because of a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on, or has been notified of an impending call or order to, "covered active duty" in the Armed Forces.

(7) Caregiver Leave. Under the FMLA, an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member may take up to twenty-six (26) weeks of leave in a twelve-month period to care for the service member.

(b) Determination of the 12- month employment period under the FMLA. Under the FMLA, the twelve (12) months that an employee must have been employed by the City need not be consecutive months, subject to the following:

(1) Employment periods prior to a break in service of seven (7) years or more will not be counted in determining whether the employee has been employed by the City for at least twelve (12) months, unless the employee's break in service resulted from his/her fulfillment of his/her National Guard or reserve military service obligations.

(2) Time served performing military service will be counted in determining if the employee has been employed by the City for at least twelve (12) months.

(3) If an employee is maintained on the payroll for any part of a week (including any periods of paid or unpaid leave such as vacation or holiday leave) during which other benefits or compensation are paid by the City, the week will count as a week of employment.

(4) Nothing under this Section shall provide the employee with rights any greater than he/she would have under the USERRA.

(c) Determination of 1,250 hours requirement following return from military service.

(1) A person who is reemployed following military service shall have the hours that he/she would have worked for the City added to the hours that he/she actually worked during the previous 12-month period to meet the 1,250-hour requirement.

(2) Use of the employee's pre-service work schedule may be used to determine the hours that would have been worked during the period of military service, unless another method provides a more accurate calculation.

(d) Prior to the proposed start of the employee's Family and Medical Leave, the City will determine whether he/she has worked for the City for at least 1,250 hours in the past twelve (12) months and whether he/she has been employed by the City for a total of at least twelve (12) months.

(e) If an employee is on non-Family and Medical Leave at the time he/she meets the eligibility requirements for Family and Medical Leave, any portion of leave taken for a Family and Medical Leave-qualifying reason after the employee meets the eligibility requirements shall be Family and Medical Leave.

(f) A "serious health condition" is an illness, injury, impairment or physical or mental condition that involves either:

(1) Inpatient care in a hospital, hospice, or residential medical care facility; or

(2) Continuing treatment or continuing supervision by a health care provider , including any of the following:

(i) Under the CFRA, a period of incapacity due to a serious health condition of more than three (3) consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves treatment two (2) or more times by a health care provider or treatment by a health care provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Under the FMLA, a period of incapacity due to serious health condition of more than three (3) consecutive, full days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves: (A) treatment two (2) or more times, within thirty (30) days of the first day of incapacity (unless extenuating circumstances exist) by a health care provider, by a nurse under direct

supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of or on referral by a health care provider; or (B) treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of a health care provider. The treatment must be an in-person visit to a health care provider, and the first (or only) in-person treatment visit must take place within seven (7) days of the first day of incapacity. Determination of whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty (30) day period shall be made by the health care provider, not the employee. "Extenuating circumstances" means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider.

(iii) Under the FMLA, any period of incapacity due to pregnancy or for prenatal care. (See also subsection (h), below, regarding interrelationship between pregnancy disability leave and Family and Medical Leave.)

(iv) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which requires periodic visits for treatment by a health care provider at least twice a year, continues over an extended period of time (including recurring episodes of a single underlying condition), and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for Family and Medical Leave even if the absence lasts only one (1) day.

(v) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or his/her family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.

(vi) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive days in the absence of medical intervention or treatment.

(vii) As used in this Section, "incapacity" means the inability to work, attend school and/or perform other regular activities due to the serious health condition and/or treatment or recovery from the serious health condition.

(g) Each eligible employee shall be entitled to take an unpaid leave of up to twelve (12) work weeks during any rolling twelve (12) month period for the purposes listed above; except that Caregiver Leave shall be a maximum of twenty-six (26) work weeks.

(h) Interrelationship between State pregnancy disability leave and Federal Family and Medical Leave. An employee disabled by pregnancy shall be entitled to take unpaid leave, in addition to family and medical leave. Under certain circumstances as allowed by applicable law, an employee may take family and medical leave intermittently or on a reduced leave schedule basis (by taking leave in blocks of time or by reducing the employee's weekly or daily work schedule).

(i) Entitlement to family and medical leave for the birth of a child or the placement of a child with the employee through adoption or a foster care program shall expire twelve (12) months after the birth or placement of the child with the employee.

(j) An employee married to another employee at the City is entitled to an aggregate amount of family and medical leave that does not exceed twelve (12) work weeks when added to the family and medical leave taken by the employee's spouse for the purpose of the birth or placement of a child with them. However, if Family and Medical Leave is needed to care for a child with a serious health condition, both the mother and father are entitled to Family and Medical Leave. In such circumstance, a husband and wife may each take twelve (12) weeks of Family and Medical Leave if needed to care for their newborn child with a serious health condition, provided they have not exhausted their entitlements during the applicable 12-month Family and Medical Leave period.

(k) A family or medical leave shall be unpaid, except that an employee may use any accumulated vacation leave, sick leave, compensatory time, administrative leave and wellness leave during the leave provided for in this Section.

(l) The City shall maintain group health insurance coverage for an employee (including dependent coverage) while taking family and medical leave at the level and under the conditions that the City would otherwise have provided coverage if the employee had not taken the leave. In the event an employee does not return to work following a family and medical leave, the City reserves the right to recover the premiums or other sums the City paid for group health insurance coverage during the period of the employee's leave, to the extent permitted by applicable law.

(m) Except as otherwise permitted by law, all requests for family and medical leave shall be in writing, and shall be sent to the City Manager. The request shall include the expected start and end dates of the leave, and the certifications set forth herein. An employee shall provide as much advance notice of the need for leave as practicable. Generally, when the need for leave is foreseeable, the employee shall provide not less than ten (10) days' notice prior to the commencement of the leave. Failure to provide advance notice of the need for leave may be grounds for delaying the start of the leave.

(n) Where the employee takes leave for planned medical treatment of a spouse, child or parent, or of a spouse's child or parent, or of the employee, the employee shall

consult with the City Manager and make a reasonable effort to schedule the leave so as not to unduly disrupt the operation of the City.

(o) An employee requesting leave under this section because of a serious health condition shall provide medical certification from the appropriate health care provider on a form supplied by the City. Failure to provide the required certificate in a timely manner (within fifteen (15) days of the leave request) may result in denial of the leave request until such certification is provided. Recertification is required if leave is sought after expiration of the time estimated by the health care provider. Failure to submit a required recertification can result in termination of the leave. The certification shall contain, at a minimum, the following information:

(1) The date on which the serious health condition began;

(2) The probable duration of the serious health condition;

(3) An estimate of the amount of time that the health care provider believes the employee needs to care for the individual requiring the care; and

(4) A statement that the serious health condition warrants the participation of a family member to provide care during the period of the treatment or supervision of the individual requiring care.

(p) For requests involving the employee's own serious health condition except those involving pregnancy disability, the City, at its expense, may request a second opinion by a health care provider of the City's choice. If the second opinion differs from the first one, the City will pay for a third, mutually agreeable, health care provider to provide a final and binding opinion. The certification shall contain at a minimum, the following information:

(1) The date on which the serious health condition began;

(2) The probable duration of the serious health condition;

(3) A statement by the health care provider that, due to the serious health condition, the employee is unable to perform the functions of his or her position with the City, and;

(4) To the extent provided by applicable law, appropriate medical facts within the knowledge of the health care provider regarding the condition that are related to the employee's ability to perform his/her job duties.

(q) During the leave, the City may require periodic recertification by a health care provider and other periodic reports.

(r) Except as otherwise provided by law, upon return from family and medical leave, the employee shall be reinstated to the same or an equivalent position held when the leave commenced. If the employee is not returned to their original job, he/she shall be returned to a substantially similar job, unless either there is no substantially similar position available or filling the substantially similar position would substantially undermine the City's ability to operate safely and efficiently.

(s) Prior to returning to work, an employee who took a medical leave for his/her own serious medical condition must provide the City Manager with a certification from a health care provider that the employee is able to resume work.

(t) This section shall be interpreted and applied in a manner consistent with applicable federal and California law.

SECTION 12 – OTHER LEAVES: The City Manager shall grant such other leaves as are required by law. Except as otherwise provided by law or by circumstances beyond the employee's control, employees shall request such leave and obtain approval in advance. All such leaves shall be unpaid, unless otherwise required by law or these Rules, but employees may use otherwise applicable paid-leave benefits to remain in paid status.

RULE VI

WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE

(ADOPTED 01/31/02, AMENDED 12/20/05, AMENDED 08/02/11)

SECTION 1 – WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE: The City provides Workers' Compensation and Unemployment Insurance to all employees in accordance with California law. While not generally covered by these Rules, the City also provides worker's compensation coverage for any person who performs volunteer service without pay for the City (Resolution No. 79-87).

SECTION 2 – ON-THE-JOB INJURIES: All injuries suffered during working hours must be reported, in writing, immediately to the City Manager. Unless there is an emergency, a City referral form must be obtained from the Personnel office before visiting a doctor. Upon returning to work from all on-the-job injuries, employees must have an approved return to work certificate signed by the attending doctor.

RULE VII

EMPLOYEE EXPENSES

(ADOPTED 01/31/02)

SECTION 1 – MILEAGE AND PARKING EXPENSES: An employee who receives a monthly car allowance established annually by a Resolution of the City Council may not receive reimbursement for mileage expenses related to local meetings and site visits. In the event that no monthly car allowance is provided, an employee who is required to use his/her private automobile for City assignments shall be reimbursed for mileage at the current standard mileage rate set by the Internal Revenue Service. An employee shall be reimbursed for actual parking expenses incurred while on City assignments.

(a) All claims for mileage and parking reimbursement shall first be approved in writing by the City Manager and shall be filed on forms and in accordance with the procedures established by the City Manager.

(b) Employees using their private automobile for City business shall supply the Personnel Officer with a Certificate of Insurance stating that their private automobile is covered by public liability and property damage insurance of not less than the amount required in the procedures established by the City Manager.

(c) Reimbursement for all other travel expenses shall conform to requirements of the Travel and Meetings Policy adopted by the City Council.

RULE VIII

DISCIPLINE AND TERMINATION PROCEDURES

(ADOPTED 01/31/02, AMENDED 05/01/07)

SECTION 1 – DISCIPLINE AND TERMINATION:

(a) In accordance with the at-will status of management employees, management employees may be disciplined or terminated at any time without prior notice or cause, and without any right of appeal.

(b) From time to time, the City Manager may determine that imposition of discipline against a management employee may be appropriate. Discipline may be based on any cause as determined by the City Manager. The imposition of any form of discipline by the City Manager shall not modify or remove the at-will status of any management employee. The provisions of Rule XII, DISCIPLINE PROCEDURES, of the Competitive Service Employee Personnel Rules, shall not apply to any management employee.

(c) The decision of the City Manager to discipline or terminate a management employee shall be final.

SECTION 2 – RESIGNATION:

(a) In order to resign in good standing, an employee shall inform the City Manager, in writing, of the effective date of the resignation at least ten (10) working days in advance. This time may be waived, in writing, by the City Manager. Failure to give notice as required by this Rule shall be cause for the City to deny future employment.

(b) An employee who is absent from work voluntarily or involuntarily for more than nine (9) hours without written authorization and who does not present a written explanation acceptable to the City Manager as to the cause of the employee's absence, shall be considered as having voluntarily resigned from the City employment as of the last day worked.

SECTION 3 –RETIREMENT: The City shall pay the full employee's contribution to the California Public Employees Retirement System (CalPERS).

SECTION 4 – LAYOFFS: In the event a determination is made to layoff any management employee, layoff shall be determined by the City Manager in his/her discretion.

RULE IX

NON-DISCRIMINATION POLICY

(ADOPTED 01/31/02, AMENDED 08/02/11)

SECTION 1 – EQUAL EMPLOYMENT OPPORTUNITY STATEMENT: The City is committed to a policy of equal employment opportunity. Consistent with this commitment and California and federal law, the City does not discriminate against employees or applicants because of race, color, religion, sex, sexual orientation, pregnancy, national origin, ancestry, age (40 and over), marital status, disability, alienage, citizenship status or medical condition (cancer-related), or any other basis prohibited by applicable federal and California law. Equal employment opportunity will be extended to all persons in all aspects of the employer-employee relationship, including hiring, training, promotion, transfer, discipline, layoff, recall discharge and termination.

SECTION 2 – POLICY AGAINST HARASSMENT:

(a) STATEMENT OF POLICY.

Harassment in the workplace on the basis of race, color, religion, sex, sexual orientation, pregnancy, national origin, ancestry, age (40 and over), marital status, disability, alienage, citizenship status or medical condition (cancer-related), or any other basis prohibited by applicable federal and California law, and the policy of the City is prohibited. The City is committed to creating and maintaining a workplace free from unlawful harassment. That commitment includes taking all reasonable steps to prevent unlawful workplace harassment.

(1) The protections afforded by this Policy apply to applicants for employment and employees. If harassment prohibited by this Policy occurs, the City shall take appropriate corrective action against the harasser, and seek to remedy the effects of the harassment on the employee or applicant for employment. If the harasser is a non-employee, for example, an appointed commissioner or committee member, or a volunteer or vendor, such corrective action may include termination of the City's relationship with the non-employee. If the harasser is a City Council member, corrective action may include, but is not limited to, public censure of the City Council member by the City Council.

(b) SEXUAL HARASSMENT.

(1) Sexual harassment is unlawful harassment on the basis of sex, including gender harassment and harassment based on pregnancy, childbirth, or related medical conditions.

(2) The California Fair Employment and Housing Commission ("FEHC") regulations define sexual harassment as unwanted sexual advances, or unwelcome visual, verbal or physical conduct of a sexual nature. Under federal law, sexual harassment includes "quid pro quo" sexual harassment, which is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to sexual advances or behavior is made either explicitly or implicitly a term or condition of an individual's employment, when submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual. Sexual harassment also includes sexual harassment based on a hostile work environment when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.

(3) Sexual harassment may be committed by a member of the opposite or the same sex. Employees may be the victims of sexual harassment even if the sexual harassment is directed at others but occurs in the employee's presence or has an indirect impact on the employee's terms and conditions of employment.

(c) TYPES OF HARASSMENT.

(1) The following statuses are referred to in this Policy as "protected status": race, color, religion, sex, sexual orientation, pregnancy, national origin, ancestry, age (40 and over), marital status, disability, alienage, citizenship status or medical condition (cancer-related), or any other basis prohibited by applicable federal and California law.

(2) Unlawful harassment also consists of verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her protected status, or the proposed status or his/her relatives, friends, or associates, and that:

(i) Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;

(ii) Has the purpose or effect of unreasonably interfering with an individual's work performance; or,

(iii) Otherwise adversely affects an individual's employment opportunities.

(3) Unlawful harassment may be charged even if the complainant is not the specific intended target of the conduct.

(4) The following is a partial list of the types of conduct that may constitute unlawful harassment:

(i) Verbal Harassment. This form of harassment includes, but is not limited to, epithets, jokes, derogatory comments, negative stereotyping, slurs or other verbal conduct that denigrates or shows hostility or aversion toward an employee or applicant based on his/her protected status, or the protected status of his/her relatives, friends, or associates.

(ii) Physical Harassment. This form of harassment includes, but is not limited to, assault, unwelcome touching, impeding or blocking movement, threatening acts, intimidating acts, hostile acts or other physical conduct that denigrates or shows hostility or aversion toward an employee or applicant based on his/her protected status or the protected status of his/her relatives, friends, or associates.

(iii) Visual Harassment. This form of harassment includes, but is not limited to, displaying pictures, posters, cartoons, drawings, or other written or graphic materials that denigrates, shows hostility or aversion or are derogatory toward an employee or applicant based on his/her protected status or the protected status of his/her relatives, friends, or associates.

(iv) Sexual Harassment. In addition to items (i) through (iii) above, this form of harassment includes, but is not limited to:

(a) Unwelcome verbal or written sexual advances or propositions;

(b) Offering or denying employment benefits or privileges in exchange for granting or withholding sexual favors;

(c) Making or threatening reprisals after the rejection of sexual advances;

(d) Leering or making gestures of a sexual nature, and displaying sexually suggestive objects, pictures, cartoons or posters;

(e) Unwelcome sexually-related or derogatory comments, epithets, slurs or jokes;

(f) Verbal abuse of a sexual nature, oral or written comments about an individual's body, sexually degrading words used to describe an individual, sexually suggestive or obscene letters, notes, or invitations;

(g) Unwelcome touching, assaulting, impeding or blocking movements; and

(h) Gender harassment and harassment based on pregnancy, childbirth, or related medical conditions.

(d) COMPLAINT RESOLUTION PROCEDURE.

(1) Complaints of harassment or retaliation may be made orally or in writing. As used in this procedure, reference to complaints of harassment includes complaints of prohibited retaliation. Anonymous complaints will be taken seriously and investigated. However, the ability to investigate or extent of the investigation may be limited by the inability to follow-up with the complaining party. Making a complaint is not limited to the person who was the target of the harassment or retaliation.

(2) The City will promptly, thoroughly and objectively investigate charges of unlawful harassment. The Deputy City Manager, or the City Manager, if the Deputy City Manager is the alleged harasser, shall investigate and attempt to resolve all harassment complaints. The Deputy City Manager or the City Manager may assign responsibility to investigate harassment charges to another competent person. The City shall advise the complaining individual of his/her rights and responsibilities under the City's harassment complaint resolution procedure and his/her right to redress unlawful harassment. Complaints and investigations shall be handled with due regard for the rights of the complainant and the alleged harasser. Information about the investigation and complaint shall only be released to individuals on a need-to-know basis, or as required by law.

(3) An employee who witnesses harassment prohibited by this Policy has a duty to report it to the employee's immediate supervisor, Department Head, the Deputy City Manager, or the City Manager, if the Deputy City Manager is the alleged harasser.

(4) An immediate supervisor or Department Head receiving a complaint of harassment shall immediately report it to the Deputy City Manager, or the City Manager if the Deputy City Manager is the alleged harasser.

(5) Procedure for Complaints involving City Council Members, Commissioners, Committee Members, Other Officials or the City Manager

(a) In place of the other reporting options, complaints involving City Council members, commissioners, committee members or other officials should be made directly to the City Manager. If the complainant believes the City Manager is also involved in the harassment, the complaint should be made to the City Attorney. If reported to the City Manager, the City Manager shall consult with the City Attorney. For complaints involving City Council members, commissioners, committee members and other officials, the City Manager or City Attorney is hereby authorized to investigate the complaint consistent with this Rule and to retain an outside investigator without need for further authorization from the City Council. If the investigation determines a violation of this Rule occurred, the City Manager shall consult with the City Attorney and the City Manager or City Attorney, as applicable, shall advise the City Council of the results of the investigation.

(b) In place of the other reporting options, complaints involving the City Manager should be reported to the City Attorney. The City Attorney is authorized to investigate the complaint consistent with this Rule and to retain an outside investigator without need for further authorization from the City Council. If the investigation determines a violation of this Rule occurred, the City Attorney shall advise the City Council of the results of the investigation.

(6) Informal Procedure. An applicant or employee who believes he/she has been illegally harassed should promptly inform the harasser that such conduct is inappropriate, offensive and unwelcome, and that the harasser should immediately cease such conduct. If the harassment does not stop immediately or the employee does not wish to discuss the matter directly with the harasser, the employee should promptly discuss the matter with his/her supervisor, Department Head, the Deputy City Manager, or if the alleged harasser is the Deputy City Manager, the City Manager. The employee has the discretion to direct the complaint to any of the positions listed above. Applicants shall file harassment complaints with the Deputy City Manager, or the City Manager, if the Deputy City Manager is the alleged harasser.

(7) Formal Procedure.

(i) If the informal resolution procedure does not resolve the complaint to the satisfaction of the complaining employee or applicant, the employee or applicant may file a formal complaint by providing a written and signed statement to the Deputy City Manager, or, if the Deputy City Manager is the alleged harasser, to the City Manager. A formal complaint should be filed within ten (10) working days of the event(s) giving rise to the complaint. If a complaint is filed after ten (10) working days, the City shall have the sole discretion to decide the extent of the investigation of the complaint. The City wants complaints to be filed promptly to ensure the investigation takes place while memories and evidence are still fresh and witnesses are available, and to enable the City to take prompt remedial action, when warranted. The complaint shall include the date(s), time(s), and place(s) of incident(s) of harassment, a description of the circumstance(s), the name(s) of the person(s) involved and witnesses, if any, and any desired remedy.

(ii) The City Manager, the Deputy City Manager or a person assigned by the City Manager or the Deputy City Manager, shall investigate complaints or harassment by taking the following steps:

(a) Review the written complaint;

(b) Interview the complainant, the alleged harasser and any others who may have relevant evidence;

(c) Review pertinent documents or records;

(d) Prepare a written report regarding the findings and conclusions reached. The complainant and the alleged harasser shall be notified as to the results of the investigation; and,

(iii) Discipline taken against a harasser shall be determined by the nature, severity and/or frequency of the offense(s), the work record of the harasser, the likelihood of the misconduct being repeated, and any other relevant factors and evidence. The complainant shall be consulted in connection with the corrective action to be taken against the harasser and the appropriate action to remedy the effects of the harassment on the complainant. The complainant and the harasser shall be notified of the action(s) taken by the City.

(iv) Discipline imposed by the City shall be in accordance with these Rules.

(e) PROTECTION AGAINST RETALIATION.

Employees and applicants have the right to oppose harassment prohibited by this Policy and applicable law, to file a complaint of and to report unlawful harassment, and to cooperate in a harassment investigation free from retaliation. It is City policy to prohibit retaliation against anyone for opposing harassment prohibited by this Policy and applicable law, reporting unlawful harassment in any form, assisting in making a harassment complaint or cooperating in a harassment investigation. Persons engaged in acts of retaliation shall be subject to appropriate disciplinary action, including termination of employment, and/or other appropriate and feasible corrective action.

(f) ENFORCEMENT OF THE LAWS AGAINST HARASSMENT.

(1) Employees or job applicants who believe they have been unlawfully harassed are also entitled to file a complaint of discrimination with the California Department of Fair Employment and Housing ("DFEH") or the federal Equal Employment Opportunity Commission ("EEOC").

(2) The DFEH will attempt to assist the parties to resolve voluntarily the dispute. If the DFEH finds evidence of illegal harassment, and settlement efforts fail, the DFEH may file a formal accusation against the employer and the alleged harasser. The accusation will lead to either a public hearing before the FEHC or a lawsuit filed on the complainant's behalf by the DFEH. If the FEHC finds that unlawful harassment occurred, it could order remedies, including fines or damages for emotional distress from each employer or harasser found to be at fault. The FEHC may also order hiring or reinstatement, back pay and benefits, promotions, and changes in the policies or practices of an employer.

(3) Similar procedures and remedies are available under federal law, including Title VII of the Civil Rights Act of 1964, as amended, the Americans with

Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, as amended, and the Rehabilitation Act of 1973, as amended.

(4) Victims of unlawful harassment may be entitled to damages even though they have not been denied employment opportunities, pay or benefits. If unlawful harassment occurs, the City may be liable for the conduct of its managers and supervisors and for the conduct of employees and non-employees. Harassers may be held personally liable for their misconduct. Some forms of harassment are crimes.

(g) ADDITIONAL INFORMATION. For more information regarding employee and applicant rights and remedies regarding unlawful harassment, an employee or applicant may contact the DFEH or the EEOC. The location of the nearest DFEH office can be obtained by calling (916) 445-9918 (voice) or (916) 324-1678 (TDD). The location of the nearest EEOC office can be obtained by calling (202) 663-4895 (voice) or (202) 663-4399 (TDD).

(h) QUESTIONS. Questions regarding this policy should be directed to the Personnel Officer.

RULE X

VIOLENCE IN THE WORKPLACE

(ADOPTED 01/31/02, AMENDED 08/02/11)

SECTION 1 – STATEMENT OF POLICY: The City is committed to providing a safe workplace that is free of violence or the threat of violence. In support of this commitment, the City strictly prohibits employees and non-employees, while on City premises or engaged in City-related activities, from behaving in a violent or threatening manner. Under this policy, the City also seeks to prevent workplace violence before it begins and reserves the right to address behavior that reasonably suggests a propensity toward violence, even where actual violence has not yet occurred. Retaliation against a person making a report of workplace violence or cooperating in an investigation of possible workplace violence is also prohibited.

SECTION 2 – DEFINITIONS:

(a) Workplace violence includes, but is not limited to the following:

(1) Fighting or challenging another person to fight, including but not limited to striking, slapping, punching, spitting or physically assaulting;

(2) Threats intended to place a person in fear of physical harm or that would cause a reasonable person to be placed in fear of physical harm;

(3) Threatening, physically aggressive or violent behavior, such as acts of intimidation, stalking or any activity that attempts to instill fear in others;

(4) Other behavior that suggests a propensity toward violence, such as belligerent speech, excessive arguing or swearing, sabotage or threats of sabotage toward City property or a demonstrated pattern of refusal to follow City policies or procedures;

(5) Throwing objects with the apparent intent to harm another person or place any person in reasonable fear of harm;

(6) Defacing or vandalizing City property; or

(7) Except as authorized by the City Manager, bringing any weapon or firearm of any kind onto City property (including parking lots) or while conducting City business.

SECTION 3 – REPORTING PROCEDURES: Any employee who witnesses or becomes aware of an instance of workplace violence, as described above, or who is a victim of workplace violence shall notify their immediate supervisor. In the event that

the employee's immediate supervisor is involved, the employee should notify the Deputy City Manager or the City Manager. Any supervisor receiving such a report shall immediately notify the Deputy City Manager or, if the Deputy City Manager is involved in the alleged violence, the City Manager. Instances of prohibited retaliation may be reported in a similar manner.

SECTION 4 – INVESTIGATION: All complaints or allegations will be investigated promptly and thoroughly. The Deputy City Manager will be responsible for assuring that an appropriate investigation is completed, except where the Deputy City Manager is alleged to be involved, in which case the City Manager will assure that an appropriate investigation is completed. To the extent possible, the City will endeavor to maintain the confidentiality of the reporting party and the investigation. However, disclosures may be necessary to conduct the investigation, in compliance with due process rights, where legally required or to protect individual safety. The complainant and, if applicable, an accused employee will be advised of the results of the investigation.

SECTION 5 – DISCIPLINE OR OTHER ACTION: If the City determines that this policy has been violated, appropriate corrective action will be taken. Corrective action may include discipline, up to and including termination. The appropriate discipline may vary depending on the particular facts and circumstances of the situation. If the violent behavior involves a non-employee, the City will take action in an effort to prevent future occurrences. Corrective action involving commissioners, committee members or volunteers may include severing their relationship to the City. Corrective action involving City Council members may include censure by the City Council. Action may be taken under this policy in addition to any available civil or criminal action.

RULE XI

MISCELLANEOUS PROCEDURES

(ADOPTED 01/31/02, AMENDED 08/02/11)

SECTION 1 – OUTSIDE EMPLOYMENT: Employees shall be allowed to engage in employment other than their job with the City, with the understanding that City employment is the highest priority and such outside employment does not interfere with the performance of assigned duties and does not constitute a conflict of interest. The employee must notify the City Manager in writing regarding their outside employment.

SECTION 2 – MANAGEMENT PREROGATIVES: The City through the City Council possesses the sole right to operate the City and all management prerogatives remain vested with the City. In this context, except as specifically limited by express provision of these Rules, all management prerogatives, powers, authority and functions whether heretofore exercised, and regardless of the frequency or infrequency of their exercise, shall remain vested exclusively with the City. It is expressly recognized that these rights, include, but are not limited to, the right to hire, direct, assign or transfer an employee; the right to lay off employees; the right to determine and change staffing levels and work performance standards; the right to determine the content of the workday, including without limitation, workload factors; the right to determine the quality and quantity of services to be offered to the public, and the means and methods of offering those services, the right to contract or subcontract City functions, including any work performed by employees; the right to discipline employees, including the right to reprimand, suspend, reduce in pay, demote and/or terminate employees; the right to relieve employees of duty, demote, dismiss or terminate employees for non-disciplinary purposes; the right to consolidate City functions; the right to determine City functions; the right to implement, modify and delete rules, regulations, resolutions and ordinances; the right to establish, change, combine wages or eliminate jobs, job functions and job classifications; the right to establish or change wages and compensation; the right to introduce new or improved procedures, methods, processes or to make technological changes; and the right to establish and change shifts, schedules of work, and starting and quitting times.

SECTION 3 – INCENTIVE PROGRAM: From time to time, the City Manager may grant an incentive pay award to any employee in recognition for extraordinary work.

(a) The City Manager shall determine the amount of incentive pay per employee award. However, in no case shall the incentive pay exceed five percent (5%) of an employee's base salary.

(b) Employees shall be limited to no more than two (2) incentive pay awards each fiscal year.

RULE XII

MEDICAL EXAMINATION PROCEDURES

(ADOPTED 12/20/05, AMENDED 08/02/11)

SECTION 1 – MEDICAL EXAMINATION: Any employee may be required to undergo a medical examination at a time designated by the Personnel Officer, if he/she has a reasonable belief, based on objective evidence, that a medical examination is necessary in accordance with the provisions of this Rule. As used in this Rule, the term "medical examination" means a procedure or test that seeks information about an individual's physical or mental impairments or health. A medical examination does not include tests for current use of illegal drugs, physical fitness tests, physical agility tests, psychological tests or other personality tests designed to evaluate personality traits, or polygraph examinations. Except as stated herein, nothing in this Rule is intended to govern or regulate tests that are not medical examinations.

SECTION 2 – NEW HIRES OR RE-HIRES: In order to be eligible for employment or re-employment with the City, a job applicant shall be required to undergo a medical examination at a City-designated medical facility to determine whether the applicant is capable of performing the essential functions required of the position and can meet the standards established by the Personnel Officer.

SECTION 3 – PROMOTION OR TRANSFER: In order to be eligible for a promotion or a transfer to a job classification in a category requiring greater physical qualifications than his/her present job classification, an employee may be required to undergo the same pre-employment medical examination as a new hire or re-hire at a City-designated medical facility to determine whether the candidate is capable of performing the essential functions required of the promotional or transfer position and can meet the standards established by the Personnel Officer.

SECTION 4 – PROCEDURE:

(a) All medical examinations shall be job-related and consistent with business necessity.

(b) The medical examination of a job applicant will occur only after a conditional offer of employment is made and where all entering employees in the same classification are subject to the same examination.

(c) The medical examination of an existing employee seeking a promotion or transfer will occur only after a conditional offer of promotion or transfer is made and where all new entering employees in the same classification are subject to the same examination.

(d) Pre-employment tests for illegal drugs may be administered as part of the application process, as set forth in Section 11, below.

SECTION 5 – FINDINGS OF MEDICAL EXAMINATION:

(a) Job Applicants. Subject to paragraph (c), if a job applicant fails to pass a medical examination following a conditional job offer, the conditional job offer shall be withdrawn.

(b) Promotional or Transfer Candidates. Subject to paragraph (c), if an existing employee fails to pass a medical evaluation following a conditional offer of a promotion or transfer, the City will assign duties consistent with the medical examination, including allowing the employee to remain in his/her former position if he/she is able to perform the essential job functions. If no appropriate position is vacant, such employee shall be recommended for disability or retirement if he/she is eligible, or terminated.

(c) If the job applicant or candidate for promotion or transfer is a qualified individual with a disability under the Americans with Disabilities Act ("ADA") or California Fair Employment and Housing Act ("FEHA"), the City will engage in an interactive process with the job applicant or candidate, and consider any request for reasonable accommodation by the job applicant or candidate consistent with the requirements of the ADA and/or FEHA.

(1) Job Applicants. Following the results of the medical examination and the interactive process, the conditional offer of employment will be withdrawn if the City determines that the applicant cannot be reasonably accommodated and/or would pose a direct threat to his/her own safety and/or the safety of others.

(2) Promotional or Transfer Candidates. Following the results of the medical examination and the interactive process, the conditional offer of the promotion or transfer shall be withdrawn if the City determines that the employee cannot be reasonably accommodated in the promotional or transfer position or would pose a direct threat to his/her own safety and/or the safety of others. If no appropriate position is vacant, such employee shall be recommended for disability or retirement if he/she is eligible, or terminated.

SECTION 6 – ABSENCE DUE TO ILLNESS OR INCAPACITY:

(a) Any employee who returns to work after an absence in excess of three consecutive work days due to illness or incapacity, or who demonstrates a pattern of absences (such as repeated absences the day before or after weekends) may be required by the Personnel Officer to provide a return to work certification from the employee's treating physician or other health care provider confirming there was a medical reason for the employee's absence, and that he/she is able to perform the essential functions of his/her position and/or does not present a direct threat to himself/herself, to his/her fellow employees and/or to members of the public, due to

any medical reason, before the employee will be permitted to return to work. The City reserves the right to choose the health care provider who shall provide the certification. Nothing herein shall preclude the City from requiring a fitness for duty examination under Section 7 of this Rule.

(b) In addition, any employee who returns to work after an absence in excess of three consecutive work days due to illness or incapacity, or who demonstrates a pattern of absences (such as repeated absences the day before or after weekends) may also be required by the Personnel Officer to undergo a medical examination before the employee may be permitted to return to work if the City has reasonable belief that the employee's present ability to perform essential job functions will be impaired by a physical or mental impairment or condition, or if he/she will pose a direct threat to himself/herself, to his/her fellow employees and/or to members of the public due to a physical or mental condition or impairment.

(c) Any employee who fails to pass a medical examination upon his/her return from an absence in excess of three consecutive work days may be required to remain off duty pending receipt of a return to work certification from his/her physician or other health care provider, and/or may be transferred or demoted to an available alternative or modified position based on the employee's ability to perform essential job functions and meet the minimum qualifications of the job, recommended for disability or retirement, or terminated.

SECTION 7 – FITNESS FOR DUTY: The Personnel Officer may at any time require that an employee undergo a fitness for duty examination at a City-designated facility based on specific facts and circumstances leading to the reasonable conclusion that such employee is not able to perform the essential functions of his/her position and/or that he/she may pose a direct threat to himself/herself, to his/her fellow employees and/or to members of the public. The cost of the fitness for duty examination will be borne by the City. The City may take appropriate action based upon the results of the fitness for duty examination. The City may also take disciplinary action against any employee who refuses to comply with the City's requirement that he/she undergo a fitness for duty examination.

SECTION 8 – QUALIFIED PHYSICIAN: All medical examinations required under the provisions of this Rule shall be performed by a City-designated physician, psychologist, psychiatrist or other health care professional, in active practice licensed by the State of California and within the scope of his/her practice as defined by California law. In the case of out-of-state candidates for employment, the physician or other health care professional performing the medical examination may be licensed by the state in which the candidate resides.

SECTION 9 – CITY FINANCIAL RESPONSIBILITY: The City shall pay for any medical examination required under the provisions of this Rule.

SECTION 10 – CONFIDENTIALITY: Medical information will be kept confidential, on separate forms and in separate locked medical files, and shall be

reviewed only to assess whether the applicant or employee has the ability to perform the functions of the job, with or without reasonable accommodation; or whether the employee may pose a direct threat to himself/herself and/or to others; to determine whether the employee is fit for duty; to assist in providing reasonable accommodation; to provide first aid as necessary; for insurance purposes; and to comply with other provisions of federal and/or state law.

SECTION 11 – PRE-EMPLOYMENT DRUG TESTING: The City is committed to providing a safe, effective and productive work force, and to comply with the Drug-Free Workplace Act of 1988.

(a) All new hires and all re-hires may be required to submit to pre-employment drug testing, as part of the application process. An offer of employment will be conditioned upon the job applicant testing negative for illegal drugs.

(b) The City's drug testing policy will comply with all applicable provisions of federal and state law, including but not limited to, confidentiality, privacy and testing methodology.

(c) The City shall pay for any pre-employment drug testing required under this section.

SECTION 12 – NONDISCRIMINATION: All medical examinations shall be undertaken in accordance with the ADA and the FEHA, with respect to job applicants and employees with disabilities. The City does not discriminate against job applicants or employees on the basis of disability.

SECTION 13 – NONEXCLUSIVITY: This Rule shall not preclude the City from requiring medical examinations under circumstances otherwise permitted or authorized under federal or state law.

RULE XIII

DRUG AND ALCOHOL POLICY

(ADOPTED 08/02/11)

SECTION 1 – PURPOSE AND APPLICATION: The City is committed to providing a workplace that is free from the effects of drug and alcohol abuse. Drug and alcohol abuse has been found to be a contributing factor to absenteeism, tardiness, substandard performance, increased potential for accidents, disruptive behavior, increased workload for co-workers, poor morale and impaired public relations. To further its interests in service to the community, avoiding accidents, promoting and maintaining a safe and productive workplace and protecting City property, equipment and operations, the City has adopted this policy. This policy is intended to apply to all employees, regardless of appointment type or time basis, including, without limitation, full-time, part-time, temporary, emergency, competitive service, management and probationary employees. The provisions of this policy are in addition to any policies or procedures involving the same or similar matters, such as any procedures regarding pre-employment drug testing.

SECTION 2 – GENERAL POLICY:

(a) No employee while on duty, reporting for duty or on standby for duty shall:

(1) Use, possess or be under the influence of illegal or unauthorized drugs;

(2) Use or be under the influence of alcohol to any extent that would impede the employee's ability to perform his or her duties safely and effectively; or

(3) Have a measurable amount of any illegal or unauthorized drug (including metabolites) or alcohol in his or her body, as determined by a drug and alcohol test and subject to minimum cut-off values for testing.

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

(c) No employee shall perform duties which the employee cannot perform without posing a threat to the health or safety of the employee or others because of drugs taken under a legal prescription or otherwise authorized.

(d) Employees shall be subject to drug and alcohol testing ("substance testing") when there is a reasonable suspicion the employee has violated sub-section (a), above. In addition, an employee who has already been found in violation of sub-section (a), above, through an adverse employment action (as applicable), medical examination, testing procedures or the employee's own admission, may be required to submit to periodic substance testing for a period of one year, as a condition of remaining in employment.

SECTION 3 – REASONABLE SUSPICION:

(a) Reasonable suspicion is the good faith belief based on specific articulable facts or evidence and reasonable inferences drawn from such facts and evidence that an employee may have violated this policy and that substance testing may reveal evidence related to that violation.

(b) Facts or evidence supporting reasonable suspicion may include, but are not limited to, an employee's manner, disposition, muscular movement, appearance, unusual behavior, speech, or breath odor; information provided by an employee, law enforcement official or other person believed to be reliable; or other surrounding circumstances.

(c) Where the initial reasonable suspicion determination is based on observed behavior and it is practical to do so, the employee may be asked about the observed behavior and given an opportunity to provide a reasonable explanation.

(d) For purposes of substance testing, reasonable suspicion will only exist after the Personnel Officer, Deputy City Manager, City Manager or designate of the City Manager have reviewed the facts, evidence and circumstances in a particular case and concur in the finding of reasonable suspicion. In the event the Personnel Officer, Deputy City Manager, City Manager or designate of the City Manager are unavailable, a supervisor or manager who is at least one level of supervision above a supervisor or manager making the initial reasonable suspicion determination may make the review and determination under this paragraph.

(e) Following concurrence, as provided above, the facts, evidence and circumstances on which the reasonable suspicion is based will be summarized in writing.

SECTION 4 – SUBSTANCE TESTING:

(a) Where reasonable suspicion exists, as defined in this policy, the involved employee may be requested to take a substance test in accordance with the procedures in this policy. If the employee refuses to cooperate with the administration of the test, the refusal will be considered a positive test result. A refusal to cooperate includes, but is not limited to, refusing to appear for a test; unreasonably failing to

submit a sample for testing; tampering with, substituting, adulterating, masking or water-loading a sample; or obstructing or not fully cooperating with testing procedures.

(b) The employee will be referred to an independent, Substance Abuse & Mental Health Services Administration (SAMHSA)-certified medical clinic or laboratory, which will administer the substance test. The employee will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that the employee has taken that may affect the outcome of the test.

(c) Drug testing will be by a process at least as accurate and valid as urinalysis using an immunoassay screening test, with the positive test results confirmed using gas chromatography/mass spectrometry before a sample is considered positive.

(d) Alcohol testing will be by a process at least as accurate and valid as urinalysis using an enzymatic assay screening test with all positive screening results being confirmed by using gas chromatography before a sample is considered positive or breath sample testing using breath alcohol analyzing instruments which meet California Department of Health Services standards (such as 17 CCR 1221.2, 1221.3).

(e) Substances to be tested for may include: amphetamines and methamphetamines, cocaine, marijuana/cannabinoids (THC), opiates (narcotics), phencyclidine (PCP), barbiturates, benzodiazepines, methaqualone and alcohol. Other controlled substances may be added to the list where their use is reasonably suspected and items may be dropped from the list, where appropriate.

(f) Cut-off levels may be established by the City after consultation with expert staff of the laboratories or other qualified personnel. Cut-off levels will be set to identify positive test samples while reasonably minimizing false positive test results. The designated levels may change over time based on changes in technology, testing experience or other factors.

(g) In the event cut-off levels are not established prior to any test, the City will use cut-off levels established in the SAMHSA Mandatory Guidelines for Federal Drug Testing Programs. Any other provision of this policy notwithstanding, the cut-off level established for a positive alcohol test (both initial and confirmation) will not be less than 0.02 percent (0.02 gm/210 liters of breath or 0.02 gm/deciliter of blood or 0.02 mg/ml of urine).

(h) Test samples will be collected in a clinical setting using procedures designed to assure that true samples are obtained. Chain of custody procedures will be followed through the testing process, to its final disposition.

(i) The cost of reasonable suspicion testing under this policy will be paid by the City. Transportation will either be provided or paid for by the City.

(j) Pending test results, an employee may either be temporarily reassigned or placed on administrative leave.

SECTION 5 – MEDICAL REVIEW OFFICER:

(a) A medical review officer (MRO), who is a California licensed physician with the appropriate medical training to interpret and evaluate a confirmed positive test result, will be used in the testing process. For confirmed positive results, the MRO will:

(1) Review the results and determine if the applicable standards and procedures have been followed.

(2) Advise the employee of the results and provide the employee with an opportunity to discuss and explain the results, including the opportunity to provide the MRO with information regarding any medication which may have affected the results of the test.

(3) Consider any assertions by the affected employee of irregularities in the sample collection and testing process.

(4) Based on the above, provide a written explanation of the test results to the City.

(b) An MRO may report a positive test result to the City without discussion with the involved employee if:

(1) The employee has expressly declined the opportunity to discuss the test results with the MRO.

(2) Documented contact has been made with the employee who has been instructed to contact the MRO within 72 hours and more than 72 hours have passed since that time.

(3) Neither the City nor the MRO, after making and documenting reasonable attempts to contact the employee, have been able to contact the employee within seven (7) days of the date on which the MRO receives the test results from the laboratory.

SECTION 6 – CONFIDENTIALITY: All records of the circumstances and results of substance testing under this policy will remain confidential personnel records. Laboratory reports and test results will be maintained in a file separate from the employee's personnel file. Information may only be released: to the employee who was tested or other individuals designated in writing by the employee; to the MRO; to the extent necessary to properly supervise or assign the employee; as necessary to determine what action should be taken in response to the test results; and for use in

responding to appeals, litigation or administrative proceedings arising from or related to the test or related actions.

SECTION 7 – QUESTIONS: Any matter not specifically addressed in these procedures may be handled in accord with the established procedures of the medical facility performing the substance test or the SAMHSA Mandatory Guidelines for Federal Drug Testing Programs or as otherwise reasonably determined by the City. Questions regarding this policy should be directed to the Personnel Officer.

TABLE 1

MANAGEMENT EMPLOYEES

(ADOPTED 05/01/07, AMENDED 08/02/11)

Deputy City Manager
Building Official
City Clerk
Deputy Director of Finance and Information Technology
Deputy Director of Public Works
Deputy Planning Director
Director of Administrative Services
Director of Finance and Information Technology
Director of Planning, Building and Code Enforcement
Director of Public Works
Director of Recreation and Parks

Any other position designated as “management” in any job description duly adopted by the City Council from time to time.