

**City of Ridgecrest
Personnel Rules**

**CITY OF RIDGECREST
PERSONNEL RULES**

DECEMBER 2024

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**City of Ridgecrest
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PURPOSE AND APPLICATION

SEC. 1 Applicability

These rules establish the personnel system for the City of Ridgecrest. These rules shall apply to all employees of the City unless a specific section or provision excludes them. Independent contractors and City Council members are not employees but may be subject to certain rules as appropriate. Positions designated by the City as exempt are at-will positions, and employees in such positions hold their positions at the will of the City and may be disciplined or separated with or without cause.

SEC. 2 No Contract Right; City's Discretion to Modify These Rules

These Personnel Rules do not create any contractual rights, or any express or implied employment contract between the City and the individuals covered by these rules.

The City retains full and exclusive authority and discretion to modify these rules at any time in accordance with law.

SEC. 3 Conflict between these Rules and a Memorandum of Understanding ("MOU")

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

SEC. 4 Employee Acceptance of Personnel Rules and Revisions to Rules

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

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

RULE 2 - DEFINITION OF TERMS

The terms listed below whenever used in these rules shall be defined as follows:

SEC. 1 "Advancement": A salary increase within the limits of a pay range established for a class.

SEC. 2 "Allocation": The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

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SEC. 3 "Appointing Power": The City Council or the City Manager.

SEC. 4 "Class": A group of positions sufficiently similar in the duties performed, authority, and responsibility, to permit grouping under the same title, applying the same tests for fitness for qualification, the same compensation range and applying the same minimum qualifications.

SEC. 5 "Class Specifications": A written description of a class which distinguishes it from any other class.

SEC. 6 "Competitive Service": All positions of employment in the service of the City except volunteers, emergency workers, part-time employees, part-time covered employees, the City Manager, Deputy City Manager, City Attorney, Police Chief, Director of Finance, Community Development Director, Director of Public Works, Director of Parks and Recreation, Administrative Services Director and employees working under a special federal or state grant program. Only members of the competitive service may be covered by an applicable Memorandum of Understanding.

SEC. 7 "Day": Calendar days unless specified otherwise.

SEC. 8 "Demotion": The movement of an employee from one class to another class having a lower maximum rate of pay.

SEC. 9 "Discharge": Dismissal from the competitive service for cause.

SEC. 10 "Eligible": A person whose name is on an eligibility list as a result of having successfully completed the examination process.

SEC. 11 "Eligibility List":

(a) Open eligibility list: A list of names of persons who have taken an open-competitive examination for a position within a particular class in the competitive service and have qualified.

(b) Promotional eligibility list: A list of persons within the competitive service who have taken a promotional examination for a position within a particular class and have qualified.

SEC. 12 "Examination": The process of testing, evaluating and/or investigating to determine the fitness and qualification of applicants for a position.

(a) Open-competitive examination: An examination for a particular position within a class, admission to the examination not being limited to permanent employees in the competitive service who meet the qualifications for the class.

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(b) Promotional examination: An examination for a particular position within a class, admission to the examination being limited to permanent or probationary employees in the competitive service who meet the qualifications for the class.

(c) Continuous examination: An open-competitive examination which is administered periodically and as a result of which names are placed on an eligibility list, in order of final scores, for a period of not more than one (1) year.

SEC. 13 "Lay-Off": Termination of employment of an employee because of lack of work, lack of funds or reorganization.

SEC. 14 "Non-competitive Service": Those positions exempted from the Personnel Rules. Positions in the "Non-competitive Service" serve at the will of the City Manager or City Council and include the City Manager, Police Chief, Director of Finance, Community Development Director, Director of Public Works, Director of Parks and Recreation, Administrative Services Director, volunteers, emergency workers, part-time employees, part-time covered employees, and employees employed under a special state or federal grant. Such employees may be terminated without cause at any time, subject to provisions of RMC 2-108 and 2-141.

SEC. 15 "Part-time Employee": An employee who works fewer than 999 hours per applicable 12-month period. These employees shall not receive any benefits except those mandated by law.

SEC. 16 "Part-time Covered Employee": An employee who works more than 999 hours but fewer than 2080 hours per applicable 12-month period. These employees will be members of PERS and pay into Social Security and FICA.

SEC. 17 "Personnel Officer": The City Manager or their designee shall serve as the Personnel Officer.

SEC. 18 "Probationary Employee": An employee who has been appointed to a position but who has not completed the probationary period of at least one (1) year of continuous service as defined in Rule 10 and serves at the will of the appointing authority.

SEC. 19 "Probationary Period": A period after appointment of at least one (1) year of continuous service as defined in Rule 10 (eighteen months for police officers) during which an employee is required to demonstrate fitness for the position to which the employee was appointed by actual performance of the duties of the position.

SEC. 20 "Promotion": The movement of an employee from one class to another class having a higher maximum rate of pay.

SEC. 21 "Provisional Appointment": An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available Eligibles.

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SEC. 22 "Reclassification": Change of classification of positions where the duties have changed materially to a more appropriate class, whether new or already created. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.

SEC. 23 "Reduction in Pay": A decrease in base pay for disciplinary reasons.

SEC. 24 "Regular Employee": A competitive service employee who has satisfactorily served a probationary period of one (1) year of continuous service (eighteen months for police officers) after appointment and has been retained.

SEC. 25 "Reinstatement": The re-employment without examination of a former permanent or probationary employee.

SEC. 26 "Suspension": The temporary separation from the service of an employee without pay, for disciplinary purposes.

SEC. 27 "Transfer": A change of an employee from one position to another position in the same class or in a comparable class.

RULE 3 - CLASSIFICATION

SEC. 1 Preparation of Plan

The Personnel Officer, or a person or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions in the competitive service, and, after consulting with appointing authorities and Department Heads affected, shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions in the competitive service defined by class specifications, including the title. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

SEC. 2 Adoption, Amendment and Revision of Plan

The classification plan shall be adopted by the City Council and may be amended from time to time. During the process of consideration, any recognized employee organization affected shall be advised. Amendments and revisions of the plan may be suggested by an interested party, including any recognized employee organization and shall be submitted to the City Manager.

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SEC. 3 Allocation of Positions

Following the adoption of the classification plan, the Personnel Officer shall allocate every position in the competitive service to one of the classes established by the plan. Each class shall have class specifications.

SEC. 4 New Positions

When a new position is created, before the same may be filled, the appointing authority shall notify the Personnel Officer, and, except as otherwise provided by ordinance or these rules, no person shall be appointed or employed to fill any such position until the classification plan shall have been amended to provide for the new position and an appropriate employment list established for such position.

RULE 4 - EQUAL EMPLOYMENT OPPORTUNITY

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

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

Any employee, volunteer, or applicant who believes he/she has experienced any form of employment discrimination or abusive conduct is encouraged to report the conduct immediately by using the complaint procedures provided in these rules, or by contacting the Equal Employment Opportunity Commission ("EEOC"), or the Civil Rights Department ("CRD").

RULE 5 - APPLICATIONS AND APPLICANTS

SEC. 1 Announcement

All examinations for classes in the competitive service shall be publicized by posting an announcement in the City Hall, on official bulletin boards, and by such other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay scale of the class for which the examination is announced; the nature of the work to be performed and essential job duties of the position; that the position is in the competitive service; preparation desirable for the performance of the work of the class; the manner of making applications; and other pertinent information. Successful completion of a drug test may be required as a part of the pre-employment physical.

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SEC. 2 Application Forms

Application shall be made as prescribed on the examination announcement. Application forms shall require information covering training, experience, and other pertinent information, and may include certificates of one or more examining physicians, references, and fingerprinting. All applications must be fully completed and signed by the person applying.

SEC. 3 Disqualification

The Personnel Officer or designee may disqualify any applicant either before or after the examination process for any of the following reasons:

(a) The applicant is applying for a position within the same department or administrative unit as a member of their immediate family. "Immediate family" is defined as spouse, registered domestic partner, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, grandparent, grandchild, step-parent and step-child.

(b) The applicant is the spouse of an employee and is applying for a position where there is a potential for creating adverse impact on supervision, safety, security, or morale.

(c) Failure to possess the necessary requirements stated in the announcement or bulletin.

(d) The applicant is physically or psychologically unfit for the performance of the essential duties of the position and the City could not reasonably accommodate the applicant.

(e) The applicant has been adjudged guilty within the preceding ten (10) year period of a serious crime or a less serious crime involving moral turpitude which has a relationship to the job to be applied for.

(f) The applicant has previously been dismissed from employment with the City of Ridgecrest.

(g) The applicant has had their privilege to operate a motor vehicle in the State of California suspended or revoked by the California Department of Motor Vehicles, if driving is essential for the performance of job duties.

(h) The applicant has made any false statement of any material fact or has practiced any deception or fraud in their application.

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(i) For any material cause which, in the judgement of the Personnel Officer or designee, would render the applicant unfit for the particular position for which the application is filed.

SEC. 4 Criminal Conviction Check

After the City makes a conditional offer of employment, the Personnel Officer may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, the City will not deny employment to any applicant solely because they have been convicted of a crime. The City may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position. This policy does not apply to applicants for public safety jobs.

SEC. 5 Notice of Rejection

Whenever an application is rejected, notice of such rejection shall be emailed, or mailed if no email is listed, to the applicant by the Personnel Officer. Defective applications may be returned to the applicant with notice to amend, providing the time limit has not expired.

SEC. 6 Appeal Procedure

If the application is rejected, the applicant can appeal the rejection to the Personnel Officer within five (5) working days of notice. The Personnel Officer shall review the appeal and the rejection or reinstate the application. The Personnel Officer's decision is final.

RULE 6 - EXAMINATIONS

SEC. 1 Nature and Types of Examination

The selection techniques used in the examination process shall be impartial, of a practical nature and shall relate to those subjects which, in the judgment of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to, achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, or any combination of these or other tests.

The content of all examinations will be kept confidential prior to the administration of the examination. An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Personnel

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Officer may require additional information, such as reasonable documentation of the existence of a disability.

SEC. 2 Promotional Examinations

Promotional examinations shall be conducted whenever, in the opinion of the Personnel Officer, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 1 of this rule, or any combination of them. Only regular or probationary employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

SEC. 3 Continuous Examination

Open-competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in Rule 7.

SEC. 4 Conduct of Examination

The City Council may contract with any competent agency or individual for the preparation of and/or administration of examinations. In the absence of such a contract, the Personnel Officer shall see that such duties are performed. The Personnel Officer shall arrange for the use of public buildings and equipment for the conduct of examinations.

SEC. 5 Scoring Examinations and Qualifying Scores

A candidate's score in a given examination shall be the average of their scores on each competitive part of the examination, weighted as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing in the entire examination or as disqualified for subsequent parts of an examination. The Personnel Officer may, in their discretion, include as a part of the examination tests which are qualifying only.

SEC. 6 Notification of Examination Results and Review of Papers

Each candidate in an examination shall be given notice of the results thereof, and if successful, of their final earned score and rank on the employment list.

Any candidate shall have the right to inspect their own examination papers and a keyed copy only of the examination within five (5) working days after the notices of examination results were mailed. Inspection keys will not be provided for form, standardized or copyrighted tests, or essay or problem tests not subject to scoring by an absolute standard. Any error in the computation, if called to the attention of the Personnel Officer within this period, shall be corrected. Such corrections shall not, however, invalidate appointments previously made.

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RULE 7 - ELIGIBILITY LISTS

SEC. 1 Eligibility Lists

As soon as possible after the completion of an examination, the Personnel Officer shall prepare and keep available an eligibility list consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying scores.

SEC. 2 Duration of Lists

Eligibility lists other than those resulting from a continuous examination shall remain in effect for one (1) year following the date the Personnel Officer certifies the list, unless sooner exhausted or unless the Personnel Officer or designee determines that the list should be extinguished. The list may be extended, prior to the expiration date, by action of the Personnel Officer or designee for additional periods, but in no event shall an employment list remain in effect for more than two (2) years in total.

Open-competitive lists created as the result of continuous examinations shall remain in effect for not more than one (1) year after the last administration of the examination, unless sooner exhausted. Names placed on such lists shall be merged with any other already on the list in order of final scores and shall remain on the list for not more than one (1) year.

SEC. 3 Re-Employment Lists

The names of the probationary and permanent employees who have been laid off shall be placed on appropriate re-employment lists in the order of total continuous cumulative time served in probationary and regular status. Such names shall remain thereon for a period of one (1) year unless such persons are sooner re-employed.

When a re-employment list is to be used to fill vacancies, the Personnel Officer or designee shall certify from the top of such list the number of names equal to the number of vacancies to be filled, and the appointing power shall appoint such persons to fill the vacancies.

SEC. 4 Removal of Names from List

The name of any person appearing on an eligibility, re-employment, or promotional list shall be removed by the Personnel Officer or designee if the Eligible requests in writing that their name be removed, if he/she fails to respond to a notice of certification mailed to the last known address within ten (10) days of mailing, or for any of the reasons specified in Rule 5, Section 3, of these Personnel Rules. It is the responsibility of the Eligible to keep the Personnel Officer informed of their current physical or email address, or phone number. The person affected shall be notified of the removal of their name by a notice

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mailed to their last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

RULE 8 - METHOD OF FILLING VACANCIES

SEC. 1 Types of Appointment

All vacancies in the competitive service shall be filled by transfer, demotion, promotion, re-employment, reinstatement, or from Eligibles certified by the Personnel Officer or designee from an appropriate list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with the Personnel Ordinance and these rules.

SEC. 2 Notice to Personnel Officer

Whenever a vacancy in the competitive service is to be filled, the appointing power shall notify the Personnel Officer or designee in the manner prescribed. If there is no re-employment list available for the class, the appointing power shall have the right to decide whether to fill the vacancy by reinstatement, transfer, demotion, appointment from a promotional eligibility list, or appointment from an open eligibility list.

SEC. 3 Certification of Eligibles

If the appointing power does not consider it in the City's best interest to fill the vacancy by reinstatement, transfer, or demotion, or if it is not possible to fill the vacancy by re-employment, certification shall be made from an appropriate eligibility list, provided Eligibles, are available.

When the appointing power requests a vacancy be filled by appointment from a promotional eligibility list or from an open eligibility list, the Personnel Officer or designee will certify from the specified list the names of all individuals willing to accept appointment. Whenever there are fewer than three (3) names of individuals willing to accept appointment on a list, the appointing power may make an appointment from among such Eligibles or may request the Personnel Officer or designee to establish a new list. When so requested, the Personnel Officer or designee shall hold a new examination and establish a new eligibility list.

SEC. 4 Appointment

After interview and investigation, the appointing power shall make appointments from among those certified, and shall immediately notify the Personnel Officer of the persons appointed. The appointing power can select any Eligible on the list regardless of rank or score. The person accepting appointment shall present themselves to the Personnel Officer, or their designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and presents herself or himself for duty within such period of time as the appointing authority shall prescribe, he/she shall

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be deemed to be appointed; otherwise, he/she shall be deemed to have declined the appointment.

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

SEC. 5 Provisional Appointment

In the absence of there being names of three (3) individuals willing to accept appointment on appropriate eligibility lists, a provisional appointment may be made by the appointing authority of a person meeting the minimum training and experience qualifications for the position. An eligibility list shall be established within six (6) months for any permanent position filled by provisional appointment. The City Manager may extend the period for any provisional appointment for not more than six (6) months by any one (1) action.

No special credit shall be allowed in meeting any qualification or in the giving of any test or the establishment of any open-competitive promotional lists, for service rendered under a provisional appointment. All employees appointed to provisional positions serve at the will of the City Manager.

RULE 9 - NEPOTISM

SEC. 1 Scope

This rule shall encompass members of an employee's immediate family, including: a spouse, registered domestic partner, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, grandparent, grandchild, step-parent and step-child.

SEC. 2 Restrictions on Employment of Spouses and Relatives

The City prohibits employment of members of an employee's immediate family in the same department or administrative unit. The City will not prohibit employment of members of an employee's immediate family in different departments or administrative units, provided that one family member shall not participate in making recommendations or decisions specifically affecting the appointments, retention, work assignments, promotion, demotion, salary, or working conditions of another family member.

A spouse or domestic partner shall not be employed by the City or continue in employment by the City if their working relationship with their spouse or domestic partner has the potential to create an adverse impact on supervision, safety, security or morale as determined by the Personnel Officer.

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Where there are permanent employees of the City who have relatives who also work for the City, these employees may be allowed to continue their service with the City. Upon termination of one, the terminated person would not be eligible for rehire, except in compliance with this rule.

SEC. 3 Marriage or Domestic Partnership after Employment

(a) Transfer

If two City employees who work in the same department later become spouses or domestic partners, the Personnel Officer has discretion to transfer one of the employees to a similar position in another department. Although the wishes of the two employees will be considered, the Personnel Officer retains sole discretion to determine which employee will be transferred based upon City needs for supervision, safety, security or morale. Any such transfer that results in a salary reduction is not disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

(b) Separation

If continuing employment of both employees, who work in the same department and who later become spouses or domestic partners, cannot be accommodated in a manner the Personnel Officer finds to be consistent with the City's interest in the promotion of supervision, safety, security, or morale, then the Personnel Officer retains sole discretion to separate one employee from City employment. Absent the resignation of one employee, the less senior employee will be separated. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

SEC. 4 Special Cases

Exceptional or extraordinary circumstances may allow the City Council to waive the restrictions on employment of spouses or domestic partners. The exceptional or extraordinary circumstances must be concurred with unanimously by the City Council.

RULE 10 - PROBATIONARY PERIOD

SEC. 1 Regular Appointment Following Probationary Period

All original and promotional appointments shall be tentative and subject to a probationary period of not less than one (1) year actual and continuous service (eighteen months for police officers). The City Council may, by resolution, establish a longer probationary period for specified classes. Periods of time on paid or unpaid leave exceeding twenty (20) days shall not be counted toward completion of the probationary period. The probationary period shall be automatically extended by the number of days the employee is on leave.

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If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the Personnel Officer or designee, prior to the expiration of the probationary period, a statement in writing to such effect and stating that the retention of such employee in the service is desired. If such a statement is not filed, the employee will be deemed to be unsatisfactory and their employment terminated prior to the expiration of the probationary period.

SEC. 2 Objective of Probationary Period

Probationary periods shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to their position.

SEC. 3 Rejection of Probationer

During the probationary period, an employee may be rejected at any time by the appointing power with or without cause and without the right of appeal except a sworn police officer discharged for misconduct. Notification of rejection in writing shall be served on the probationer and a copy filed with the Personnel Officer or designee.

SEC. 4 Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing power to file a statement that their services have been satisfactory, shall be reinstated to the position from which he/she was promoted or a position of similar responsibility and at the same salary unless charges are filed and he/she is discharged in the manner prescribed in the Personnel Ordinance and these rules for positions in the competitive service.

RULE 11 - ATTENDANCE AND LEAVES

SEC. 1 Annual Vacation Leave

The purpose of annual vacation leave is to enable each eligible employee annually to return to their work mentally and physically refreshed. All City employees shall be entitled to take annual vacation leave with pay, except for the following:

- (a) Employees who have served the City less than one (1) year.
- (b) Employees who work on a provisional basis, except permanent employees who are filling a provisional appointment.
- (c) Employees who work fewer than two thousand and eighty (2080) hours per year.
- (d) Elective officers.

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(e) Members of appointive boards, commissions, and committees.

(f) Persons engaged under contract to supply expert, professional, technical or other services.

(g) Volunteer personnel, such as volunteer police reserve officers.

(h)

Commencing with the first anniversary of each eligible employee, the employee may take annual vacation leave up to the amount accumulated when the leave is initiated, provided adequate coverage will be maintained by the department.

Each eligible employee employed by the City of Ridgecrest may earn annual vacation at the rate indicated in Table 1, set forth below. Those employees eligible for vacation as defined in Rule 10, Sec. 1, and not covered by the MOU's, shall accrue vacation at the following rate:

TABLE 1

<u>No. of Years Employed</u>	<u>Rate of Accrual in Hours Per Pay Period</u>	<u>Total Hrs./Year</u>
0-4	3.08	80
5-9	4.62	120
10-14	6.16	160
15	6.47	168
16	6.77	176
17	7.08	184
18	7.39	192
19	7.70	200
20	8.00	208

Vacation leave may not be used until it is earned. Annual vacation shall be taken during the succeeding year earned and shall not be cumulative except as follows:

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The times during the succeeding year at which an employee may take their vacation shall be determined by the Department Head with due regard for the wishes of the employee and with particular regard for the needs of the service.

If the requirements of the service are such that an employee cannot take all of their annual vacation in a particular year, such vacation may be taken in part that year and part the succeeding year, or the entire vacation may be paid for at the discretion of the appointing power.

The Department Head shall obtain the approval of the City Manager in writing before deferring any employee's vacation to a succeeding year.

In the event that one (1) or more municipal holidays falls within an annual vacation leave, such holiday shall not be charged as vacation leave, and the vacation leave shall be extended accordingly.

All vacation pay earned shall be paid off at the time of termination.

SEC. 2 Sick Leave

(a) Purpose

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

(1) Diagnosis, care, or treatment of an existing health condition of, or preventative care for the employee themselves or any of the following family members of the employee: a child of any age or dependency status; a parent; a parent-in-law; a spouse; a registered domestic partner; a grandparent; a grandchildren; a sibling;; or

(2) Diagnosis, care, or treatment of an existing health condition of, or preventative care for a "designated person" (A "Designated Person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for family care and medical leave); Or

(3) For an employee who is a victim of domestic violence, sexual assault, stalking, or other crime in order for the employee to engage in any of the following activities: (1) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or (2) obtain medical attention or psychological counseling services from a shelter, program or crisis center, or (3) participate in safety planning or other actions to increase safety.

(b) Accrual

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Sick leave with pay shall be granted to all employees pursuant to this policy. Employees who work full time shall accrue sick leave at the rate of four (4) hours per pay period for each pay period worked. Part time employees shall accrue sick leave at a pro-rated rate.

Eligible employees shall be able to accumulate unlimited sick leave for the purpose of actual physical illness or disability. However, if an employee is terminated by resignation or removal for any reasons prior to the completion of five (5) years of continuous service, such accumulation is forfeited. The terms of sick leave cash out upon leaving City employ are specified by separate City Council Resolutions.

(c) Sick Leave Use

In order to receive compensation while absent on sick leave, the employee shall give their immediate superior or the Personnel Officer reasonable advance notification where the need is foreseeable, notice as soon as practicable where the need was unforeseeable, or notice as may be specified by the head of the department. If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave.

The employee may be required to file a physician's certificate or a personal affidavit with the Personnel Office, stating the cause of the absence. All employees who use paid leave to address issues related to domestic violence, sexual assault, stalking, or other crimes and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time afterward.

(d) Protected Sick Leave

For full-time employees who are not seasonal, temporary, or extra help employees, one-half of the employee's accrued and available annual sick leave is protected and may be used for any of the purposes stated in this policy.

Full-time, part-time and temporary workers are eligible for paid sick leave if they worked for the City for at least 30 days and completed a 90-day employment period before taking any paid sick leave.

For seasonal, temporary, or extra help employees, an employee may use accrued sick leave, in a minimum increment of two (2) hours, beginning on the 90th day after the first day of employment with the City, subject to the limits and provisions in this section. Seasonal, temporary, or extra help employees are "front loaded" up to 40 hours, or five (5) days, whichever is greater, and available sick leave each year is protected and may be used for any of the purposes stated in this section. The year is measured beginning on July 1, 2015, or the employee's anniversary of hire date, whichever is later.

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(e) Sick Leave Reinstatement

If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of six (6) days or 48 hours, whichever is greater, will be reinstated.

(f) Interaction with Workers' Compensation and State Disability Insurance

An employee receiving temporary disability payments under the workers' compensation laws may use accumulated sick leave in order to continue to maintain their regular income. However, all employees receiving full salaries in lieu of temporary disability payments pursuant to Section 4850 of the Labor Code are entitled to accumulate sick leave during such periods of disability.

An employee receiving State Disability Insurance payments may also use accumulated sick leave, vacation leave or compensation time in order to maintain his or her regular income. However, the employee is responsible for providing a copy of all SDI checks to the Payroll Officer on a weekly basis so that the correct check amount may be calculated.

SEC. 3 Extended Family Care Leave

(a) Qualifying Reasons for Leave

Eligible employees may take up to three months of leave in a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave, in accordance with the California Family Rights Act of 1991 ("CFRA") and the Family and Medical Leave Act of 1993 ("FMLA"), for the following purposes:

(1) In connection with the birth of the employee's child, care of an employee's newborn child, the placement of a child with an employee by foster care or adoption, or the serious health condition of the employee's child.

- a. Under the FMLA, "child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is "incapable of self-care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
- b. Under the CFRA, "child" means a child, including a child who is 18 years of age or older who is capable of self-care. An employee's child means a

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biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.

(2) To care for the employee's parent or spouse who has a serious health condition.

(3) Under the CFRA only, to care for a domestic partner, grandparent, grandchild, parent-in-law, sibling, or any Designated Person who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA. A "Designated Person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for family care and medical leave.

(4) To address the employee's own serious health condition that makes it impossible to perform essential job functions.

(5) For a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation.

(6) Under the CFRA only, leave for a variety of "qualifying exigencies" arising out of the fact that an employee's domestic partner is on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA.

(7) Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered service member of the U.S. Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty, or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period.

(b) Requirements for Extended Family Care Leave

In order to be eligible to take family care leave, an employee must have one year of service with the City, must have been employed by the City for at least 12 months, must have worked a minimum of 1,250 hours in the 12 months preceding the leave.

If both parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave, then the aggregate number of workweeks of FMLA leave to which both may be entitled may be limited to 12 workweeks during any 12-month period. Each parent is entitled to take 12 workweeks of CFRA leave during any 12-month period.

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

(c) Notice and Certification Requirements

The employee should, where possible, provide reasonable advance written notice, at least 30 days, of the need for a family care leave. Such a notice should include the date the leave will commence and the estimated duration of the leave.

An employee who requests family care leave must provide a written certification from the doctor treating the employee themselves or the child, parent, spouse, domestic partner, grandparent, grandchild, or sibling who requires care. The certification must contain the following information:

- (1) The date on which the serious health condition commenced.
- (2) The probable duration of the condition.
- (3) An estimate of the amount of time that the health care provider believes the employee needs to care for the child, parent or spouse.
- (4) A statement that the serious health condition warrants the participation of the employee to provide care during a period of the treatment or supervision of the child, parent or spouse.

Employees who request FMLA leave to care for a covered service member who is a child, spouse, parent or "next of kin" of the employee, must provide written certification from a health care provider regarding the injured service member's serious injury or illness. The City will verify the certification as permitted by the FMLA regulations.

The first time an employee requests leave because of a qualifying exigency, an employer may require the employee to provide a copy of the military member's active-duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active-duty status in a foreign country, and the dates of the military member's active-duty service. A copy of the new active-duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active-duty status of the same or a different military member. The City will verify the certification as permitted by the FMLA and CFRA regulations.

(d) Timing to Provide a Certification

When an employee has provided at least 30 days' notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the City within the

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time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Consequences for Failure to Provide a Certification

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

(f) Second and Third Medical Opinions for Employee's Own Serious Health Condition

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

(g) Duration of Leave

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for less than two weeks in duration on any two occasions.

If leave is requested to care for a child, parent, spouse, domestic partner, grandparent, grandchild, sibling or the employee themselves with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this section is required.

(h) Intermittent Leave or Leave on a Reduced Leave Schedule

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

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to an alternate position of equivalent pay and benefits that better accommodates the leave schedule.

(i) City's Right to Refuse

The City may refuse a request for family care leave if granting the request would cause undue hardship to the City's operations.

(j) Limitations on Leave

Family care leave is unpaid except those five (5) days may be charged to sick leave. An employee also has the right to substitute accrued vacation pay or other accrued time off for family care leave. However, neither leave nor seniority will continue accruing during the period of absence.

If an employee takes a leave of absence for any purpose which also qualifies under the FMLA and CFRA, the City will designate that leave as running concurrently with the employee's 12-week FMLA and/or CFRA leave entitlement. The only exception is for peace officers and firefighters who are on paid industrial injury leave pursuant to Labor Code section 4850.

(k) Employee Benefit Plans

An employee who takes family care leave is entitled to continue participating in employee benefit plans provided that both the employee and employer continue to pay the same share of the cost they normally pay. The City will inform the employee whether the direct payments for premiums should be paid to the carrier or to the City, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave. If an employee fails to return to work after their leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or their family member which would entitle the employee to leave, or because of circumstances beyond the employee's control.

(l) Reinstatement on Return from Leave

At the conclusion of the family care leave, the employee will be returned to the same or a comparable position. However, if layoffs or reductions in force occur while an employee is on Family Care Leave, and the employee would have lost his or her job had he or she remained, then he or she will lose the right of reinstatement.

(m) Fitness for Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform

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their job, the employee must obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.”

SEC. 4 Military Leave

Military leave shall be granted in accordance with the provisions of federal and state law. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken. An employee requesting leave for this purpose shall promptly provide the appointing power with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the appointing power may determine when the leave is to be taken and may modify the employee’s work schedule to accommodate the request for leave.

SEC. 5 Leave of Absence Without Pay

The City Manager may grant a regular or probationary employee a leave of absence without pay or seniority accrual for a period not to exceed six (6) months. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval shall be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave is granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be cause for discharge.

Department Heads may grant a regular or probationary employee leave of absence without pay for not to exceed one (1) calendar week. Such leaves shall be reported to the Personnel Officer or designee on a change of status report form along with the written request for the leave of absence.

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

SEC. 6 Catastrophic Leave

(a) Purpose

The purpose of the Catastrophic Leave Sharing Program is to allow City of Ridgecrest full-time employees the opportunity to assist fellow full-time employees who

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have experienced personal catastrophic illness or injury that causes a loss of income. The Catastrophic Leave Sharing Program is intended to assist all full-time employees.

(b) Definitions

(1) Catastrophic Illness or Injury

A serious, debilitating illness or injury which incapacitates the employee and which causes a loss of income due to the employee having exhausted all paid leave accruals; i.e.: usable administrative leave, compensatory time, floating holiday, sick leave and vacation leave. Catastrophic illness or injury is further defined as long-term, incapacitating illness, injury, or medical condition for which a physician has certified the condition is likely to require the employee to miss 30 or more consecutive work days.

The City has the sole discretion to determine whether a situation meets the requirements of a catastrophic illness or injury based on the information that the employee requesting a donation has provided. The City's determination is final and not subject to the grievance procedure or appealable.

(2) Eligible Leave

Leave that may be donated is defined as accrued whole hours of sick leave. Eligible leave does not include vacation leave, usable administrative leave, floating holiday or compensatory time.

(3) Full-time Employee

An individual employed in a City of Ridgecrest Classification, scheduled to work 80 hours per pay period; eligible for full benefits to accrue Leave Time including but not limited to Vacation and Sick Leave.

(4) Fiscal Period

July 1— June 30

(c) Eligibility to Receive Donated Sick Time

Accrued sick hours may be donated and transferred when ALL of the following conditions are met:

(1) A full-time employee suffers a catastrophic illness or injury; _

(2) The full-time employee requests donated leave in writing due to catastrophic illness or injury;

(3) The catastrophic illness or injury prevents, or is likely to prevent, the employee from returning to work for at least 30 days as certified by a physician;

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(4) A leave of absence is approved for the full-time employee by Department Head and the City Manager due to a catastrophic illness or injury;

(5) The full-time employee has exhausted all paid leave accruals, including but not limited to usable administrative leave, compensatory time, floating holiday, sick leave and vacation leave; and

(6) The full-time employee or their designee has provided to Human Resources medical justification as evidenced by a physician's statement as to the severity and protracted nature of the employee's condition.

Employees receiving disability benefits and/or workers compensation are eligible for the Catastrophic Leave Sharing Program. Safety employees, including police officers and firefighters, are ineligible for the Catastrophic Leave Sharing Program while receiving industrial leave compensation pursuant to Labor Code section 4850.

(d) Limitations

Any full-time City employee may voluntarily donate to, or make requests for donation of leave. All donations are voluntary and subject to taxation in accordance with applicable state and federal regulations. Donations shall not exceed one hundred four (104) hours per donor per fiscal period. Employees donating accrued leave time must retain a minimum of 160 total sick leave hours AFTER their donation has been made AND must complete a Donation Form to request a transfer of specified accrued leave time.

Employees making leave donations and employees receiving leave donations may remain anonymous upon the employee's request, except to the extent necessary for the City to process leave transfers.

The donation is on an as-needed basis, and in no event shall the recipient employee receive more than 480 hours in any 12-month period. The purpose in establishing a donation cap is to limit the donations to a reasonable level rather than allow donations to exceed the need.

Under no circumstances shall the total sum of compensation including disability payments, accrued leave, catastrophic leave, and so on, exceed the employee's rate of pay prior to their catastrophe. All disability payments shall be reported to the Payroll Office within the Finance Division, and use of donated time shall be coordinated with other applicable leave benefits. This Program shall be coordinated with the Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA), and is not a replacement of FMLA or the CFRA.

The donated leave must come from accrued sick leave time. Leave request and donations shall be processed on a first-come, first-served basis, incrementally as the need arises. The City Manager shall advise all full-time employees of any need to donate more hours from time to time. The donor understands that he/she has no right under any

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circumstances to have any of the donated leave hours restored to their accrued leave balance once the donor has signed the donor leave request form and it has been approved by their Department Head.

(e) Procedure

(1) The full-time employee must request the leave donation by completing and submitting to the Human Resources office, a Recipient Application Request Form and a completed Attending Physician's Statement Form, documenting the severity and protracted nature of the employee's condition. In the event that the employee is incapacitated to the extent that he/she cannot complete the Recipient Application Form, their immediate supervisor may complete one on their behalf with the consent of the employee or designated adult beneficiary of the employee (if the employee is unconscious).

(2) The City Manager or their designee must review the Recipient Application Form and Attending Physician's Statement Form and determine whether the full-time employee is eligible for receipt of donated sick leave time pursuant to the Catastrophic Leave Sharing Program.

(3) If the City Manager determines that the full-time employee is eligible, the City Manager or their designee will solicit donations of sick leave time from other full-time employees via a memorandum. The requesting employee may remain anonymous upon request.

SEC. 7 Jury Duty Leave/Subpoenaed or Court-Ordered Witness Leave

Every employee of the City who is called or required to serve as a trial juror, subpoenaed, or ordered to be a witness shall be entitled to absent himself or herself from their duties with the City during the period of such service or while necessarily being present in court as a result of such call. The employee must notify their supervisor or Department Head as soon as possible.

Under such circumstances, the employee shall be paid the difference between their full salary or compensation and any payment received by him/her, except travel pay, for such duty. All overtime-eligible employees will be paid for actual work hours missed because of time spent in jury service or court. The time spent on jury duty is not work time for purposes of calculating overtime compensation. All FLSA-exempt employees will continue to receive their normal salary, as offset by any payment received except travel pay, while on jury duty or as serving as a witness only for any workweek in which they perform any work duties. Any employee who is released from jury service prior to the end of their scheduled work hours must report to work unless otherwise authorized by their supervisor.

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SEC. 8 Leave for Victims of Domestic Violence, Sexual Assault, Stalking or Other Crimes to Obtain Restraining Orders or Injunctive Relief

Any employee who is a victim of domestic violence, sexual assault, stalking, or another, related crime may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, a restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or their child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use Healthy Workplace Healthy Family Act of 2014 sick leave, accrued vacation or paid leave, or compensatory time off.

SEC. 9 Leave for Victims of Domestic Violence, Sexual Assault, Stalking or Other Crimes to Obtain Medical Attention or Counseling or Safety Planning

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

SEC. 10 Attendance

Employees shall be in attendance at their places of work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees which shall be reported to the Personnel Officer in the form and on the dates he/she shall specify. Failure on the part of any employee, absent without leave, to return to duty within twenty-four (24) hours after notice to return shall be cause for immediate discharge.

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SEC. 11 Pregnancy Disability Leave

(a) Amount of Leave

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

(b) Notice & Certification Requirements

Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Personnel Officer.

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

(c) Compensation during Leave

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

(d) Benefits during Leave

An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the FMLA.

Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave.

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The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

(e) Reinstatement

Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave.

If the employee's original position is no longer available, the employee will be assigned to a comparable, open position.

If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these rules.

SEC. 12 Holidays

The holidays to be observed in the City are specified in each negotiating group's memorandum of understanding.

Every regular and every probationary employee in the competitive service shall not be required to be on duty on holidays unless the employee's services are needed and required in the interests of the public health, safety, or general welfare, in which case such employee shall be entitled to compensatory time off (at such time as, in the discretion of the Department Head, their services are not needed and required).

When a holiday falls on a Sunday, the following Monday shall be observed. When a holiday falls on a Saturday, the preceding Friday should be observed. If a holiday falls on an employee's regularly scheduled time off, compensatory time off shall be granted.

SEC. 13 Bereavement Leave

All employees who have been employed by the City for at least 30 days are entitled to five (5) days of paid bereavement leave in the event of the death of a "family member"

A "family member" means a spouse, domestic partner, child, stepchild, parent, grandparent, grandchild, sibling, parent-in-law.

An employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off in order to provide for their compensation during any bereavement leave in excess of five (5) days.

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An employee who utilizes bereavement leave shall notify their supervisor or Department Head of the intent to use such leave. Employees may use such leave on a non-consecutive basis in the three (3) months that follow that date of death of the “family member.”

SEC. 14 Reproductive Loss Leave

All employees who have been employed by the City for at least 30 days are entitled to five (5) days of unpaid reproductive loss leave in the event of a reproductive loss event. An employee is eligible for this leave if they would have been a parent if not for the reproductive loss.

A reproductive loss event means any one of the following occurrences: (1) failed adoption meaning the dissolution of an adoption agreement with the birth mother or legal guardian, or an adoption that is not finalized because it is contested by another party; (2) failed surrogacy meaning the dissolution or breach of a surrogacy agreement, or a failed embryo transfer to the surrogate; (3) miscarriage; (4) stillbirth; or (5) an unsuccessful assisted reproduction meaning an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure.

If an employee suffers more than one reproductive loss event in a 12-month period, the employee is entitled to a total of no more than twenty (20) days of reproductive loss leave.

Employees may use accrued and available sick leave, vacation, or other compensatory time off.

RULE 12 - WORK WEEK, OVERTIME, AND COMPENSATORY TIME OFF

SEC. 1 Work Week

The work week begins at 12:00 a.m. on Saturday and ends at 11:59 p.m. on Friday, except for employees on a 9/80 work schedule, or as otherwise designated in an applicable MOU, or by a FLSA 29 U.S.C. § 207(k) (“Section 7(k)”) work period for police and fire employees.

SEC. 2 Work Week for 9/80 Work Schedule

Employees working a 9/80 work schedule will have a regular day off every other week as determined by the City. For employees working a 9/80 work schedule, each employee’s designated work week shall begin exactly four hours after the start of their eight (8) hour shift on the day of the week that corresponds to the employee’s alternating regular day off.

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SEC. 3 Work Period for Police

The work period for the City's sworn police employees is a regularly recurring 14-day period pursuant to Section 7(k).

SEC. 4 Overtime

Overtime is all hours an overtime-eligible employee actually works over 40 hours in their designated work week; or in the case of Police, over the designated work period threshold pursuant to Section 7(k). Only actual hours worked will be counted toward the overtime threshold for purposes of calculating FLSA overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so.

SEC. 5 No Remote Access for Overtime-Eligible Employees

Unless the Personnel Officer specifies otherwise in writing, overtime-eligible employees may not have remote access to City equipment, resources, or email.

SEC. 6 Prior Approval Required for Overtime

Overtime-eligible employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by the agency. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.

SEC. 7 Accurate Time Reporting

All employees must accurately report all work time to the nearest five (5) minutes. Specific timekeeping and timesheet procedures are maintained in Administrative Policy No. 24-01.

SEC. 8 No Volunteering of Work Time

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

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SEC. 9 Compensatory Time Off

(a) Accrual Rate

CTO accrues at the rate of one and one-half (1.5) hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of **[80]** hours at any given time.

(b) Employee Request to Use CTO

The City will grant an employee's request to use accumulated CTO provided that: (1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and (2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off without undue disruption, the City will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.

(c) City Cash Out

The City reserves the right to cash out accumulated CTO at any time.

(d) Value of CTO Cash Out

During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays). Employees separating from City service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher.

RULE 13 - LACTATION ACCOMMODATION

SEC. 1 Purpose

To establish the City of Ridgecrest's rules and procedures regarding employee requests for lactation accommodation.

SEC. 2 Rule

The City will provide a reasonable amount of break time to accommodate an employee's need to express breast milk for the employee's infant child. The City shall provide the employee with the use of a room or other location in close proximity to the employee's work area that is not a bathroom and is shielded from view and free from intrusion for the employee to express milk in private. Such space will meet the requirements of the California Labor Code and the City will make reasonable efforts to ensure that the space includes a surface to place a breast pump and personal items, a

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place to sit, access to electricity or alternative devices, a sink with running water, and a refrigerator, or other cooling device, nearby for storing breast milk. If the City provides a multipurpose room for lactation breaks, the use of the room for lactation shall take precedence over the other uses, but only for the time it is in use for lactation purposes.

SEC. 3 Procedures

An employee may request an accommodation for lactation breaks by submitting a lactation accommodation request form to the department supervisor.

The department supervisor must respond to the employee's accommodation request in writing on the same lactation accommodation request form submitted by the employee indicating the approval or denial of the break request. The completed request form must be returned to the employee and a copy sent to the Human Resources department.

The requested break time should, if possible, be taken concurrently with other scheduled break periods. If an employee wants to take a lactation break at a time other than a scheduled break period, the employee must notify a supervisor before taking the break. Nonexempt employees must clock out for any lactation breaks that do not run concurrently with normally scheduled break periods. Any such breaks will be unpaid.

The City reserves the right to deny an employee's specific request for a lactation break if the additional break time will seriously disrupt operations. The City will make reasonable efforts to accommodate all requests even if it is unable to provide the specific accommodation.

Employees have the right to file a complaint with the Labor Commissioner for any violation of rights provided under Chapter 3.8 of the California Labor Code regarding lactation accommodations.

See attached Lactation Accommodation Request Form.

SEC. 4 Storage of Expressed Milk

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

RULE 14 - PAY ADJUSTMENTS

SEC. 1 Application of Rates

Employees occupying a position in the competitive service shall be paid on salary or wage established for that position's class. The minimum rate, if provided, for the class generally shall apply to employees upon original appointment. However, the City

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Manager, when circumstances warrant it, may authorize original appointment or reinstatement at other than the minimum rate.

SEC. 2 Advancement

No salary advancement shall be made so as to exceed any maximum rate established in the pay plan for the class to which the advanced employee's position is allocated. Advancements shall not be automatic but shall depend upon increased service value of an employee to the City as exemplified by recommendations of their supervising official, length of service, performance record, special training undertaken, or other pertinent evidence. Step and longevity increases will take effect on the first day of the pay period in which the anniversary date falls.

RULE 15 - REPORT OF PERFORMANCE

SEC. 1 Responsibility for Preparation of Reports

It is the policy of the City that regular reports be made as to the efficiency, competency, conduct and performance of its employees. To this end, it is declared to be the responsibility of the Personnel Officer or designee, the Department Heads and their subordinate supervisors that these ratings be made. It is also declared that it is the responsibility of the Personnel Officer or designee to provide and prescribe the forms and procedures to be used in such reports of performance and to assist in the training of supervisory personnel of the City so that the program of performance reporting will be carried on in a sound and effective manner.

SEC. 2 Time for Reporting

(a) At a minimum, reports shall be prepared for probationary employees at the six- and twelve-month anniversaries during the probationary period.

(b) A report for a regular employee shall be prepared at least once per year at a time determined by the Personnel Officer, provided that the employee may also be given a report of performance at any other time during the year upon their own request and/or at the discretion of the reporting supervisor. Any employee who has been rated "below standard" or "unsatisfactory" overall shall be reported on again six (6) months from receiving such rating.

SEC. 3 Authority to Make Reports

The Department Head shall have the authority to prepare reports of performance. they may, however, delegate said authority to such subordinate supervisory employees as are most familiar with the work of the employees to be reported on, provided that they shall review and approve all performance reports of personnel under their jurisdiction.

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SEC. 4 Distribution of Reports

Reports shall be prepared as an original in two (2) copies. After review and approval of the Department Head, one (1) copy shall be retained for the Department Head's files, one (1) copy shall be given to the employee, and the original shall be made a part of the employee's employment history in the personnel file.

SEC. 5 Effects of "Below Standard" and "Unsatisfactory" Ratings

(a) Any employee who receives an overall "unsatisfactory" or "below standard" rating will not be eligible to participate in any promotional examination until an overall "satisfactory" or higher rating is established.

(b) Any employee who receives an overall "unsatisfactory" rating will not receive any merit or length of service increment during the period following the report in which the "unsatisfactory" rating is effective. The same shall apply for any employee upon receipt of a second consecutive "below standard" rating.

(c) An overall rating of "unsatisfactory" or "below standard" shall be grounds for disciplinary action.

SEC. 6 No Appeal Right

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

RULE 16 - REPORTS AND RECORDS

SEC. 1 Evaluation Schedules

The Personnel Officer shall maintain an evaluation list for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent.

SEC. 2 Change-of-Status Report

Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of employees shall be reported to the Personnel Officer in such manner as they may prescribe.

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RULE 17 - TRANSFER, PROMOTION, AND REINSTATEMENT

SEC. 1 Transfer

No person shall be transferred to a position for which he/she does not possess the minimum qualifications. Upon notice to the Personnel Officer or designee, an employee may be transferred by the appointing power at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves change from one department to another, both Department Heads must consent to the transfer unless the City Manager orders the transfer for purposes of economy or efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these rules.

An employee may also initiate a transfer to another position for which he/she is qualified in the same or lower classification at the same or a lower salary. To accomplish such a transfer, the employee must file a request to transfer with the Personnel Officer or designee. The request will be held for one (1) year. With the approval of the Department Head for whom the employee now works and the Department Head for whom the employee requests to work, the employee shall be transferred when the first vacancy occurs, provided that no change in salary will occur.

SEC. 2 Promotion

Insofar as consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established.

If, in the opinion of the Personnel Officer, a vacancy of the position could be filled better by an open-competitive examination instead of promotional examination, then he/she shall arrange for an open-competitive examination and for the preparation and certification of an open-competitive employment list.

SEC. 3 Reinstatement

With the approval of the appointing power and the Personnel Officer, a permanent or probationary employee who has resigned with a good record may be reinstated within one (1) year of the effective date of resignation, to a vacant position in the same or comparable class. Upon reinstatement, the employee, for all purposes, shall be considered as though he/she had received an original appointment.

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RULE 18 - SEPARATION FROM THE SERVICE

SEC. 1 Probationary Release

Probationary employees serving in their initial probationary period with the City may be released at any time during the probationary period as recommended by the Department Head or Personnel Officer, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance.

SEC. 2 Lay-off

(a) Procedure

The appointing power may lay off an employee in the competitive service because of a change in duties, a change in organization, shortages of work or funds, or when otherwise necessary for economic or operational reasons. The order of lay-off is within the sole discretion of the Personnel Officer. Thirty (30) days before the effective date of lay-off, the appointing authority shall notify the Personnel Officer or designee of the intended action with supporting reasons, and a statement certifying whether or not the services of the employee have been satisfactory. A copy of the notice shall be given the employee affected.

(b) Displacement

Employees shall be laid off in the inverse order of their seniority. Employees have the right, if their position is to be eliminated, to assume the position of a less senior employee (seniority shall be determined by continuous service time within the classification. The employee has the right to assume the position of a less senior employee in their current job classification or in any other, former job classification in which the employee has worked. The salary of an employee who moves into the position of a less senior employee shall be the range of the job classification into which the senior employee moves and the step held in the eliminated position or the step attained while in the job classification they are assuming, whichever is higher.

Employees who have received a satisfactory or better evaluation the twelve (12) months prior to the position elimination shall automatically be placed on the re-employment list for one (1) year if their position or a lower classification position is available or reinstated.

(c) Transfer in Place of Layoff

If the Personnel Officer determines that an employee in the competitive service who is subject to layoff is qualified to perform the duties in a vacant position, the employee will receive a written notice of option to transfer in lieu of layoff. An employee who does not accept a transfer within ten (10) days after the date of the written notice, forfeits the

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option to transfer. An employee who accepts a transfer will be paid the rate applicable to the position into which he/she transfers.

SEC. 3 Resignation

An employee wishing to leave the competitive service in good standing shall file with the City Manager a written resignation stating the effective date and reasons for leaving at least two (2) weeks before leaving the service, unless such time limit is waived by such official. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Personnel Officer or designee. Failure to give notice as required by this rule may be cause for denying future employment by the City. A resignation becomes final when the City Manager accepts the resignation in writing. Once a resignation has been accepted, it is final and irrevocable. A resignation can be accepted by the City Manager even if it is submitted less than two weeks prior to the planned resignation date.

SEC. 4 Retirement

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

SEC. 5 Job Abandonment

An employee is deemed to have resigned from their position if the employee is absent for five (5) consecutive, scheduled work days/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at their address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the City's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Personnel Officer before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as a severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee separated for job abandonment has the right to a post-separation appeal.

SEC. 6 Return of City Property

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

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SEC. 7 Job References/Verification of Employment

All reference inquiries and verifications of employment must be referred to and approved by the Personnel Officer. Unless the Personnel Officer receives a written waiver signed by the employee, the City will not release any information. Department Heads and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the Personnel Officer on a case-by-case basis.

RULE 19 - DISCIPLINARY ACTIONS

SEC. 1 Cause and Extent

Disciplinary action may be taken against any employee in the competitive service for cause. The extent of the disciplinary action taken shall be commensurate with the offense and the prior employment history of the employee. Non-competitive employees, outside the competitive service, serve at the will of the appointing authority and may be disciplined at any time without cause or rights of appeal.

SEC. 2 Kinds of Actions

The disciplinary actions that may be taken are dismissal, demotion, suspension without pay, reduction in pay, written reprimand, or any appropriate combination of these.

(a) Dismissal means the discharge of an employee from the City service.

(b) Demotion without consent as a disciplinary action shall be a reduction in classification or rank to a lower classification or rank, and a reduction in salary. Demotion without consent may be made to the lowest classification or rank in the series of classes or related series to that within which the class is located. Demotion may be made on a temporary basis or a permanent basis.

(c) Suspension without pay shall be a temporary separation from City service.

(d) Reduction in pay as a disciplinary measure is a reduction in base pay. The maximum reduction in pay that may be given for any one (1) disciplinary action shall be an amount equal to two (2) steps within the range for that class. Reduction in pay shall become effective on the first of the pay period following the effective date of the disciplinary action. Reduction may be made on a permanent or temporary basis.

(e) Written reprimand as a disciplinary action means an official notification to the employee that there is cause for dissatisfaction with the employee's performance and that further disciplinary action may be taken if said cause is not corrected. Written reprimand shall be made a part of the employee's official personnel record and may be considered as pertinent evidence of information in any appeal hearing.

(f)

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SEC. 3 Grounds for Disciplinary Action

Disciplinary action may be taken for any cause, which may include, but is not limited to the following, insofar as they relate to the employee's ability to perform the functions required by employment with the City:

(a) Fraud in securing employment or making a false statement on an application for employment.

(b) Incompetency, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.

(c) Inefficiency of inexcusable neglect of duty, i.e., failure to perform duties required of an employee within their position.

(d) Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position

(e) Dishonesty, involving employment.

(f) Being impaired by or in possession of alcohol or illegal drugs or narcotics while on duty, on call for duty or on City premises, in accordance with Rule 29: Prohibition against Substance Abuse.

(g) Excessive absenteeism.

(h) Inexcusable absence without leave.

(i) Abuse of sick leave, i.e., taking sick leave without a doctor's certification when one is required or misuse of sick leave.

(j) The conviction of either a misdemeanor or a felony involving moral turpitude shall constitute grounds for dismissal of any employee. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Personnel Officer may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline, or the determination if such conviction is an offense involving moral turpitude. An appeal, a verdict of guilty, or a conviction, including a plea of nolo contendere, made in response to a charge of a felony or any offense within the meaning of this Section, shall be considered under this rule. The Personnel Officer may suspend or dismiss said employee when the time for appeal has elapsed or the judgement or conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code of the State of California allowing such person to withdraw their plea of guilty and enter a plea of not guilty, or setting aside a verdict of guilty, or dismissing the accusation or indictment.

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- (k) Discourteous treatment of the public.
- (l) Improper or unauthorized use of City property.
- (m) Violation of the rules and regulations published in any department.
- (n) Refusal to subscribe to any oath or affirmation which is required by law in connection with City employment.
- (o) Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the City, the employee's department or division.
- (p) Inattention to duty, tardiness, indolence, carelessness or negligence in the care and handling of City property.
- (q) Outside employment not specifically authorized by the appointing authority or City Manager.
- (r) Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of their official duties.
- (s) The refusal of any officer or employee of the City to testify under oath before any Grand Jury having jurisdiction over any then pending cause or inquiry in which the investigation of government bribery or misconduct in a City office is involved shall constitute of itself sufficient ground for the immediate discharge of such City officer or employee.
- (t) Willful violation of any of the provisions of the ordinances, resolution or any rules, regulations or policies which may be prescribed the City Council or City Manager.
- (u) Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in national, state, county or municipal elections while on duty and/or during working hours or while in a City uniform on or off duty; or the dissemination of political material of any kind while on duty and/or during working hours or while in uniform.

Activities not affected: Nothing in these rules and regulations shall be construed to prevent any officer or employee from becoming or continuing to be a member of a political club or organization, or from attendance at a political meeting, or from enjoying entire freedom from all interference in casting their vote or from seeking or accepting election or appointment to public office, providing however, that a person holding a position in the classified service must resign their position in the classified service upon being elected to the office of any elective office of the City.

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(v) Harassment of any other employee, including but not limited to: verbal, physical, visual, or sexual harassment.

SEC. 4 Effective Date

A disciplinary action shall be effective as of the time designated by the person or persons authorizing the action, provided that no disciplinary action may be given an effective date which is prior to the date such action is taken.

SEC. 5 Authority to Take Disciplinary Action

The City Manager shall have authority to take disciplinary action.

Department Heads and their designated subordinates are authorized to issue written reprimands and verbal warnings of unsatisfactory service to an employee when indicated, and to recommend all other forms of disciplinary action.

The City Manager or designee shall be notified of any contemplated disciplinary action prior to the time it is taken provided that in emergency situations or other instances when prior notification is not practicable, the City Manager or designee may be notified as soon as possible subsequent to the time the action is taken.

SEC. 6 Notice

In cases of dismissal, demotion, suspension or reduction in pay, written "*Skelly*" notice of the intended action shall be given to the employee setting forth the following information:

- (a) The level of proposed discipline.
- (b) Grounds for proposed discipline.
- (c) Act or omission giving rise to intended discipline.
- (d) Effective date of the intended discipline.
- (e) All documents or records considered in recommending the proposed discipline.
- (f) The date by which the employee may respond and the person to whom the employee can respond.
- (g) Notice of the employee's right to have a representative of their choice at the *Skelly* conference.
- (h) Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

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SEC. 7 Employee Response

The employee shall have five (5) working days from the date the notice is served on him/her to respond to the notice. Response shall be made to the City Manager and may be written or oral. If the employee chooses to respond orally, the City Manager or their designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him/her and present any mitigating circumstances. The City Manager will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* notice.

SEC. 8 Final Action

After considering the employee's response to the notice of intended action, the City Manager or designee shall give a final notice regarding the discipline, if any, to be imposed. If the final notice imposes discipline, it must set forth the following:

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

RULE 20 - RULES OF APPEAL FOR DISCIPLINARY ACTIONS

SEC. 1 Right of Appeal

Any employee in the competitive service shall have the right to appeal to the Personnel Commission any disciplinary action involving dismissal, demotion, suspension and reduction in pay. The employee must file an appeal with the Personnel Officer within ten (10) days of either (1) receipt of final notice of the disciplinary decision or (2) the date of attempted delivery by the post office or delivery service of the notice to the employee's last known address. Failure to file a timely appeal waives the right to an appeal hearing and any appeal of the discipline.

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SEC. 2 Method of Appeal

Appeals shall be in writing, subscribed by the applicant, and filed with the Personnel Officer or designee, who shall inform each member of the Personnel Commission, the appointing power and such other persons or officers named or affected by the appeal of the filing of the appeal. The appeal shall be a written statement, addressed to the Personnel Commission, explaining the matter appealed from and setting forth the ground for the appeal and the action desired by the appellant.

SEC. 3 Notice

Upon the filing of an appeal, the Personnel Officer or designee shall set a date for a hearing on the appeal not less than ten (10) days, nor more than sixty (60) days from the date of filing. The Personnel Officer or designee shall notify all interested parties of the date, time and place of the hearing.

SEC. 4 Hearings

(a) All hearings shall be closed unless the employee requests in writing five (5) days before the hearing that the hearing be open.

(b) Subpoenas and subpoenas duces tecum shall be issued by the Personnel Officer or designee at the request of either party, not less than five (5) working days prior to the commencement of the hearing. Each party is responsible for serving its own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.

(c) Five (5) days prior to the hearing, each side shall exchange a witness list (except rebuttal witnesses) and all exhibits (except rebuttal evidence). Failure to exchange the list of witnesses shall result in the Personnel Commission refusing to hear the witness testimony unless there is good cause shown for the failure. Failure to exchange exhibits shall result in the Personnel Commission excluding them unless there is good cause shown for the failure.

(d) The Personnel Commission may continue a scheduled hearing only upon good cause shown.

(e) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the

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same extent that they are now or hereafter may be recognized in civil and criminal actions. Irrelevant and unduly repetitious evidence shall be excluded. The Personnel Commission shall not be bound by technical rules of evidence. The Personnel Commission shall rule on the admission or exclusion of evidence.

(f) Each party shall have these rights: To be represented by legal counsel or another person of their choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the employee does not testify on their own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation.

(g) The hearing shall be recorded, either electronically or by a court reporter, at the option of the City. If the City orders a transcript or makes a transcript of the recording, the City will notify the employee within three (3) days of ordering or making the transcript, and will provide a copy of the transcript upon receipt of the costs of duplication.

(h) The parties will address their remarks, evidence, and objections to the Personnel Commission. The Personnel Commission may terminate argument at any time and issue a ruling regarding an objection or any other matter. The Personnel Commission or designee may limit redundant or irrelevant testimony, or directly question the witness. The hearing shall proceed in the following order, unless the Personnel Commission, for special reasons, otherwise directs:

(1) The party imposing discipline shall be permitted to make an opening statement;

(2) The appealing party shall then be permitted to make an opening statement;

(3) The party imposing disciplinary action shall produce the evidence on their part; the City bears the burden of proof which is preponderance of the evidence and burden of producing evidence;

(4) The party appealing from such disciplinary action may then open their defense and offer their evidence in support thereof; the employee bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted;

(5) The parties may then, in order, respectively offer rebutting evidence only, unless the Personnel Commission, for good reason, permits them to offer evidence upon their original case;

(6) Closing arguments shall be permitted and written briefs may be permitted at the discretion of the Personnel Commission. The City shall have the right to open the closing arguments followed by the employee. The City then has a right to reply.

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(7) Either party may request to submit a written brief and/or a draft decision. The Personnel Commission will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.

(i) The Personnel Commission shall determine relevancy, weight, and credibility of testimony and evidence. The Personnel Commission shall base their findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the Personnel Commission, for good cause, otherwise directs. The Personnel Commission shall render judgment as soon after the conclusion of the hearing as possible and in no event later than thirty (30) days after conducting the hearing unless the Personnel Commission determines in their sole discretion that additional time is needed. The Personnel Commission's recommended decision shall set forth which charges, if any, are sustained and the reasons therefore. The opinion shall set forth findings of fact and the conclusion.

(j) The Personnel Commission may sustain or reject any or all of the charges filed against the employee. The Personnel Commission may sustain, reject or modify the disciplinary action invoked against the employee.

(k) The decision of the Personnel Commission shall be final and conclusive. Copies of the Personnel Commission's decision shall be filed where appropriate, including the employee's personnel file, unless no discipline is upheld by the Personnel Commission.

(l) The City will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. It shall be the responsibility of the employee to inform the City of their address. A copy of the decision shall also be provided to the Personnel Officer.

Each party shall bear the cost of the court reporter and transcripts. Each party shall bear its own witness and attorney fees.

(m) The provisions of Section 1094.6 of the Code of Civil Procedure shall be applicable to proceedings under this section.

RULE 21 - GRIEVANCE PROCEDURES

SEC. 1 Purpose of Rule

(a) To promote improved employer-employee relations by establishing grievance procedures.

(b) To afford employees, individually or through qualified employee organizations, a systematic means of obtaining further considerations of problems

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defined as grievable after every reasonable effort has failed to resolve them through discussions.

(c) To provide that grievances shall be settled as near as possible to the point of origin.

(d) To provide that appeals shall be conducted as informally as possible.

SEC. 2 Matters Subject to Grievance Procedures

Any employee in the competitive service shall have the right to appeal, under this Rule, their alleged violations of a specific provision of these Personnel Rules. The grievance procedures cannot be used to challenge the content of a performance evaluation. For employees covered by an MOU, the grievance procedures established in the MOU will supersede the procedures established in the Personnel Rules.

SEC. 3 Informal Grievance Procedures

An employee who has a problem or complaint should first try to get it settled through discussion with their immediate supervisor without undue delay. If, after this discussion, he/she does not believe the problem has been satisfactorily resolved, he/she shall have the right to discuss it with their supervisor's immediate superior, if any, in the administrative service. Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. If the employee is not in agreement with the decision reached by discussion, he/she shall then have the right to file a formal appeal in writing within ten (10) calendar days after receiving the informal decision of their immediate superior. An informal appeal shall not be taken above the appointing power.

SEC. 4 Formal Grievance Procedure

(a) First Level of Review: Department Head

The appeal shall be presented in writing to the employee's Department Head. The written formal grievance must include the following information in order to be considered a grievance under this rule:

- (1) The date of the alleged violation;
- (2) The specific provision(s) of these rules policies that were allegedly violated;
- (3) A description of all facts regarding how the alleged violation occurred; and
- (4) A list of all persons who are witnesses or are involved.

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The Department Head shall render their decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the appeal. If the employee does not agree with their Department Head's decision, or if no answer has been received within fifteen (15) calendar days, the employee may then present the appeal in writing to the City Manager. Failure of the employee to take further action within ten (10) calendar days after receipt of the written decision of their Department Head, or within a total of twenty-five (25) calendar days if no decision is rendered, will constitute a waiver of the appeal.

(b) Second Level of Review: City Manager

The City Manager receiving the appeal, or their designated representative, will discuss the grievance with the employee, the employee's representative, if any, and with other appropriate persons. The City Manager shall render their decision and comments in writing, and return them to the employee within fifteen (15) calendar days after receiving the appeal. If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, he/she may present the appeal in writing to the City Council. Failure of the employee to take further action within ten (10) calendar days after receipt of the decision is rendered, or within a total twenty-five (25) calendar days if no decision is rendered, will constitute a Personnel Officer waiver of the appeal.

(c) Third Level of Review: City Council

The City Council may designate a fact-finding committee, an officer not in the aggrieved employee's normal line of supervision, or the City Manager to advise them concerning the grievance. The City Council shall render a decision in writing to the employee within twenty (20) calendar days after receiving the appeal.

SEC. 5 Conduct of Grievance Procedure

(a) The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.

(b) The employee may request the assistance of another person of their own choosing in preparing and presenting their appeal at any level of review.

(c) The employee and their representative may be privileged to use a reasonable amount of work time as determined by the appropriate Department Head in conferring about and presenting the appeal.

(d) Employees may not grieve disciplinary action as set forth in Rule 19.

(e) Employees shall be assured freedom from reprisal for using the grievance procedures.

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RULE 22 - PROHIBITION AGAINST VIOLENCE IN THE WORKPLACE

The City maintains a zero-tolerance policy towards workplace violence and threats of workplace violence by any of its employees, volunteers, customers, the general public, and anyone conducting business with the City. To comply with Labor Code sections 6401.7 and 6401.9, the City has established a Workplace Violence Prevention Plan.

Title: WORKPLACE VIOLENCE PREVENTION PLAN (“WVPP”)

BACKGROUND/PURPOSE: The purpose of the City of Ridgecrest’s (“City”) Workplace Violence Prevention Plan (“WVPP” or “Plan”) is to establish, implement, and maintain an effective workplace violence prevention plan as required under Labor Code sections 6401.7 and 6401.9. The purpose of the WVPP is also to create a safe work environment and to support the prevention of Workplace Violence (as defined below).

The City maintains a zero-tolerance policy towards Workplace Violence and Threats of Workplace Violence (as defined below), by any of its employees, volunteers, customers, the general public, and/or anyone conducting business with the City. Any employee who becomes aware of a violation of the City’s policies against acts or threats of Workplace Violence is required to immediately report such violation to the immediate supervisor or other individuals as specified in the WVPP. Failure to report a violation constitutes a failure to abide by this Plan and may result in disciplinary action, up to and including termination.

Preventing violence in the workplace is every employee’s responsibility, it is therefore essential that every employee understand the importance of workplace safety and security.

This WVPP contains procedures to address the following statutory requirements:

1. Record information in a Violent Incident Log, as defined below, for every incident of Workplace Violence.
2. Provide effective training to employees on the legal requirements related to the prevention of Workplace Violence, including but not limited to the City’s WVPP.
3. Maintain records of the following: (a) Workplace Violence hazards, (b) City employee (hereinafter referred to as “employees”) trainings, (c) Violent Incident Logs, and (d) the investigation of any incident of Workplace Violence.
4. Ensure certain records are made available to the Division of Occupational Safety and Health (“Division” or “DOSH”), employees, and any authorized employee representatives.

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I. Policy

The City will not tolerate Workplace Violence or Threats of Workplace Violence.

Should a non-employee engage in Workplace Violence or Threats of Workplace Violence on City property or in connection with City business, the non-employee may be subject to criminal prosecution.

If an employee engages in Workplace Violence or Threats of Workplace, the employee may be subject disciplinary action, up to and including termination, and criminal prosecution.

- This WVPP shall apply to all City workplaces, unless a workplace is expressly exempted from coverage.
- This WVPP shall apply to all City employees, unless an employee is expressly exempted.
- **Exemption:** Sworn police officers have separate procedures in accordance with P.O.S.T. guidelines and are not subject to the general training or reporting requirements outlined in this plan. However, their exemption applies only in the performance of their law enforcement duties, such as when an individual resists arrest. Officers are still obligated to report threats of violence from fellow officers and are expected to adhere to the compliance, responsibilities, and employee involvement sections of this plan

II. Definitions

1. **Emergency:** Unanticipated circumstance that may be life threatening or pose a risk of significant injuries to employees or other persons.
2. **Engineering Controls:** An aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the worker and the hazard.
3. **Serious Injury or Illness:** Any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by an accident on a public street or highway, unless the accident occurred in a construction zone.
4. **Workplace Violence:** Any act of violence or Threat of Workplace Violence that occurs in the City's covered workplace. Workplace Violence does not include

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lawful acts of self-defense or defense of others. Workplace Violence includes but is not limited to the following:

- The threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.
 - An incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.
 - The following four (4) types of Workplace Violence:
 - “Type 1 violence” means Workplace Violence committed by a person who has no legitimate business at the workplace and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.
 - “Type 2 violence” means Workplace Violence directed at employees by customers, clients, patients, students, inmates, or visitors.
 - “Type 3 violence” means Workplace Violence against an employee by a present or former employee, supervisor, or manager.
 - Type 4 violence” means Workplace Violence committed in the workplace by a person who does not work there but has or is known to have had a personal relationship with an employee.
2. **Imitation Weapon:** Any object that is designed to look like or simulate a real weapon.
 3. **Intimidation:** Causing fear in a person or inhibiting speech or action of a person by a show, promise or threat of force.
 4. **Retaliation:** Any behavior that is intended to punish or discriminate against another person for reporting an incident or threat; revenge.
 5. **Threat of Workplace Violence:** Means any verbal or written statement, including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct, that conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm, and that serves no legitimate purpose. Threats may be explicit (such as “I’ll get even with you later” or “I’ll kill you if you report me”) or implied (such as “bad things are going to happen to him” or “that propane tank on the back of his truck could sure blow up easily”).

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6. **Weapon:** An instrument, article or substance, which under the circumstances in which it is used or threatened to be used, is capable of causing fear of or actual physical injury or death. This includes any physical object, which meets the criteria outlined in California Penal Code Section 12020.
7. **Workplace:** Any place that City business is conducted, including City buildings, parking lots and property, City vehicles, private vehicles while used for City business, or other assigned work locations and off-site trainings.
8. **Workplace Practice Controls:** Procedures and rules, which are used to effectively reduce Workplace Violence hazards.
9. **Violent Incident Log, or Log:** The violent incident log required by this WVPP.

III. Implementation

A. Coordinators/ Responsibilities

- **City Manager**
 - Approves the WVPP and has overall authority for its implementation
- **Department Heads**
 - Responsible for implementation of the WVPP and site-specific action plans at their assigned worksites. May assist in investigation reported workplace violence incidents
- **Human Resources Administrators**
 - Responsible for employee involvement and training; updates training materials, and handles any reports of workplace violence
- **Managers and Supervisors**
 - Ensures the WVPP is clearly communicated to all employees, and training is completed annually.
 - Participates in risk assessments to identify potential hazards in their work areas.
 - Conducts regular safety observations and reports any potential hazards.
 - Reports suspected or observed workplace violence incidents.
 - Answers employee questions regarding the WVPP.
 - Provides a secure work environment for employees, including the identification of security risks, training needs, and management of worksite security procedures.
 - Coordinates work practice controls and engineering controls at assigned worksites.

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The above-named individuals will also:

- 1) Establish and coordinate Work Practice Controls;
- 2) Establish and coordinate Engineering Controls;
- 3) Respond to reports of Workplace Violence incidents and Workplace Violence hazards, including investigating incidents of Workplace Violence and Workplace Violence hazards.

B. Employee Involvement

The City values employee participation in maintaining a workplace free from violence or threats of violence.

1. Identifying, Evaluating and correcting Workplace Violence Hazards. Employees are encouraged to:

Participate in identifying, evaluation, and determining corrective measures to prevent workplace violence.

- a. Actively engage in safety related discussions during staff meetings. Discussions could include brainstorming sessions, discussions of recent incidents, and reviews of safety procedures.
- b. Discuss any potential hazards with their supervisor, safety manager, or representative for their work area.
- c. Respond to safety and risk assessment surveys.
- d. Engage employees in discussions about workplace safety.

Provide suggestions to be incorporated into training programs and materials. For example, an employee might suggest a new practice scenario based on a recent incident.

2. Reporting and Investigating Workplace Violence Incidents

The City encourages the active involvement of employees in reporting and investigating Workplace Violence incidents through and by the following means:

- a. Encourage any employee who experiences, witnesses, or becomes aware of a violent incident, threat, or other Workplace Violence concern in which there is an immediate threat to the employee's safety or the safety of others or where a

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Serious Injury or Illness has occurred to immediately report the incident to law enforcement, security, and/or emergency medical services;

- b. Encourage any employee who experiences, witnesses, or becomes aware of a violent incident, threat, or other Workplace Violence concern to immediately report the facts and circumstances of the violent incident, threat, or other Workplace Violence concern to their supervisor, the Coordinators designed in this WVPP, or to the Human Resources Division;
- c. Encourage any employee who experiences, witnesses, or becomes aware of a violent incident, threat, or other Workplace Violence concern to participate in the investigation of the violent incident, threat, or other Workplace Violence concern;
- d. Implement procedures to ensure that employees are not retaliated against for reporting or participating in investigations of Workplace Violence incidents;
- e. Allocate adequate resources and training for employees to appropriately recognize Workplace Violence concerns; and
- f. Provide coverage, if necessary, so employees can immediately report a concern of Workplace Violence during their regularly scheduled work hours and participate in investigations.

IV. Compliance

Employees are expected to be familiar with the contents and requirements of this WVPP. Employees are responsible for using safe work practices, for following all directives, policies, and procedures, and for assisting the City maintain a safe and secure work environment. All employees are required to know, understand, and adhere to the safety rules that apply to their workplace and the work they perform.

Managers and supervisors are responsible for implementing and maintaining the WVPP in their respective work areas and for ensuring that all employees adhere to the safety rules that apply in these work areas.

Managers and supervisors should answer questions that employees may have about the WVPP and its requirements, be able to direct employees to the Coordinators named in this WVPP, or provide resources for employees to use that will answer their questions.

The City promotes employee compliance with the WVPP through the following procedures:

- a. Recognition of employees who comply with the WVPP through positive reinforcement procedures;

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- b. Training employees on the contents and requirements of the WVPP;
- c. Discipline, up to and including termination, of employees who do not comply with the safety rules and requirements set forth in the WVPP; and
- d. Discipline, up to and including termination, of supervisors who do not enforce the rules and requirements related to the WVPP or do not enforce them fairly and uniformly.

V. Communicating to Employees about Workplace Violence

The City will communicate to employees about reporting and investigating Workplace Violence incidents.

The City's procedures for communicating to employees regarding Workplace Violence incidents include the following:

- a. Reporting on violent incidents, threats, or other violent Workplace Violence concerns;
- b. Informing affected employees of the general results of any investigation into Workplace Violence incidents, while protecting the privacy of affected and/or involved employees;
- c. Informing affected employees of the corrective actions taken in response to the Workplace Violence incident, while protecting the privacy of affected and/or involved employees; and
- d. Communicating to employees about the prohibition on retaliating against employees who participate in the investigation of Workplace Violence incidents.

VI. Education and Training

The City will promote substantial compliance with the WVPP by providing employees with training. The City shall provide training when the WVPP is first established and when new employees are hired. The City shall ensure annual training thereafter.

The City shall provide training on all of the following subjects:

- a. The City's WVPP, how to obtain a copy of the City's WVPP at no cost, and how to participate in the development and implementation of the City's WVPP;
- b. Definitions and requirements of the WVPP;

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- c. How to report Workplace Violence incidents or concerns to the City or law enforcement without fear of reprisal;
- d. Workplace Violence hazards specific to the employees' jobs, the corrective measures the City has implemented, how to seek assistance to prevent or respond to violence, and strategies to avoid physical harm; and
- e. The City's Violent Incident Log, and how to obtain copies of records related to Workplace Violence and the WVPP.

The training shall include an opportunity for interactive questions and answers with a person knowledgeable about the City's WVPP.

The City shall provide additional training when a new or previously unrecognized Workplace Violence hazard has been identified and when changes are made to the WVPP.

The citywide training is meant to be a general overview and is not site-specific. Departments are expected to supplement the citywide training video for all city employees with site and/or role specific training and education.

VII. Violent Incident Reporting and Response

It is the responsibility of every employee in the workplace to assist in the prevention of Workplace Violence. Employees must report any Workplace Violence or Threats of Workplace Violence. An employee may report Workplace Violence through any of the following means:

- a. Report the incident to any manager, supervisor, department manager, or department head verbally or in writing;
- b. Report the incident to the Coordinators identified in this WVPP; and/or
- c. Report the incident to the Human Resources Division.

In cases of emergency, employees must contact local (*i.e.*, from a City phone 9-911) law enforcement immediately.

The supervisor, department manager, or the department head will report the matter to the Human Resources Division or designee as soon as possible. Early reporting of dangerous and potentially dangerous incidents will help to facilitate a timely and effective investigation and response by the City.

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A. Immediate Response

The individual who receives the report of Workplace Violence must immediately respond by providing or facilitate the providing of first aid and emergency care to the injured employee(s) and by taking any measures necessary to prevent other employees from being injured.

The City will ensure that any injured employees receive prompt medical evaluation and treatment and that injured employees are provided transportation to receive medical care, if such care is not provided on site.

The City will immediately report to DOSH any Serious Injury or Illness or death of an employee that is attributable to Workplace Violence.

B. Violent Incident Report

The individual who receives a report of Workplace Violence must complete a Violent Incident Report. Prior to proceeding with any formal investigation, the management level supervisor shall report any incidents of threats or acts of Workplace Violence to the Human Resources Division. The Violent Incident Report should be completed as quickly as possible while the details of the event are still current, ideally within twenty-four (24) hours. The Violent Incident Report is mainly data collection, so creating a culture and environment where an employee is comfortable coming forward to report a violent incident is crucial. If the incident is between an employee and their supervisor, Human Resources must complete the Violent Incident Report. The Violent Incident Report form is included as Addendum A.

C. Provision of Leave for Employees Who are or May be Victims of Violence

The City shall not take adverse action against any employee who takes time off from work in order to seek a Temporary Restraining Order ("TRO") or to obtain other assistance to help safeguard the "health, safety, or welfare" of the employee or their child based on such conduct. An employee may use paid sick leave pursuant to the City's paid sick leave or other applicable City policy to take time off from work for these purposes.

An employee shall provide the City reasonable and advance notice of their intention to take time off from work for either of these purposes if feasible. If advance notice is not feasible, employees must provide a certification to the employer within a reasonable time after the absence consistent with the City's paid sick leave or other applicable City policy.

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D. Temporary Restraining Orders

When an employee has suffered unlawful violence or a credible Threat of Workplace Violence from any individual, which may reasonably be carried out at any of the City's workplaces, the City may attempt to obtain a TRO on behalf of the employee.

E. No Retaliation

The City shall not take any adverse action against an employee who reports Workplace Violence or a Threat of Workplace Violence, or who participates in any investigation of Workplace Violence.

VIII. Violent Incident Investigation

The Human Resources Division will respond to reports of Workplace Violence or a Threat of Workplace Violence by promptly initiating an investigation, as applicable.

The City's investigation of Workplace Violence or a Threat of Workplace Violence may include, but not necessarily be limited to, the following steps or measures, as applicable:

- a. Visiting the scene of an incident as soon as safe and practicable;
- b. Collection of facts on who, what, when, where, and how the incident occurred;
- c. Collection of statements from involved parties, such as employees, witnesses, law enforcement, and/or security personnel;
- d. Reviewing security footage of existing security cameras if applicable;
- e. Collection of photographic or video evidence of damage or injuries, where appropriate;
- f. Examining the workplace for security risk factors associated with the incident, including any previous reports of inappropriate behavior by the perpetrator;
- g. Consultation with the affected employees, and witnesses to identify potential contributing causes;
- h. Obtaining any reports completed by law enforcement;
- i. Assessment of any Threat of Workplace Violence, identifying the following, as applicable and to the extent the information is known by the City:
 - i. The exact nature and context of the threat and/or threatening behavior;

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- ii. The identified target;
- iii. The person's apparent motivation;
- iv. The person's ability to carry out the threat; and
- v. The person's background, including work history, criminal record, mental health history, and past behavior on the job.

Following an investigation, the City may take the following measures, as applicable:

- a. Notify the affected employees of the general results of the investigation, while protecting the privacy of affected and/or involved employees;
- b. Implement changes in Engineering Controls, procedures, or policies, if appropriate; and/or
- c. Establish updated Work Practice Controls, if necessary.

The City shall retain records of Workplace Violence incident investigations for a minimum of five (5) years.

Addendum B includes the materials, questions, and required analysis for post-incident investigations. Completed reports should be made available to the employee (and their bargaining unit) within fifteen (15) days from the date of a request.

IX. Violent Incident Log

All Workplace Violence incidents shall be subsequently reported in the Violent Incident Log. Information that is recorded in the Log for each incident shall be based on information solicited from the employees who experienced the Workplace Violence, on witness statements, and on investigation findings. The City shall omit from the Log any element of personal identifying information that would be sufficient to allow identification of any person involved in a Workplace Violence incident.

The information recorded in the Log shall include all of the following:

- 1. The date, time, and location of the incident.
- 2. The Workplace Violence type or types (e.g., Type 1, Type 2, Type 3, or Type 4).
- 3. A detailed description of the incident.
- 4.

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5. A classification of who committed the Workplace Violence, including whether the perpetrator was:
 - a. A client or customer;
 - b. Family or friend of a client or customer;
 - c. Stranger with criminal intent;
 - d. Coworker;
 - e. Supervisor or manager;
 - f. Partner or spouse;
 - g. Parent or relative; or
 - h. Other perpetrator.

6. A classification of circumstances at the time of the incident, including, but not limited to, whether the employee was:
 - a. Completing usual job duties;
 - b. Working in poorly lit areas;
 - c. Rushed;
 - d. Working during a low staffing level;
 - e. Isolated or alone;
 - f. Unable to get help or assistance;
 - g. Working in a community setting; or
 - h. Working in an unfamiliar or new location.

7. A classification of where the incident occurred, such as in the workplace, parking lot or other area outside the workplace, or other area.

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8. The type of incident, including, but not limited to, whether it involved any of the following:
 - a. Physical attack without a weapon, including, but not limited to, biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, or spitting;
 - b. Attack with a weapon or object, including, but not limited to, a firearm, knife, or other object;
 - c. Threat of physical force or threat of the use of a weapon or other object;
 - d. Sexual assault or threat, including, but not limited to, rape, attempted rape, physical display, or unwanted verbal or physical sexual contact;
 - e. Animal attack; or
 - f. Other.
9. Consequences of the incident, including, but not limited to:
 - a. Whether security or law enforcement was contacted and their response;
 - b. Actions taken to protect employees from a continuing threat or from any other hazards identified as a result of the incident.
10. Information about the person completing the Log, including their name, job title, and the date completed.

X. Identifying, Evaluating, and Correcting Workplace Violence Hazards

The City shall undertake all necessary actions to identify, evaluate, and correct Workplace Violence hazards.

A. Identification of Workplace Hazards

The City shall undertake all necessary actions to identify Workplace Violence hazards.

The City shall conduct inspections of its workplace(s) to identify Workplace Violence hazards.

Specifically, the City shall conduct inspections under the following circumstances:

1. When the WVPP is first established;

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2. After each Workplace Violence incident;
3. Whenever the City is made aware of a new or previously unrecognized hazard;
and
4. Managers and supervisors of each worksite will conduct regular safety observations and report any potential hazards annually.

B. Investigation of Workplace Violence Hazards

The City will initiate an investigation following the identification of a Workplace Violence hazard in order to evaluate the nature of the hazard.

The City may undertake the following as part of such investigation, as applicable:

- a. Collection of statements from witnesses;
- b. Collection of photographic or video evidence of damage or injuries, where appropriate; and
- c. Consultation with the affected employees, witnesses, and Committee members to identify potential contributing causes.

C. Correction of Workplace Violence Hazards

After the identification and investigation of a Workplace Violence hazard and after a Workplace Violence Hazard inspection, the City will take appropriate steps to correct the hazard and prevent or control future or potential hazards by implementing the following measures:

1. **Substitution:** When possible, the City will correct a hazard by eliminating or substituting it with a safer Work Practice Control (“Substitution”).
2. **Removal of Employees:** In the event that a Workplace Violence hazard exists that cannot be immediately corrected without endangering employees or property, the City will remove all employees from the work site except those necessary to correct the existing hazard. Employees who are necessary to correct the hazard will be provided with necessary protection in order to protect them from the hazard.
3. **Replacement of Equipment:** If a piece of equipment is hazardous, the City will remove it from service and identify it as defective.
4. **Engineering Controls:** The City will apply physical changes to either remove the hazard from the workplace or create a barrier between employees and the hazard. Based on the nature of the hazard and the needs of the workplace, Engineering

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Control strategies may include the following: (a) using physical barriers (such as enclosures or guards) or door locks to reduce employee exposure to the hazard; (b) metal detectors; (c) panic buttons; (d) improved or additional lighting; and (e) more accessible exits (where appropriate).

5. **Work Practice Controls:** The City will adjust Work Practice Controls if Substitution or Engineering Controls are impossible or inappropriate. Additional Work Practice Controls may be necessary in addition to Substitution and Engineering Controls to prevent future Workplace Violence hazards. Work Practice Control strategies may include the following: (a) hiring security guards and having them patrol the workplace interior and perimeter; (b) ensuring employees have access to a telephone with an outside line; (c) posting emergency telephone numbers in the workplace for law enforcement, fire, and medical services; (d) improved or altered communication measures; (e) improved or altered policies of prohibited practices (such as a weapons ban or limitation of the amount of cash on hand); (f) and a “buddy system” for specified Emergency events; (g) adding security cameras or mirrors.
6. **Training:** The City will educate employees about the identified hazard in subsequent WVPP training.
7. **Notice to Affected Employees:** The City will notify affected employees in writing of the corrective measures the City implemented to address the Workplace Violence hazard.

D. Recording Information Regarding Workplace Violence Incidents

The City will document the identification, investigation, and correction of Workplace Violence hazards and maintain such records for at least five (5) years following the identification, investigation, and correction of such hazards.

The City shall record information in the Violent Incident Log for each Workplace Violence incident.

Information that is recorded in the Log for each incident shall be based on information solicited from the employee(s) who experienced the Workplace Violence, on witness statements, and on investigation findings.

The Log is attached to the WVPP as Addendum C.

The City will document all work-related injuries or illnesses caused by Workplace Violence that resulted in death, loss of consciousness, days away from work, restricted work activity or job transfer, or medical treatment beyond first aid to DOSH.

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XI. Responding to Workplace Violence Emergencies

With any incident, employee safety is of the highest importance. Response mechanisms can include the employee leaving the area, requesting help within their work area or, for an imminent threat, calling 9-1-1.

Following a Workplace Violence Emergency, a notification through the alerting system. This may be done via email, Power Time, radio communication, and/or phones and will include information regarding the following:

- a. The existence/presence of a Workplace Violence Emergency;
- b. The location of a Workplace Violence Emergency;
- c. The nature of the Workplace Violence Emergency; and
- d. The appropriate response procedures for employees.

The City has developed the following evacuation and/or sheltering plan for each City workplace:

Evacuation Protocols:

- a. **Fire.**
 1. **Upon Hearing the Fire Alarm:**
 - o Remain calm and do not panic.
 - o Immediately stop all activities.
 - o Leave the building through the nearest emergency exit.
 2. **Using Emergency Exits:**
 - o Do not use elevators.
 - o Use stairwells where possible.
 - o Follow exit signs when applicable
 - o Assist others if safe to do so.
 3. **If You Encounter Smoke or Fire:**
 - o Stay low to the ground to avoid inhaling smoke.
 - o Use a cloth to cover your nose and mouth.
 - o If a door is hot, do not open it; find an alternative route.
 4. **Assembly Point Location:**
 - o Identify a safe, predetermined location away from the building.
 - o Make sure the area is clear of fire lanes and does not obstruct emergency vehicles.
 5. **Await Further Instructions:**
 - o Do not re-enter the building until cleared by emergency services.
 - o Stay at the assembly point until given the all-clear.
 6. **If Trapped:**
 - o Seal gaps under doors with clothing or towels.

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- Signal for help from windows or use your phone to call emergency services.
- Remain calm and wait for rescue personnel.
- b. **Sheltering Protocols:** Each worksite will identify shelter in place.
- c. **Active Shooter:** Follow Run, Hide, Fight procedures.
 - 1) If you can flee the area safely, RUN. Have a route in mind. Is it close, practical and accessible?
 - 2) If you cannot get out, HIDE. Lock doors, if possible. Barricade door with desks, cabinets, chairs, etc. Wait for law enforcement.
 - 3) As a last resort, be prepared to FIGHT. Overwhelm as aggressively as possible. Yell, scream, and attack. Attack vulnerable body areas. If with others, act as a team. Make a plan. Use weapons and diversion tools, if possible. ATTACK TOGETHER.
 - 4) When first responders arrive: Remain calm. Comply with instructions provided by first responders. Be quiet. Don't point at first responders, make sudden movements or run toward them.
- d. **Bomb Threat:** Call 9-1-1. Inform supervisor. Check work area for unfamiliar items, but do not touch the items. Evacuate as directed and take personal belongings with you. Leave windows and doors open.
- e. **Explosion:** Take Cover. Call 9-1-1. Stay away from windows. Move to a safe location. Do not touch anything. Evacuate. If trapped and unable to evacuate, signal your position using a whistle or cell phone. Avoid unnecessary movement. Cover your nose and mouth with anything available.

In a Workplace Violence Emergency, employees can obtain help from any manager or supervisor, the Coordinators, or, if applicable, from security or law enforcement. Employees should promptly call 911 in the event of a Workplace Violence Emergency.

XII. **Discipline**

Violations of this policy by City employees may result in disciplinary action up to and including termination. Violations of this policy by those performing a service on the City's behalf on a contract or temporary basis may result in the termination of such contract. Violations of this policy may also subject the perpetrator to criminal prosecution.

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No employee will be disciplined, retaliated against, or discharged for reporting any threats or acts of Workplace Violence in good faith.

XIII. Retaliation

The City has implemented the following measures to prevent and prohibit retaliation against those who report Workplace Violence, a Threat of Workplace Violence, or hazards related to Workplace Violence, or who participate in the investigation of such incidents or hazards:

- a. The City responds to reports of Workplace Violence, a Threat of Workplace Violence, or hazards related to Workplace Violence in a prompt and timely manner;
- b. The City provides employees multiple channels by which to report incidents, hazards, or concerns, including anonymously;
- c. The City admonishes managers and supervisors not to retaliate against any employee who reports Workplace Violence, a Threat of Workplace Violence, or hazards related to Workplace Violence, or any employee who participates in the investigation of such incidents or hazards; and
- d. The City trains all employees that retaliation against any employee who reports Workplace Violence, a Threat of Workplace Violence, or hazards related to Workplace Violence, or any employee who participates in the investigation of such incidents or hazards is expressly prohibited and that there are consequences, such as discipline, for retaliation against such employees.

XIV. Recordkeeping

The City shall maintain the following types of records for the following periods:

Type of Record	Maintenance Period
Records of Workplace Violence hazard identification, evaluation, and correction	Minimum of five (5) years
Training records, including training dates, contents or a summary of the training sessions, names and qualifications of persons conducting the training, and names and job titles of all persons attending the training sessions	Minimum of one (1) year
Violent Incident Logs	Minimum of five (5) years
Records of Workplace Violence incident investigations. These records must not contain medical information.	Minimum of five (5) years

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The City shall ensure that records of Workplace Violence Incident investigations do not contain any medical information including any information in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental health application information, reproductive or sexual health application information, mental or physical condition, or treatment that includes or contains any element of personal identifying information sufficient to allow identification of the individual.

The City shall make all records required by this WVPP available to DOSH upon request for purposes of examination and copying.

The City shall make the following records available to employees and authorized employee representatives, upon request and without cost, for examination and copying within fifteen (15) calendar days of a request:

- a. Records of Workplace Violence hazard identification, evaluation, and correction;
- b. Training records; and
- c. Violent Incident Logs.

RULE 23 - PROHIBITION AGAINST BULLYING AND ABUSIVE CONDUCT

SEC. 1 Rule

The City is committed to providing a safe work environment. In addition to prohibiting all forms of harassment, discrimination, and retaliation, the City also prohibits any form of bullying or abusive conduct in the workplace or elsewhere, such as at offsite events while on City business.

Individuals who violate this rule are subject to disciplinary action, up to and including termination.

SEC. 2 Definitions

(a) "Abusive Conduct": Conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests.

(b) "Bullying": The use of aggression with the intention of harming, intimidating, offending, degrading, or humiliating another individual. Bullying can include any intentional or unintentional written, visual, verbal, or physical act, when the act physically

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harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; or creates an intimidating or threatening environment.

SEC. 3 Examples of Bullying and Abusive Conduct

Bullying may be intentional or unintentional, comes in many shapes and sizes and can take many forms including, but not limited to:

- Persistent singling out, excluding and/or isolation a person, or group or people
- Shouting, raising voice at an individual in public and/or private
- Using verbal or obscene gestures
- Not allowing the person to speak or express him/herself (i.e. ignoring or interrupting)
- Personal insults, belittling remarks, and use of offensive nicknames, including name-calling and teasing, slandering, ridiculing
- Public humiliation or sarcasm in any form
- Unreasonable persistent criticism on matters unrelated or minimally related to the person's job description
- Ignoring/interrupting an individual at meetings
- Public reprimands
- Repeatedly accusing someone of errors which cannot be documented
- Removing responsibility and/or imposing menial tasks
- Refusing to delegate or the withholding of information employees need to perform their jobs
- Unwanted physical contact, physical abuse or threats of abuse to an individual (defacing or marking up property)
- Tormenting, taunting, abusive comments, using non-verbal threatening gestures
- Pushing, shoving, kicking, poking, tripping, punching, throwing objects or any use of violence
- Spreading rumors

Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chatroom misuse, social media, mobile threats by text messaging, or calls or misuse of cameras and video equipment.

As in harassment, discrimination, and/or retaliation, the effect of the behavior upon the intended party is the focus—the intention of the alleged bully is irrelevant.

Bullying or abusive conduct does not include:

- Occasional differences of opinion, and non-aggressive conflicts and problems in working relations.

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- Workplace counseling, managing under-performance and other action(s) in accordance with City rules and procedures.
- A single act shall not constitute bullying or abusive conduct, unless especially severe and egregious.

SEC. 4 Responsibilities of Employees at All Levels

The prevention of bullying or abusive conduct requires all employees to take responsibility for the following actions:

(a) Be aware of and identify bullying behavior and where appropriate utilize the City's reporting procedures and/or third-party reports to stop any further instances of bullying behavior.

(b) Behave professionally and courteously toward others.

(c) Keep a record of potential bullying or abuse incidents, noting what happened, when, and the names of witnesses, if any.

Managers and supervisors are responsible for ensuring that all employees understand that bullying is not tolerated in the workplace and for taking early corrective action to deal with behavior which may be offensive or intimidating. The prevention of all inappropriate behaviors, including bullying and abusive conduct, requires managers and supervisors to:

(a) Be aware of, identify, and prevent bullying in the workplace.

(b) Eliminate inappropriate behavior regardless of whether a complaint is received about the behavior.

(c) Encourage all employee to behave professionally and courteously toward others.

(d) Provide leadership and role modeling in relation to appropriate and professional behavior in the workplace.

(e) Respond promptly, sensitively, and confidentially to all situations where inappropriate behavior is exhibited or alleged to have occurred.

SEC. 5 Complaint Procedure

The City will not tolerate bullying or abusive conduct in any form. Any individual who believes that he or she is being or has been subjected to bullying or abusive conduct, believes he/she has witnessed bullying or abusive conduct, or has received a report of any form of bullying or abusive conduct should immediately report it to their supervisor, Department Head, or Human Resources.

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Any supervisory or management employee who receives a report of bullying or abusive conduct is responsible for investigating the report to its resolution in accordance with City discipline procedures and/or for providing the information to the appropriate party to investigate the report to its resolution.

RULE 24 - PROHIBITION AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION

SEC. 1 Purpose

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

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

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

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

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

SEC. 2 Covered Individuals and Scope of Policy

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

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

SEC. 3 Definitions

(a) "Discrimination": Treating a covered individual differently and adversely because of the individual's actual or perceived protected classification; because the individual associates with a person who is or is perceived to be a member of a protected

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classification; or because the individual participates in a protected activity as defined in this rule.

(b) “Harassment”: Wrongful conduct directed toward a covered individual because of the individual’s actual or perceived protected classification. Harassment includes, but is not limited to the following:

(1) Verbal Harassment: For example, epithets, derogatory comments or slurs on the basis of an individual’s protected classification. This includes, but is not limited to, comments, stories, and jokes about appearance, dress, physical features, gender identification, and race.

(2) 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 an individual’s protected classification.

(3) Visual Forms of Harassment: For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of an individual’s protected classification.

(4) Sexual Favors: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employment benefit, unreasonable interference with an individual’s work performance or creates an offensive work environment.

(c) Other Examples of Conduct that Might Constitute Harassment

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

(1) Conduct that is not intended as to harass. Conduct may violate this rule if the conduct is directed at, or implicates, a protected classification and the recipient finds the conduct to be offensive or inappropriate, even if its well-intentioned conduct (e.g., gifts, over-attention, endearing nicknames, hugs).

(2) Conduct to which the recipient appears to have consented. The City does not recognize as a defense that the recipient appeared to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest offensive or inappropriate conduct for many legitimate reasons, including, but not limited to, the need to avoid being perceived as insubordinate or to avoid being ostracized or subjected to retaliation.

(3) Conduct about which no employees previously complained. The fact that no employee previously complained about the same or substantially similar conduct does not mean that the conduct is inoffensive or appropriate, nor does that fact preclude an employee from complaining about such conduct if it is repeated.

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(4) Conduct witnessed by a third party or about which a third party learns, even if he/she did not witness such conduct. Visual, verbal, or physical conduct between two (2) people who do not find such conduct to be offensive or inappropriate may constitute harassment if a third party witnesses such conduct or learns about the conduct later and finds the conduct to be offensive or inappropriate. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.

(d) "Protected Activity": Any activity that includes a prohibition against retaliation protecting the individual who engages in the activity. Protected activities include, but are not limited to, the following: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this rule; (4) opposing violations of this rule; or (5) participating in an investigation under this rule.

(e) "Protected Classification": An individual's membership to a specific group that is protected by law. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law.

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

(f) "Retaliation": An instance where an employer takes adverse action against a covered individual because of the individual's protected activity as defined in this rule.

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

SEC. 4 Complaint Procedure

(a) Filing

An employee or job applicant who believes he or she has been harassed should inform any of the following parties, preferably in writing:

(1) Immediate supervisor

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- (2) Any supervisor or manager within or outside of the individual's department
- (3) Department Head
- (4) Personnel Officer

Any supervisor or department head who receives a harassment complaint should notify the Personnel Officer immediately.

- (b) Upon notification of a harassment complaint, the Personnel Officer shall:

- (1) Authorize the investigation of the complaint and supervise and/or investigate the complaint. The investigation will include interviews with: (1) the complainant; (2) the accused individual; and (3) any other persons the Personnel Officer has reason to believe has relevant knowledge concerning the complaint. This may include victims of similar conduct;

- (2) Review factual information gathered through the investigation to determine whether the alleged conduct constitutes discrimination, harassment, or retaliation; 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;

- (3) Report the results of the investigation and the determination as to whether harassment occurred to appropriate persons, including to the complainant, the alleged offender, the corresponding supervisor(s), and the Department Head. If discipline is imposed, the discipline will not be communicated to the complainant;

- (4) If discrimination, harassment, or retaliation occurred, take and/or recommend to the appointing authority prompt and effective remedial action against the offender. The action will be commensurate with the severity of the offense;

- (5) Take reasonable steps to protect the victim and other potential victims from further discrimination, harassment, or retaliation;

- (6) Make every effort to protect the privacy of parties involved in the complaint. (See Section 5: Confidentiality, below.)

- (7) Take reasonable steps to protect the victim from any retaliation as a result of communicating the complaint.

- (8) If appropriate, take action to remedy the victim's loss, if any, which resulted from the wrongful conduct in violation of this rule.

It should be reemphasized that the City wishes to know of any complaint alleging discrimination, harassment, or retaliation as soon as possible after the conduct occurs.

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SEC. 5 Confidentiality

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

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

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

SEC. 6 Right to File a Report with Outside Administrative Agencies

An individual possesses the right to report workplace harassment, discrimination or retaliation to the Equal Employment Opportunity Commission ("EEOC") and/or the Civil Rights Department ("CRD").

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

The nearest EEOC and CRD offices are listed on the internet and in the government section of the telephone book. Employees may also check the posters that are located on City bulletin boards for EEOC and CRD office locations and telephone numbers.

SEC. 7 Individual Responsibilities

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

(1) Treating all individuals in the workplace or on City worksites with respect and consideration.

(2) Modeling behavior that conforms to this rule.

(3) Participating in periodic trainings on personnel matters.

(4) Cooperating with the City's investigations pursuant to this rule by responding fully and truthfully and in a timely manner to all questions posed during the investigation.

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(5) Taking no actions to influence the complainant or any potential witness while the City's investigation is ongoing.

(6) Reporting any act he/she believes in good faith constitutes harassment, discrimination or retaliation as defined in this policy, to their immediate supervisor or manager, or Department Head, or the Personnel Officer.

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

(1) Informing employees under their supervision of this rule.

(2) Taking all steps necessary to prevent harassment, discrimination, and retaliation from occurring, including, but not limited to, monitoring the work environment and taking immediate and appropriate action to stop violations (e.g., removing inappropriate pictures or correcting inappropriate language).

(3) Receiving and responding to complaints in a uniformly fair and serious manner.

(4) Documenting the steps taken to resolve such complaints.

(5) Following up with those who have complained to ensure that the offensive conduct about which they complained has stopped and that there have been no reprisals or retaliation or threats of reprisals or retaliation.

(6) Informing those who complain about harassment and/or discrimination of their option to contact the EEOC or CRD and file a complaint about such activity.

(7) Assisting and/or advising employees regarding this rule.

(8) Assisting in the investigation of complaints involving subordinate employee(s).

(9) Where a complaint is substantiated, assisting in the development of a recommendation concerning an appropriate corrective or disciplinary action in accordance with these Personnel Rules.

(10) Implementing appropriate corrective or disciplinary actions.

(11) Reporting potential violations of this rule to the Personnel Officer, regardless of whether an employee complained about such conduct.

(12) Participating in periodic training and scheduling employees for training.

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RULE 25 - REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS

SEC. 1 Reasonable Accommodation

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

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

SEC. 2 Supporting Documentation or Certification

(a) Reasonable Medical Documentation of Disability

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

(b) Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the City will provide the employee with notice of the need for a medical certification within two (2) business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: (1) a description of the requested accommodation or transfer; (2) a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and (3) the

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date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

(c) Certification of Victim Status

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

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

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

SEC. 3 Fitness for Duty Examinations

(a) Applicants

After the City extends a conditional offer of employment to an applicant, the City may require the applicant to submit to a fitness for duty examination that is job-related, necessary for efficient operations of the agency, and required of all applicants for the job classification. The City will notify an applicant or employee who is required to pass a medical and/or psychological examination of their right to obtain a second opinion at the employee's expense and that he/she may submit such second opinions for consideration.

(b) Current Employees

The Personnel Officer may require an employee to submit to a fitness for duty examination in order to determine whether the employee has a disability and is able to perform the essential functions of their job when there is significant evidence of the following:

(1) The employee's ability to perform one or more essential functions of their job has declined; or

(2) Could cause a reasonable person to question whether an employee is still capable of performing one or more of their essential job duties, or is still capable of performing those duties in a manner that does not harm the employee or others.

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(c) Role of Health Care Provider

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

- (1) The applicant or employee has a disability within the meaning of the FEHA;
- (2) The applicant or employee is fit to perform essential job functions;
- (3) Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- (4) There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- (5) The employee's continued employment poses a threat to the health and safety of the employee or others.

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

(d) Authorization for Use of Medical Information

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

(e) Medical Information from the Employee or Applicant

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

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SEC. 4 Interactive Process

(a) When to Initiate the Interactive Process

The City will initiate the interactive process with an applicant or employee when any of the following occurs:

- (1) An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s);
- (2) The City otherwise becomes aware of the need for an accommodation through a third party (e.g., a doctor's note requesting an accommodation), or by observation of the employee's work;
- (3) The City becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Leave Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation;
- (4) An employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider;
- (5) An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave;
- (6) An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for their safety at work;
- (7) An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
- (8) An employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices.

(b) Interactive Communication

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

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(c) Potential Accommodations for Applicants or Employees with Disabilities

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

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including, but not limited to, the following: acquisition or modification of equipment or devices; adjustment or modifications of examinations, training materials or policies; and/or the provision of qualified readers or interpreters;

(2) Job restructuring;

(3) Part-time or modified work schedules;

(4) Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;

(5) Preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system;

(6) Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or

(7) Reassignment to a temporary position, if the individual agrees.

(d) Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions

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

(1) Transfer to a less strenuous or hazardous position for the duration of the pregnancy;

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(2) Change in or restructuring of work duties, such as modifying lifting requirements;

(3) Providing more frequent breaks;

(4) Providing seating;

(5) Time off for medical appointments; and

(6) Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four (4) months of pregnancy disability leave entitlement.

(e) Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking

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

(1) Transfer, reassignment, modified schedule;

(2) Change in work telephone number;

(3) Change in location of work station;

(4) Installation of locks;

(5) Assistance in documenting domestic violence, sexual assault, stalking, or a crime that occurs in the workplace;

(6) The implementation of a safety procedure(s);

(7) Adjustment to job structure, workplace facility, or work requirement; and

(8) Referral to a victim assistance organization.

(f) Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice

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

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

SEC. 5 Determination

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

SEC. 6 Access to Medical Information Regarding Fitness for Duty

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Personnel Officer, the City's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to federal and state law.

RULE 26 - WHISTLEBLOWER PROTECTION

SEC. 1 Rule

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The City prohibits all of the following conduct by City employees:

(a) Taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of federal or state law, or a violation or noncompliance with a local, state, or federal rule or regulation;

(b) Preventing an employee from disclosing information to a government agency, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of federal or state law, or a violation or noncompliance with a local, state, or federal rule or regulation;

(c) Retaliating against an employee for refusing to participate in any activity that would result in a violation of federal or state law, or a violation or noncompliance with a local, state, or federal rule or regulation; and

(d) Retaliating against an employee because the employee's family member has, or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

SEC. 2 Coverage

This rule governs and protects City officials, officers, employees, or applicants for employment.

SEC. 3 Definitions

(a) "Protected activity" means any of the following activities:

(1) Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates federal or state law or a violation or noncompliance with a local, state, or federal rule or regulation;

(2) Participating in or cooperating in good faith with a local, federal, or state enforcement agency that is conducting an investigation in to alleged unlawful activity;

(3) Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity;

(4) Associating with another covered individual who is engaged in any of the protected activities enumerated here;

(5) Making or filing in good faith and with reasonable cause an internal complaint with the City regarding alleged unlawful activity;

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- (6) Providing informal notice to the City regarding alleged unlawful activity;
 - (7) Calling a governmental agency’s “whistleblower hotline” in good faith;
 - (8) Filing a written complaint under penalty of perjury that the City has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety; and
 - (9) Refusing to participate in any activity that the employee reasonably believes would result in a violation of federal or state law, or a violation or noncompliance with a local, state, or federal rule or regulation.
- (b) “Adverse action” means, but is not limited to, the following actions:
- (1) Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity;
 - (2) Refusing to hire an individual because of actual or potential protected activity;
 - (3) Denying promotion to an individual because of actual or potential protected activity;
 - (4) Taking any form of disciplinary action because of actual or potential protected activity;
 - (5) Extending a probationary period because of actual or potential protected activity;
 - (6) Altering work schedules or work assignments because of actual or potential protected activity;
 - (7) Condoning hostility and criticism of co-workers and third parties because of actual or protected activity;
 - (8) Spreading rumors about a person because of that person’s actual or perceived protected activity; and
 - (9) Shunning or unreasonably avoiding a person because of that person’s actual or perceived protected activity.

SEC. 4 Complaint Procedure

An applicant or employee who feels he/she has been retaliated against in violation of this rule should immediately report the conduct according to the complaint procedure in the City’s rule against discrimination, harassment or retaliation so that the complaint

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can be resolved fairly and quickly. Supervisors and managers have the same responsibilities as defined in the rule against discrimination, harassment or retaliation.

RULE 27 - PROHIBITION AGAINST SUBSTANCE ABUSE

SEC. 1 Rule

The City's function is to deliver municipal services safely, dependably and efficiently.

In fulfillment of that function, it is the City's policy to: (1) ensure employees are fit for duty, and conduct business in a safe, productive and healthy manner; (2) create an environment free from the effects of employees impaired by the use of prohibited material; (3) forbid the unauthorized, job-related possession, use, or distribution of prohibited material, and (4) make an assistance program available to employees whose personal problems affect their ability to perform their duties.

A City employee who thinks he/she may have an alcohol or drug usage problem is urged to voluntarily seek assistance. The City will be supportive of those who seek help voluntarily.

SEC. 2 Purpose

The purpose of this rule is to protect the public, City property, and employees from risks that result from employee drug or alcohol-induced behavior.

SEC. 3 Applicability

This rule applies to all City employees conducting City business or standing on-call for City business, on or off-site. Off-duty arrests where prohibited material is implicated will trigger an evaluation by the City.

SEC. 4 Definitions

(a) "Alcohol": Any beverage that has alcoholic content of more than 0.5% by volume.

(b) "Controlled Substance": A drug substance or immediate precursor which is listed in any schedule in the California Health and Safety Code and marijuana.

(c) "Employee": Any person employed by the City.

(d) "Legal drugs": Prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.

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(e) "Drug/Substance": Any drug or substance which can negatively affect work performance.

(f) "Impaired/Intoxicated/Under the Influence": means a person is affected by any material so as to impair physical coordination, balance and control and/or to impair mental function of judgement, decision-making, memory, concentration, and cognitive problem-solving in accordance with Health & Safety Code Section 11550 and Penal Code 647(f). "Under the influence" shall also mean having a blood alcohol content of .05% or above.

(g) "Chain of Custody": The protocol to be followed when submitting specimens for chemical testing.

(h) "Chemical Testing" The examination of blood, breath, urine, or any other generally accepted method used to determine if a person has used prohibited materials. The employee may choose the testing method if suspected of alcohol abuse.

(i) "For-Cause" or "Reasonable Cause": Facts, circumstances, physical evidence, physical signs and symptoms, or a pattern of performance and/or behavior that would cause a reasonable person to conclude that an employee may be under the influence or intoxicated by a prohibited material.

(j) "Fitness for Duty": As regards this rule, an individual's ability to perform their assigned job free from impairments due to use of prohibited material.

(k) "Proof of Wellness": Statement by a City-approved treatment specialist that the employee/applicant is free from conditions that would adversely affect work performance.

(l) "Prohibited Material": Any alcohol, drug, or substance included in the definitions for "alcohol," "controlled substance," "legal drugs," or "drug/substance" above.

(m) "Positive Results" The laboratory identification of a prohibited material in any test conducted per definition for "chemical testing" above.

(n) "Evaluation" May include a range of any or all of the following:

(1) An investigation of the circumstances concerning a possible violation of this rule;

(2) Discussion/counseling with the employee's supervisor or other management staff;

(3) Opportunity to participate in an Employee Assistance Program;

(4) Proof of Wellness program planning; or

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(5) Disciplinary actions up to and including termination.

SEC. 5 General Requirements

All employees shall receive information on substance abuse and its impact on the workplace. Supervisors shall receive training so as to fairly and effectively administer this rule.

Simple personal possession of prohibited material without authorization on property, in equipment or vehicles owned or leased by the City, or while on duty for the City, shall result in an evaluation, which includes the possibility of disciplinary action up to and including termination.

Sale of, negotiation for sale of, delivery of, and/or possession with the intent to deliver, prohibited material on property, in equipment or vehicles, owned or leased by the City, or while on duty for the City, shall result in an evaluation, which includes the possibility of disciplinary action up to and including termination.

The City shall report evidence of suspected criminal activity, including manufacture, delivery, distribution, and possession of prohibited material on City property or while on duty for the City, to appropriate law enforcement authorities.

Trained supervisors administering this rule who knowingly disregard the requirements of this rule shall be subject to disciplinary action up to and including termination.

Any malicious or false accusation relative to illegal use or possession will be subject to immediate investigation and disciplinary action up to and including immediate termination.

If an employee believes he/she has been unjustly accused or implicated in prohibited material abuse, the employee may request an appropriate test at the City's expense.

SEC. 6 Chemical Testing Procedure

Chemical testing shall be conducted in such a manner to assure a high degree of accuracy and reliability. The City also affirms the necessity to uphold a high regard for privacy and dignity in the sampling process. The procedure used shall include an unbroken chain of custody with a right to parallel controlled testing by the employee at the employee's expense. For each test, two samples will be sent. One will be used, the other held. If the first test is positive, the other sample will be sent to a second facility for testing at the City's expense.

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SEC. 7 Pre-Employment Evaluation

Applicants for employment shall be scheduled for chemical testing in accordance with applicable law, as part of the pre-employment medical evaluation.

External applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but are not limited to, the following:

(a) Safety sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, enforcing drug laws, and/or operating natural gas pipelines; and

(b) Jobs that involve the direct influence over children.

All applicants for employment with the City will be given prior notification regarding chemical testing requirements.

Prior to the medical evaluation, applicants shall complete the current City Prohibited Material Use and Consent form.

All applicants with positive results shall be notified of those results.

Positive results without sufficient explanation on the current Prohibited Material Use and Consent form shall be considered grounds for disqualification from employment for a minimum of 90 days. Proof of wellness shall be required before reconsideration for employment.

Sample tampering during the pre-employment medical evaluation, falsification of the prohibited material use form or refusal to submit a sample shall be grounds for disqualification from employment with the City.

The City has the right to unilaterally modify these Pre-Employment Evaluation requirements.

SEC. 8 Reasonable Cause Determination

An employee may be subject to an investigation and reasonable cause determination which may result in chemical testing as appropriate, if there is reason to believe that use of prohibited material is adversely affecting job performance.

Examples of reasonable cause may include:

(a) Documentation of unsatisfactory performance related to use of prohibited material.

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- (b) Physical symptoms consistent with use of prohibited material.
- (c) Evidence of illegal prohibited material use or possession.

Employees believed to be under the influence or intoxicated while performing or conducting City business will be immediately placed on administrative leave and removed from their work assignment.

In order to receive authority to test, the responding supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the Department Head or Personnel Officer. Any reasonable cause chemical testing must be pre-approved by the Department Head or Personnel Officer. The employee will be tested in accordance with the Chemical Testing Procedure described in section 6, above.

Employees, confirmed through chemical testing, to be under the influence or intoxicated while performing City business shall be subject to evaluation.

Employees believed to be intoxicated/under the influence will be provided transportation. If an employee insists on driving, law enforcement agencies will be notified.

Refusal to submit a sample for cause or sample tampering during chemical testing shall be subject to immediate termination, provided the employee was given reasonable cause upon which the decision to test was made.

Employees re-entering the workforce as a result of having been terminated from the workforce based on disciplinary suspension or termination in accordance with this rule, will agree to a re-entry contract. That contract may include:

- (a) A Release to Work statement from an approved, certified treatment specialist.
- (b) An evaluation and release for duty by Management.
- (c) A negative test for prohibited material.
- (d) An agreement to periodic testing.
- (e) A statement of expected work-related behaviors.

Failure to successfully complete a treatment program, failure to comply with a re-entry contract, or committing a second violation of this rule shall be grounds for termination.

The authority to order a chemical test shall be at the Department Head level or above.

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The employee shall be notified of any disciplinary actions taken as a result of this rule and the basis for such actions. An opportunity for the employee to appeal any such action shall be as provided by bargaining unit agreement or other such appeal procedure.

SEC. 9 Off-Duty Marijuana Use

For City employees or applicants who are not part of one or more of the groups described below, the City will not take any discriminatory employment action based on either the employee or applicant's off-duty use of cannabis away from the workplace or a drug test result which indicates the presence of non-psychoactive cannabis metabolites in the employee or applicant's hair, blood, urine, or other bodily fluids:

1. Employees or applicants for employment who are in the building and construction trades;
2. Employees or applicants for employment who are subject to either state or federal law or regulation that requires drug testing (e.g., DOT rule, 49 CFR Part 40);
3. Employees or applicants for employment who are hired for positions that require a federal government background investigation or security clearance in accordance with regulations issued by the United States Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal Regulations, or equivalent regulations applicable to other agencies.

The City may take an employment action against applicant for employment that is based on a scientifically valid pre-employment drug screening conducted through methods that do not screen for non-psychoactive cannabis metabolites. In addition, the City may take an employment action against an employee based on the prohibited conduct provided above.

SEC. 10 Employee Assistance Program

A City employee who voluntarily seeks assistance in dealing with substance abuse problems shall be referred immediately to the City's Employee Assistance Program ("EAP"). All such interactions shall be confidential, except that participation in such program shall require a written waiver from the employee to cause the EAP to provide written proof of attendance.

In no case will participation in the Employee Assistance Program shield an employee from disciplinary action.

An employee terminated in accordance with this rule may be eligible for re-employment provided that the employee demonstrates evidence of substance abuse rehabilitation.

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Successful completion of the Employee Assistance Program will result in the removal of related information from the employee's personnel file.

RULE 28 - TRAINING OF EMPLOYEES

SEC. 1 Responsibility for Training

The City Council encourages the training of employees. Responsibility for developing training programs shall be assumed jointly by the Personnel Officer and Department Heads. Such training programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal officers and employees in the performance of their respective duties.

SEC. 2 Credit for Training

Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed by the employee with the Personnel Officer or designee.

RULE 29 - USE OF CITY EQUIPMENT OR RESOURCES

SEC. 1 Rule and Applicability

City equipment and resources may only be used to conduct City business, except for incidental personal use that is consistent with this rule. As a result, City equipment and resources are non-public forums. Every City employee is required to adhere to this rule.

SEC. 2 City Equipment or Resources

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

SEC. 3 No Expectation of Privacy

The City periodically, and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through City networks or electronic resources. City employees must provide the City with the employee's username or password for any City-issued equipment or resource. The existence of passwords or delete functions does not

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restrict the City's access. As a result, City employees have no expectation of privacy in their use of any City equipment or resources.

SEC. 4 Appropriate Use Only—No Misuse

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

- (a) Any use that violates applicable law and/or City policies, rules, or procedures;
- (b) Exposing others to material that is offensive, harassing, obscene, or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment;
- (c) Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law;
- (d) Communication of confidential City information to unauthorized individuals within or outside of City;
- (e) Unauthorized attempts to access or use City data or break into any City or non-City system;
- (f) Theft or unauthorized transmission or copying of paper or electronic files or data;
- (g) Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication;
- (h) Misrepresentation of one's identity for improper or illegal purposes;
- (i) Personal commercial or business activities (e.g., "for sale" notices, personal ads, etc.);
- (j) Transmitting/accessing obscene material and/or pornography;
- (k) E-Commerce;
- (l) Online gambling;

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- (m) Installing or downloading unauthorized software or equipment;
- (n) Violating terms of software licensing agreements; and
- (o) Using City equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- (p) Any unauthorized access to City equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to their email or other electronic resources; or making City equipment or resources available to others who would otherwise have no authorized access.
- (q) Using City equipment or resources to speak on the City's behalf without authorization.

SEC. 5 City Email Address Must Be Used for City Business

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

SEC. 6 Incidental Personal Use of City Communications Equipment

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

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

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RULE 30 - OUTSIDE EMPLOYMENT

SEC. 1 Rule

A City employee shall not engage in any employment, activity, or enterprise which is inconsistent, incompatible, or in conflict with their duties, functions, or responsibilities as a City employee.

SEC. 2 Prior Authorization Required

(a) Any officer or employee wishing to engage in any occupation or outside activity for compensation shall inform the Department Head of such desire, providing information as to the time required and the nature of the activity, and such other information as may be required. The Department Head shall consider whether or not such activity is compatible with the employee's City employment.

(b) If the Department Head determines such activity is compatible, he/she may authorize the activity in writing with a copy to the Personnel Officer. If the Department Head determines that the outside activity requires conditions or restrictions to achieve compatibility with City employment, then the Department Head will specify any conditions or restrictions in the written authorization.

(c) The authorization shall be valid only for the type of work and time period prescribed there.

SEC. 3 Determination of Inconsistent Activities

In making a determination as to the consistency or inconsistency of outside activities, the Department Head shall consider, among other pertinent factors, whether the activity:

(a) involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of one's City office or employment; or

(b) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the City for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course of their City employment or as a part of their duties as a City employee; or

(c) involves the performance of any act in other than their capacity as a City officer or employee, where the act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer, employee, or the department by which he/she is employed; or

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(d) involves conditions or factors which would probably directly or indirectly lessen the efficiency of the employee in their regular City employment, or conditions in which there is a substantial danger of injury or illness to the employee.

SEC. 4 Changes in Outside Employment Status

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

SEC. 5 Revocation

Authorization for outside employment may be issued for such length of time as noted in the authorization. All authorizations are subject to revocation by the Department Head, the City Manager, or the City Council.

SEC. 6 Use of City Equipment Prohibited

(a) No City-owned equipment, vehicles, instruments, tools, supplies, machines, or any other item belonging to the City shall be used by any officer or employee while the officer or employee is engaged in any outside employment or activity, for compensation or otherwise, except upon prior written approval of the City Manager.

(b) No officer or employee shall allow any unauthorized person to rent, borrow, or use any of the items mentioned in subsection (a) above, except upon prior written approval of the City Manager.

SEC. 7 Violations and Penalties

Any violation of this rule respecting outside employment or activity, and use of City property, shall constitute sufficient grounds for disciplinary action up to and including dismissal.

RULE 31 - SOCIAL MEDIA USE

SEC. 1 Purpose

This rule is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the City.

Nothing in this rule is intended to prohibit or infringe upon any communication, speech, or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws.

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Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this rule.

SEC. 2 Background

The City views social media as a significant form of public communication. In general, “social media” encompasses various activities that integrate technology, social interaction, and content creation that creates, organizes, edits or comments on content, as well as combines or shares content on an employee’s own website or someone else’s. Social media uses many technologies and forms, including but not limited to Web feeds, blogs, wikis, photography and video sharing, web logs, journals, diaries, chat rooms, bulletin boards, affinity sites, podcasts, social networking, fan sites, and virtual worlds.

Because the forms of electronic communications are rapidly expanding, the City holds all employees who engage in social networking to the same standards it holds for any public communications. Therefore, all employees are obligated to ensure that any public communication they make, including social media communications, must not adversely affect their job performance or the performance of their co-workers, negatively impact the reputation, mission, or function of the City, vendors or other persons who work on behalf of the City, or members of the public who are served by the City, nor adversely affect the City’s legitimate business interests.

SEC. 3 Privacy Expectation

Employees forfeit any expectation of privacy with regard to e-mails, text messages, or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, Twitter) that is accessed, transmitted, received or reviewed on any City technology system.

The City reserves the right to access, audit, and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the City. This includes the City e-mail system, computer network, or any information placed into storage on any City system or device. It also includes records of all key strokes or web-browsing history made at any City computer or over any City network.

The fact that access to a database, service, or website requires a user name or password will not create an expectation of privacy if it is accessed through a City computer or network. However, the City may not require an employee to disclose a personal user name or password, or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work-related misconduct or otherwise compliant with Labor Code § 980.

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SEC. 4 Individual Social Media Use

(a) Engaging in social networking during the workday can negatively impact employees' productivity and work performance. Social media viewing, posting, etc. shall only occur during an employee's specified breaks and meal times, out of the view of the public or other City employees, unless an employee is directed to work on social media for the purposes of the City.

(b) Only individuals authorized by the City Manager or their designee may publicly speak on behalf of the City.

(c) If employees' posts on social media mention the City of Ridgecrest, its products or services, employees, customers and/or competitors, it is the responsibility of the posting employee to make clear that, while he/she is an employee of the City, the views posted are the employee's and do not represent the views of the City in any official capacity. Employees must be clear, transparent, and honest in their online interactions and write in the first person. It is best to include a disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of the City of Ridgecrest."

(d) Do not disclose information that may violate City policy or otherwise infringe on another employee's, or customer's confidentiality or privacy rights. Information published on social networks or blogs should comply with the City's confidentiality and disclosure of proprietary data policies, in addition to any other state or federal law with rights to privacy.

(e) Employees may not use the City's logo on their posts unless given written consent by the City Manager.

(f) Employees are responsible for what they write or present on social media. Employees can be sued by other employees, vendors, customers, and any individual who views social media posts as defamatory, pornographic, proprietary, harassing, libelous, or creating a hostile work environment. The City will not provide representation to an employee if the employee is sued in any of these or similar circumstances.

(g) If an employee makes a mistake or is notified of a mistake in a blog or post related to the City, coworkers, or City customers, the employee must correct or retract the information immediately.

(h) Employees should not speak to the media on the City's behalf using social media without first obtaining authorization from the City Manager. Media inquiries should be directed to the City Manager.

(i) Employees should follow all City rules and regulations as applicable, including but not limited to those that protect individual privacy rights, anti-discrimination and harassment rules, anti-workplace violence rules, rules related to employee conduct,

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non-competition, confidential and/or proprietary information, disciplinary rules, and other relevant City rules.

(j) Employees shall not use City email addresses to register on social networks, blogs, or other online tools for personal use.

The City may take disciplinary action, up to and including termination, for violations of this rule. The City prohibits taking negative action against any employee, volunteer, associate, or member of the general public for reporting a possible deviation from this rule or for cooperating in an investigation. Any employee/volunteer who retaliates against another for reporting a possible deviation from this rule or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.

The absence or lack of explicit reference to a specific site does not limit the extent of the application of this rule. Where no rule or guideline exists, employees should use their professional judgment and take the most prudent action possible. Employees should consult a manager or supervisor if there is uncertainty.

RULE 32 - APPEARANCE STANDARDS

SEC. 1 Basis for Standards

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

SEC. 2 Dress Code

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

- (a) All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed;
- (b) Prescribed uniforms and safety equipment must be worn;
- (c) Hair must be neat, clean, and well-groomed;
- (d) Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion;
- (e) Jewelry is acceptable except where it constitutes a health or safety hazard;
- (f) Good personal hygiene is required; and

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(g) Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work.

SEC. 3 Tattoos

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

(a) No tattoos are allowed anywhere on the head, face, or neck;

(b) Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, national origin, or any other protected classification. Tattoos shall not be extremist and/or gang-related;

(c) Any non-conforming tattoos will be covered with clothing, bandages, or makeup while at work, or else shall be removed.

SEC. 4 Piercings

Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing. If an employee has questions about how these standards apply to him/her, the matter should be immediately raised with their supervisor for consideration and determination.

(a) No objects, articles, jewelry, or ornamentation of any kind shall be attached to or through the skin if visible on any body part, including the tongue or any part of the mouth, except that one set of reasonably-sized pierced earrings may be worn in each lobe; and

(b) Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

RULE 33 - AMENDMENT OF RULES

The City Council shall have authority to adopt, amend, or repeal the Personnel Rules at any time. To the extent that modification in the rules lies within the scope of representation, the City will meet and confer with employee organizations prior to their adoption