PERSONNEL RULES & REGULATIONS

Approved by the Personnel Board 1/14/09
Approved by the City Council 5/6/09
Revised and approved by City Council 10/16/2024

RESOLUTION NO. 2024-R87

A RESOLUTION APPROVING THE REVISED PERSONNEL RULES AND REGULATIONS.

THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1: The revised Personnel Rules ("PRR") attached as Exhibit "A," and incorporated by reference, are approved as the PRRs for the City of Monterey Park.

SECTION 2: *Electronic Signatures*. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 3: *Construction*. This Resolution must be broadly construed to achieve the purposes stated in this Resolution. It is the City Council's intent that the provisions of this Resolution be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Resolution.

SECTION 4: *Effective Date*. This Resolution will become effective immediately upon adoption.

PASSED AND ADOPTED this 16th day of October, 2024.

Thomas Wong, Mayor

ATTEST:

Maychelle Yee, City Clerk

APPROVED AS TO FORM:

Karl H. Berger, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF MONTEREY PARK)

I, Maychelle Yee, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 2024-R87 was duly adopted and passed at a regular meeting of the Monterey Park City Council on the 16th day of October, 2024 by the following vote:

Ayes:	Council Members:	Sanchez, Lo, Yiu, Ngo, Wong
Noes:	Council Members:	None
Abstain:	Council Members:	None
Absent:	Council Members:	None
Recusal	Council Members:	None

Dated this 16th day of October, 2024.

Maychelle Yee, City Clerk
Monterey Park, California

EXHIBIT A
PERSONNEL RULES FOR THE CITY OF MONTEREY PARK

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100 Introduction and General Information Rules

102 Effect and Applicability of Personnel Rules

102.1 No Contract Right; City of Monterey Park Discretion to Modify These Rules

These Personnel Rules ("Rules") do not create contract right, or any express or implied contract of employment.

The City of Monterey Park ("City") retains full discretion to modify these Rules at any time in accordance with applicable law, including but not limited to the Meyers-Milias-Brown Act ("MMBA"). The City of Monterey Park will notify all bargaining units of any/all changes to the existing rules before their modification and will allow all bargaining units time to review and submit feedback. The City will comply with all obligations set forth in the MMBA for proposed changes to matters within the scope of representation.

102.2 Applicability of Rules

These Rules apply to all categories of City employees unless a specific section or provision excludes them.

Independent contractors, volunteers, and elected officials are not employees subject by these Rules, except as otherwise provided by contract or separate policy (e.g., Code of Conduct or applicable law).

102.3 Conflict Between These Rules and a Collective Bargaining Agreement

If these Rules conflict with a valid collective bargaining agreement between the City and a recognized employee organization, the collective bargaining agreement takes precedent over these Rules.

102.4 Employee Acceptance of Rules and Revisions to Rules

As a condition of employment, all employees are required to read and request necessary clarification of these Rules.

Each employee is required to sign a receipt acknowledging that: a) they received a copy or were provided access to the Rules; and b) understand that they are responsible to read and become familiar with these Rules.

104 Delegation of Authority

104.1 Delegation of Appointing and Personnel Authority to City Manager

The Monterey Park Municipal Code delegates authority to the City Manager**,** to employ, establish job responsibilities, and perform other personnel actions as to all subordinate employees in accordance with all federal and state laws and regulations and these Rules. The City Manager may further delegate such responsibility to a person of the City Manager's choice.

104.2 Retention of Personnel Authority as to Certain Personnel

The City Council retains authority over all personnel matters affecting the City Manager and City Attorney.

106 Categories of Employees and Non-Employees

106.1 At-Will Employee

An at-will employee is one who serves at the pleasure of either the City Council (e.g., the City Manager and City Attorney) or the City Manager, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

At-will employees include the following employees:

(a) City Manager

(b) City Attorney (the City Attorney is not a City employee and not subject to these Rules)

(c) Assistant City Manager

(d) Department heads/Directors

(e) Building Official

(f) Finance manager

(g) Human resources and risk management manager

(h) Information technology services manager

(i) Employees whose positions are funded under a state or federal employment program

(j) Part-time employees (non-represented)

(k) Employees designated as temporary, seasonal, or extra-help

(l) Probationary employees

(m) All non-classified positions appointed by the city manager in accordance with the administrative code adopted by the city council (Ord. 2217 1, 2021)

106.2 Probationary Employee

A probationary employee is one who is serving a probationary period at either the outset of initial employment with the City or at the outset of a promotion to a higher classification. Employees appointed to at-will positions do not serve a probationary period.

During the initial probationary period, a probationary employee serves at the pleasure of the appointing authority; has no property right in continued employment; and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. A probationary employee serving a probationary period at the outset of initial employment is an at-will employee.

106.3 Regular/Classified Employee

A regular/classified employee is one who has satisfactorily completed the initial probationary period in a full-time position and may only be disciplined for cause.

A regular/classified employee has a property right in continued employment and has the right to pre- and post-disciplinary procedural due process for certain types of disciplinary actions that result in a significant deprivation of their property right.

106.4 Full or Part-Time Employee

A full-time employee is one whose position is expected to work at least 40 hours per week. Full-time employees receive all benefits provided in these Rules, unless otherwise provided in a MOU**,** or an employment agreement approved by the City Council.

A part-time employee is one whose position is expected to work less than 30 hours per week. Part-time employees may have different benefits regarding leave and other matters under the law, or these Rules, depending on the number of hours they work.

106.5 Temporary/Seasonal/Extra-Help Employee

A temporary, seasonal, or extra-help employee is an at-will employee who is appointed for a short term or seasonal basis that is not to exceed six months (unless extended by the City Manager).

A temporary, seasonal, or extra-help employee serves at-will and at the pleasure of the appointing authority; has no property right in continued employment; and no right to any pre- or post-disciplinary procedural due process.

106.6 Volunteer

A volunteer is not an employee. Volunteers are individuals who provide services to the City for civic or philanthropic reasons and receive no compensation or benefits other than reimbursement of expenses, and workers' compensation coverage.

A volunteer serves at-will and at the pleasure of the appointing authority; has no property right in continued employment; and no right to any pre- or post-disciplinary procedural due process.

106.7 Independent Contractor

An independent contractor is not an employee and serves solely pursuant to a contract entered into as set forth in the Monterey Park Municipal Code and City policies.

106.8 Exempt and Non-Exempt Employees

106.8.1 Exempt Employees

Exempt employees include all executive, administrative, or professional employees who are classified as exempt employees under the provisions of the Fair Labor Standards Act. Exempt employees are not subject to the overtime provision of the Fair Labor Standards Act.

106.8.2 Non-Exempt Employees

Non-exempt employees include all other full and part-time employees who do not meet the test for exempt employees as defined by the Fair Labor Standards Act. In general, these include all hourly employees, regardless of duties. Non-exempt employees are paid for actual days and hours worked and are subject to the overtime provisions of the Fair Labor Standards Act.

EXHIBIT A
PERSONNEL RULES FOR THE CITY OF MONTEREY PARK

200 Equal Employment Opportunity

202 Equal Employment Opportunity Rule

The City offers equal employment opportunity for all qualified employees and applicants as to all terms of employment, including, without limitation, compensation, hiring, training, promotion, transfer, discipline, and termination.

The City prohibits discrimination against employees or applicants for employment on the basis of 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. (Gov't Code § 12940(a).)

Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Rules, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Civil Rights Department.

204 Against Discrimination, Harassment and Retaliation; Complaint Procedure

204.1 Purpose

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

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

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

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

The City of Monterey Park expressly prohibits any retaliation against an employee because they filed or supported a complaint or because they participated in the investigation or complaint resolution process. Individuals found to have retaliated against an employee in violation of this

policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

204.1.1 Covered Individuals and Scope of Policy

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

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

204.2 Definitions

204.2.1 Protected Classification

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

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

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

204.2.2 Protected Activity

This policy prohibits discrimination, harassment, and retaliation because of an individual's protected activity.

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

204.2.3 Discrimination

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

204.2.4 Harassment

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

(a) Derogatory, offensive, or inappropriate speech, such as epithets, slurs or stereotypical comments, or verbal propositions made on the basis of the individual's protected classification. This includes, but is not limited to, comments, stories, and jokes about appearance, dress, physical features, gender identification, and race.

(b) Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes, but is not limited to, pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.

(c) Visual acts, such as derogatory, offensive, or inappropriate, posters, cartoons, emails, pictures or drawings related to a protected classification.

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

204.2.4.1 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 include the following:

(a) Conduct to which the recipient appears to have consented. The City of Monterey Park does not recognize as a defense that the recipient appeared to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest offensive or inappropriate conduct for many legitimate reasons, including, but not

limited to, the need to avoid being perceived as insubordinate or to avoid being ostracized or subjected to retaliation.

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

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

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

204.2.5 Retaliation

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

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

204.3 Complaint Procedure

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

Any supervisory or management employee who receives a harassment complaint should immediately notify the Personnel Officer or designee. Upon receiving notification of a

complaint regarding discrimination, harassment or retaliation, the Personnel Officer or their designee will complete and/or delegate the following steps:

(a) Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with the following individuals: (1) the complainant; (2) the accused (*i.e.*, the subject of the investigation); (3) witnesses to the conduct at issue in the complaint; and (4) other persons who have relevant knowledge concerning the allegations in the complaint.

(b) Review the factual information gathered during the investigation to determine whether the alleged conduct violated the policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.

(c) Prepare a summary report of the determination as to whether the conduct violated this policy and provide such report to the appointing authority (*i.e.*, City Manager). If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.

(d) If conduct in violation of this policy occurred, take, or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.

(e) Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.

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

204.3.1 Proactive Approach

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

204.4 Right to File Report with Outside Administrative Agencies

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

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

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

204.5 Confidentiality

The City will make every effort to assure the confidentiality of complaints made under this policy to the greatest extent allowed by law. However, complete confidentiality may not be possible because of the City's need to investigate the complaint and provide the subject of the complaint their due process rights, which include providing the subject of the investigation a copy of the complaint after the initial investigatory interview, if requested.

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.

204.6 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 policy.

3) Participating in periodic trainings on personnel matters.

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

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

6) Reporting any act they believes in good faith constitutes harassment, discrimination or retaliation as defined in this policy, to their immediate supervisor or manager, or Department Director, or the Personnel Officer**.**

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

1) Informing employees under their supervision of this policy.

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

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

4) Documenting the steps taken to resolve such complaints.

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

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

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

10) Implementing appropriate corrective or disciplinary actions.

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

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

206 Reasonable Accommodation and Interactive Process

206.1 Reasonable Accommodation

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

(a) qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions (Gov't Code § 1240(m)); and

(b) employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider (Gov't Code § 12945(3)(A)); and

(c) employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work (Labor Code § 230(f)(4)); and

(d) employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement (Gov't Code § 12940(l)).

206.2 Supporting Documentation or Certification

206.2.1 Reasonable Medical Documentation of Disability

If the disability or the need for reasonable accommodation is not obvious, the City may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the City will: 1) explain the insufficiency; 2) allow the employee or applicant to supplement the documentation; and 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided. (2 Cal. Code Regs. § 11069(c)(2) & (d).)

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

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the City will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: 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 date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer. (2 Cal. Code Regs. § 11050(b)(3).)

206.2.3 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 his, her, or their safety while at work must provide both of the following:

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

(b) a certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking. (Labor Code § 230(f)(7).)

206.3 Fitness for Duty Examinations

206.3.1 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 City and required of all applicants for the job classification (Gov't Code § 12940(e) & (f).). An applicant or employee who is required to pass a medical and/or psychological examination will be notified of his/her/their right to obtain a second opinion at his/her/their expense and that he/she/they may submit such second opinions for consideration. (2 Cal. Code Regs. § 11071(b)(2).)

Approved by the Personnel Board 1/14/09
Approved by the City Council 5/6/09
Revised and

206.3.2 Current Employee

The Personnel Officer may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of the employee's job when there is significant evidence that:

(a) the employee's ability to perform one or more essential functions of the employee's job has declined; or

(b) could cause a reasonable person to question whether an employee is still capable of performing one or more of the employee's essential job duties or is still capable of performing those duties in a manner that does not harm the employee or others. (Gov't Code § 12940(e) & (f).).

206.3.3 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 provide an employee paid time off to attend the exam. The City will provide the heath 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 the person's position and any work restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide the City with non-confidential information regarding whether:

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

(b) the applicant or employee is fit to perform essential job functions;

(c) workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;

(d) there are any reasonable accommodations that would enable the employee to perform essential job functions; and

(e) the employee's continued employment poses a threat to the health and safety of himself/herself/themselves 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. (2 Cal. Code Regs. § 11069(c) & (d).)

206.3.4 Authorization for Use of Medical Information

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

206.3.5 Medical Information from the Employee or Applicant

If an employee or applicant submits medical information to the City from that person's 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.

After receiving 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.

206.4 Interactive Process

206.4.1 When to Initiate the Interactive Process

The Personnel Officer or designee will initiate the interactive process when:

(a) an applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s) (2 Cal. Code Regs. § 11069(b)(1)); or

(b) the City otherwise becomes aware of the need for an accommodation through a third party (*e.g.*, a doctor's note requesting an accommodation) or by observation of the employee's work (2 Cal. Code Regs. § 11069(b)(2)); or

(c) the City becomes aware of the possible need for an accommodation because the employee with a disability exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider assert that further accommodation is still necessary for recuperative leave or other accommodation (2 Cal. Code § 11069(b)(3)); or

(d) an employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of their health care provider (2 Cal. Code Regs. § 11040(a)(1)); or

(e) an employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave (2 Cal. Code Regs. § 11047); or

(f) an employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for the employee's safety at work (Labor Code § 230(f)(1)); or

(g) an employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement (Gov't Code § 12940(l)); or

(h) an employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance, or practices. (2 Cal. Code Regs. § 11060(b).)

206.4.2 Interactive Communication

Should a circumstance require an interactive process meeting, the Personnel Officer or designee will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his/her/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 or designee will document these communications in writing. (Gov't Code § 12940(n); 2 Cal. Code Regs. § 11069(a).)

206.4.2.1 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 may select and implement any reasonable accommodation that the City deems effective. The range of potential reasonable accommodations includes, without limitation:

- making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices; adjustment or modifications of examinations, training materials or policies; and/or the provision of qualified readers or interpreters;

- job restructuring;

- part-time or modified work schedules (Gov't Code § 12926(p));

- 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 (2 Cal. Code Regs. § 11068(c));

- preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system (2 Cal. Code Regs. § 11068(d)(5));

- reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for (2 Cal. Code Regs. § 11068(d)(2)); or

- reassignment to a temporary position, if the individual agrees. (2 Cal. Code Regs. § 11068(d)(3).)

206.4.2.2 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 considers several factors including, but without limitation, the employee's medical needs; the duration of the needed accommodation; and the employer's legally permissible past and current practices. (2 Cal. Code Regs. § 11040(a)(2)(A).) The range of potential accommodations includes, without limitation:

- transfer to a less strenuous or hazardous position for the duration of the pregnancy (Gov't Code § 12945(a)(3)(C));

- change in or restructuring of work duties, such as modifying lifting requirements (2 Cal. Code Regs. § 11040(b));

- providing more frequent breaks;

- providing seating;

- time off for medical appointments; and

- 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. (2 Cal. Code Regs. § 11041(c).) However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from

the employee's four month pregnancy disability leave entitlement. (2 Cal. Code Regs. § 11040(b).)

206.4.2.3 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. The City, however, may select and implement any accommodation that it deems effective. The range of potential safety measure accommodations include, without limitation:

- transfer, reassignment, modified schedule;
- change in work telephone number;
- change in location of work station;
- installation of locks;
- assistance in documenting domestic violence, sexual assault, stalking, or a crime that occurs in the workplace;
- implementation of a safety procedure(s);
- adjustment to job structure, workplace facility, or work requirement; and
- referral to a victim assistance organization. (Labor Code § 230(f)(2).)

206.4.2.4 Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice

Depending on the facts of each case, the interactive process analysis will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement. The City will consider the preference of the employee or applicant, but may select and implement any accommodation that it deems effective. The range of potential accommodations includes, without limitation:

(a) job restructuring or job reassignment (but not segregation from other employees or the public) (Gov't Code § 12940(l)(2));

(b) modification of work practices, including dress or grooming standards (2 Cal. Code Regs. § 11062(c)(2));

(c) allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked to avoid a conflict with the employee's religious observances (2 Cal. Code Regs. § 11062(a));

(d) allowing alternatives to union membership or payment of union dues (2 Cal. Code Regs. § 11062(c)(3)).

206.4.3 Determination

After the interactive process, the Personnel Officer will review the information received, and determine: whether all available information was reviewed; whether all potential accommodations that the applicant or employee has suggested was considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences were considered; 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 or designee will inform the applicant or employee of the Personnel Officer's determination in writing. The Personnel Officer will exercise discretion based upon the particular facts of each case.

206.5 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 or designee, the City's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law. (2 Cal. Code Regs. § 11069(g).)

208 Whistleblower Protection

208.1 Rule

The City prohibits all of the following:

(a) taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(b));

(b) preventing an employee from disclosing information to a government agency, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(a));

(c) retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(c)); 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.

208.2 Rule Coverage

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

208.3 Definitions

(a) "Protected activity" includes any of the following:

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

- Participating in or cooperating in good faith with a local, federal, or state enforcement agency that is conducting an investigation in to alleged unlawful activity.

- Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.

- Associating with another covered individual who is engaged in any of the protected activities enumerated here.

- Making or filing in good faith and with reasonable cause an internal complaint with the City regarding alleged unlawful activity.

- Providing informal notice to the City regarding alleged unlawful activity.

- Calling a governmental agency's "Whistleblower hotline" in good faith.

- Filing a written complaint under penalty of perjury that the City has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety. (Labor Code §§ 53296(c) & 53297(d).)

- Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. (Labor Code § 1102.5(c).)

(b) "Adverse action" may include, without limitation, any of the following:

- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.

- Refusing to hire an individual because of actual or potential protected activity.

- Denying promotion to an individual because of actual or potential protected activity.

- Taking any form of disciplinary action because of actual or potential protected activity.

- Extending a probationary period because of actual or potential protected activity.

- Altering work schedules or work assignments because of actual or potential protected activity.

- Condoning hostility and criticism of co-workers and third parties because of actual or protected activity.

- Spreading rumors about a person because of that person's actual or perceived protected activity.

- Shunning or unreasonably avoiding a person because of that person's actual or perceived protected activity.

208.4 Complaint Procedure

An applicant, employee, part time, temporary, season, extra-help employee, volunteer, or who feels he, she, or they have 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 can be resolved fairly and quickly. Supervisors and Managers have the same responsibilities as defined in the Rule Against Discrimination, Harassment or Retaliation.

300 Classification Rules

302 Classification Plan

302.1 Classification Plan

The Personnel Officer must ascertain and record the duties and responsibilities of all positions and, after consulting with affected department directors, recommend a classification plan, including job descriptions, for such positions. The plan, and any revisions thereof become effective upon approval of the City Council or City Manager.

Following the approval of the classification plan, the Personnel Officer must allocate every position to one of the classifications established by the plan.

When a new position is created, such position may not be filled, until the classification plan is amended to provide for the new position.

302.2 Reclassification

The Personnel Officer may initiate a job audit to determine whether the duties of a position have changed to such an extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification. Upon completion of the job audit, the Personnel Officer will make a recommendation regarding reclassification to the City Council or City Manager.

302.3 Effect of Reclassification Changes on Incumbents

Reclassification Upward:

Incumbents of positions subject to reclassification who have occupied those positions for more than one year (if not acting in a higher classification due to an extended medical leave reason), with a recommendation by the Department Director may be granted promotion to the higher classification without further competitive examination, if they meet the minimum qualifications for the higher classification. Incumbents shall be granted all the rights and benefits in the higher class as attained in the lower class. The City Manager may approve reclassification of incumbents without examination except when the reclassification is based upon a sudden change in duties or organization occurring less than one year prior to the date of reclassification of the position.

Incumbents of positions who have occupied those positions for less than one year may be appointed to a position in a higher class from an appropriate employment list applying usual certification procedures.

Reclassification Downward:

(a) When there is a vacant position in the higher class:
    1) If the employee elects, the incumbent may be transferred to such a vacant position.
    2) If the employee does not elect to be transferred to another vacant position in the same class, the employee may retain the reclassified position in the lower class, receiving the rate of the salary range for the lower class that the employee was receiving in the higher class, providing salary is within the salary range of the lower class. In this case, the employee shall not acquire priority re-employment rights in the former class.

(b) If there is no vacant position in the classification of the employee, the incumbent may:

    1) Elect to retain the reclassified position in the lower class and will retain the current rate of pay, but will be entitled to advancement only to the limits of pay set for the position as reclassified. In such case, the employee shall be placed on a re-employment list in accordance with the provisions of Rule VIII Section 3.
    2) If the employee does not elect to retain the position in the lower class, a layoff list shall be created and the reclassified position filled by demotion in lieu of layoff in accordance with the provisions of Rule XIII Section 3.

Reclassification at the Same Level:

Incumbents of positions reclassified to a class at the same salary level may be granted status in the new class without further examination.

400 Recruitment, Selection, and Appointment

402 Recruitment, Selection and Appointment Rule

402.1 Job Announcement

The Personnel Officer or designee will prepare a job announcement to announce a proposed classified position recruitment. The announcement may be posted on the City's website and other locations the Personnel Officer or designee deems appropriate, depending upon whether the recruitment is open to the public or current employees only.

The announcement will include:

- The title and pay for the position;

- The nature of the work to be performed and essential job duties of the position;
- The minimum qualifications, including whether the job is a promotional position;
- A statement of the employment status of the position;
- The last date that the Personnel Officer will accept applications, if any;
- The time, place, and type of the examination, if known, and if a medical examination, and/or a drug screen will be required following a conditional offer of employment; and
- Such other information as determined in the discretion of the Personnel Officer.

402.1.1 Open, Competitive, and/or Promotional Recruitment

The type of examination for all classifications under the classified/competitive service will be determined by the Personnel Officer. Promotional recruitments can be open to current full-time, part-time, and seasonal employees. Recruitment processes for at-will/non-classified classifications do not fall under the competitive service and will be determined by the Personnel Officer.

402.2 Application Forms

Employment applications must require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including, without limitation, answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. All applications must be completed in full and signed, physically or electronically, by the person applying. The Personnel Officer will not process any application which is incomplete or unsigned. Should an applicant be appointed to a position, the supplemental information becomes part of the individual's employment records.

402.3 Disqualification of Applications

The Personnel Officer may reject any application which is not properly completed or incomplete; received after the application deadline; or demonstrates that the applicant does not meet the minimum qualifications for the position. Whenever an application is rejected, notice of such rejection will be mailed or emailed to the applicant.

402.3.1 Criminal Conviction Check

After the City makes a conditional offer of employment, the City Manager or designee may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. (Labor Code §§ 432.7-432.8.) Unless required by law, the City will not deny employment to any applicant solely because he, she, or 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 Rule does not apply to applicants for public safety jobs.

402.4 Employment Examinations

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

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

(c) An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Personnel Officer may require additional information, such as reasonable documentation of the existence of a disability. (2 Cal. Code Regs. § 11069(c)(2).)

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

(e) Applicants who meet the minimum qualifications and pass all examinations may be subject to a background and/or reference check. Each applicant will be notified by mail, email, or text message regarding total recruitment score and eligibility list ranking.

(f) Promotional points – a current full-time employee who is successful in all phases of the examination process is eligible to receive promotional credit. Prior to establishing the eligibility list, 0.5 points for each year of full-time employment up to three (3) points can be added to the promotional employee's final examination score.

402.5 Eligibility Lists

(a) After completion of an open or promotional examination for a regular/classified position, the Personnel Officer will prepare an eligibility list consisting of the names of candidates who passed the examination. Eligibility lists shall become effective upon the certification by the Personnel Officer.

(b) A person appearing on an eligible list will be mailed or emailed notice of his/her/their placement on the list.

(c) A person placed on an eligibility list must be removed from the list if he/she/they so requests in writing or fails to respond to notification of an opening within five calendar days after notification. The eligible person must keep the Personnel Officer informed of his/her/their current physical or email address, or phone number.

(d) Eligibility lists remain effective for one year and may be extended by action of the Personnel Officer up to one additional year. In no event will any employment list remain in effect for more than two (2) years. The City will notify bargaining units when eligibility lists are to be extended.

(e) An eligibility list may be terminated by the City Manager or Personnel Officer whenever fewer than three (3) candidates remain on the list.

(f) If a classification has more than one eligibility list within one year, the lists will be merged into one eligibility list with varying expiration dates based on eligibility certification date. Applicants will be merged in order of final scores.

402.6 Appointments

(a) The City Manager or designee will make all appointments except for those classifications that report to the City Council. The City Manager or designee may decide in what manner a vacancy will be filled. Vacancies may be filled by reinstatement, promotion, transfer, demotion, appointment of at-will or non-classified employees, or from an appropriate eligibility list if available. No specific list has priority over other lists.

(b) When a classified position is filled from a promotional or open eligibility list, the department director may choose a candidate from the specified eligibility list. If no person from the eligibility list is appointed, the department director may request the Personnel Officer to create a new examination and establish a new eligibility list or may fill the position by any other method authorized by these Rules.

(c) In the case of a vacancy, the affected department director will complete the top portion of a Personnel Requsition and forward the signed requisition to the City Manager or designee. If a current eligibility exists for the same or higher-level position in a related family of jobs (family of jobs as approved as a written resolution and approved by the City Council), the City Manager or designee will complete the Candidate information portion with the top three ranked candidate from the eligibility list. If less than three names are on the current eligibility, the hiring department director may make an appointment from those remaining on the list or may request the City Manager or designee establish a new list. If no current eligibility list exists the City Manager or designee will conduct a recruitment.

(d) 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 may only be required after a conditional offer of employment is made. (See Rule 206, Reasonable Accommodation and Interactive Process; and Rule 1208, Prohibitions on Drugs and Alcohol in the Workplace.)

(e) The person accepting appointment must report to the Personnel Officer or designee on the date designated by the Personnel Officer. Otherwise, the applicant is deemed to have declined the appointment.

402.6.1 Probationary Appointment

(a) The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee may be rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights set forth under Rule 1002, Causes for Discipline and Procedures. The probationary employee will be notified before the expiration of the probationary period that he/she/they have been rejected from probation.

(b) Length of Probation: Unless otherwise specified by memorandum of understanding, or these Rules, the probationary period is 12 months of actual and continuous service. For promotional appointments, the probationary period is 6 months. The probationary period is automatically extended by the length of any absence of one work week or more. The probationary period can be extended by the City at the discretion of the City Manager or designee for up to six months.

Appointment to Sworn Police Officer, Sworn Firefighter, and non-sworn Communication Dispatcher classifications has an eighteen-month probationary period.

(c) Except as otherwise provided, employees failing probation will be separated from service. If an employee's probation resulted from a promotion, the employee may be reinstated to their previously held position.

402.6.2 Out-of-Class Appointments/Temporary Assignment Pay

Out of Class Appointments

Out-of-class is defined as temporary placement of an employee to an upgraded position or higher classification by an employer or governing board or body in a vacant position for a limited duration. Such placement may be accomplished at the City Manager's, or designee's, discretion. Government Code § 20480 requires contracting public agency employers to track all hours an employee works in out-of-class appointments. Employees are limited to not more than 960 hours in an out-of-class appointment. For purposes of this section, a "vacant position" refers to a position that is vacant during an active recruitment for a permanent appointment. A vacant position does not refer to a position that is temporarily available due to another employee's leave of absence or as part of a temporary project. If either of these requirements are not met (vacant and recruiting), the position does not qualify as an out-of-class appointment to track and report to CalPERS under the law.

The department director may make recommendations for out-of-class appointments to the Personnel Officer of person who appear to possess the minimum standards of qualifications for the position. No preference in hiring is allowed upon an application or in the giving of an examination for service rendered under an out-of-class appointment. However, if an out-of-class appointment is converted to a probationary appointment without interruption of service, the period of out-of-class service may be credited towards the completion of the probationary appointment without interruption of service. All out-of-class appointments must be made within budget limitations. Upon completion of the out-of-class appointment, the employee may return to their usual and customary position.

Temporary Assignment Pay

Temporary assignment pay is defined as a temporary upgrade in pay when an employee is assigned additional duties due to another employee's leave of absence or as part of a temporary project that are estimated to last more than two weeks. Temporary assignment pay will not exceed six months, during which time that person will continue to occupy their original position. The Personnel Officer may extend a temporary assignment pay appointment up to an additional six months.

402.6.3 Salary Upon Appointment to an Out-of-Class Position

The assumption and performance of the duties of the higher classification encompass the full range of responsibilities and duties of the higher classification. Whenever the needs of the City

require an employee to temporarily perform the duties of a higher classification than that in which the employee is currently employed for a period of more than 10 consecutive working days, the employee will receive the salary increase recommended by the department director and approved by the Personnel Officer to perform the required duties.

In such cases, the employee is paid not less than 5% greater than the base salary of his/her/their current position and step, but in no case will such salary exceed 10% of current base salary. The out-of-class pay will commence on the 11th working day following the temporary reassignment to the performance of the duties and responsibilities of the higher classification. The requirement for the performance of responsibilities and duties of the higher classification will be placed in writing by the City Manager or his/her/their designee following recommendation by the affected department director.

Out-of-class pay does not apply to routine coverage for a higher position during routine leave where the employee is not required to perform the full range of duties and responsibilities of the higher classification. Out-of-class pay does not apply to temporary assignments which are made pursuant to prior mutual agreement between the employee and his/her/their immediate Supervisor for the purpose of providing a training opportunity to the employee, for a mutually agreed upon period of time.

A person appointed in an out-of-class capacity is eligible to receive merit increases in his/her/their permanent position during the acting appointment but is not entitled to merit increases in the position that he/she/they hold in an acting capacity. When the temporary assignment is completed, the employee's salary will be readjusted to its previous level or the level the employee would have attained if the acting pay had not been in effect. The employee's step increase date will remain unchanged throughout the temporary assignment.

If successful in being promoted to the position on a regular basis, the period of time of service in the higher classification will not be credited to the promoted employee towards the required probationary period for the higher classification.

402.6.4 Benefits Available to Out-of-Class Appointments

Employees in an out-of-class appointment continue to receive benefits normally associated with their regular appointment, not the out-of-class appointment benefits.

402.6.5 Probationary Period for Promotional Appointments

At-Will Status: A classified promotional probationary employee may be rejected at any time during the promotional probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights described in Rule 1002, Causes for Discipline and Procedures. If the employee fails to satisfactorily complete the probationary period in the

promotional position, the employee may return to the classified position held prior to promotion at the range and step held prior to promotion, if there is a vacancy in the prior position, unless they are terminated for cause.

Length of Probation: On accepting a promotion, an employee serves a new probationary period of twelve months of actual and continuous service. The probationary period is automatically extended by the length of any absence of a week or more.

500 Employment of Relatives or Spouses/ Domestic Partners

502 Employment of Relatives, Spouses, Domestic Partners

502.1 Rule

The City regulates the employment and placement of relatives, spouses, and domestic partners to avoid conflicts of interest and to promote safety, security, supervision, and morale. Employment and employee placements in existence upon final adoption of this provision are unaffected and shall not be modified solely pursuant to the below. The below applies to employment and employee placements, including but not limited to classification appointment, department/division/facility assignment, promotion or transfer, occurring on or after final adoption of this provision.

502.2 Definitions

(a) "Relative" means child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.

(b) "Spouse" means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law. (Fam. Code § 297 & 300.)

(c) "Supervisory relationship" means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to his/her/their City appointment.

502.3 Employment of Relatives

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

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

Additionally, the City will not appoint any individual to any position within the City, in any department, division, or facility, that has a third degree of familial relationship (great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece) with the City Manager, Assistant City Manager, nor any elected official at the time of prospective appointment.

502.4 Spouses or Domestic Partners

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

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

502.5 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 may 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.

600 Schedules, Compensation, and Payroll Practices

602 Work Schedules and Attendance

602.1 Work Schedules

A. Work schedules are determined at the discretion of the department director and are subject to change with or without notice, according to the needs of the department or City. A non-exempt employee must be in attendance and at work during the hours specified by the supervisor.

B. Work week. Each department director will arrange the work of his/her/their department so that each employee will work not more than five days in each calendar week except that a department director may require an employee to temporarily perform service exceeding five days per work week when public necessity or convenience so requires. In addition, certain employees, in the absolute discretion of the department director, may be assigned varying schedules of up to 40 hours per week, such as a three day or four-day work week.

C. Other Work Schedules. Notwithstanding anything to the contrary in these Rules or an applicable MOU, the City Manager may establish other work schedules when public necessity or convenience so requires.

D. Length of Work Week. For purposes of calculating overtime, each non-exempt employee's pay period will be divided into two work weeks of equal length.

602.2 Meal and Break Periods

A thirty minute or one-hour non-compensated meal period will be provided to all full-time non-exempt employees who work at least an eight-hour workday. A 30-minute non-compensated meal period will be provided to all non-exempt full-time employees who work more than five hours, but less than eight hours during the workday. If the total work period is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. Non-exempt employees are responsible for taking their meal period at a time designated by the supervisor.

A 15-minute compensated rest period will be provided to all non-exempt employees for each four-hour period of service. The rest period must be taken at a time designated by the employee's supervisor. Rest periods may not be combined to shorten an employee's overall workday.

602.3 Lactation Break Time and Location

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

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

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

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

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

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

602.3.1 Lactation Accommodation

An employee may make a request for lactation accommodation, either orally or in writing, with the Personnel Officer or designee.

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

An employee does not believe that the City is providing an appropriate lactation accommodation should immediately inform the Personnel Officer or designee.

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

602.3.2 Storage of Expressed Milk

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

602.4 Advance Request for Permission to Deviate from Regular Work Hours

A non-exempt employee is required to seek advance permission from their supervisor for any foreseeable absence or deviation from regular working, break, and meal times.

602.5 Notification of Unforeseen Late Arrival or Absence

A non-exempt employee who is unexpectedly unable to report for work as scheduled must notify his/her/their immediate supervisor as soon as is practicable and not later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the department director.

602.6 Unauthorized Absence is Prohibited

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. A non-exempt employee who fails to timely notify the supervisor of any absences as required by this Rule, or who is not present and ready to

work during all scheduled work times, is considered tardy or absent and will not receive compensation for the period of absence.

602.6.1 Unauthorized Absence is Prohibited in the Event of an "Emergency Condition"

In the event of an "emergency condition," the City of Monterey Park designates all employees as Disaster Service Workers and expects such employees to report to their workplace or worksite and not to leave such workplace or worksite.

As used in this policy, "emergency condition" means the existence of either of the following: (1) Conditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act; or (2) An order to evacuate a workplace, a worksite, a worker's home, or the school of a worker's child due to natural disaster or a criminal act.

602.7 Excessive Tardiness/Absenteeism and Abuse of Leave

Excessive tardiness occurs when a non-exempt employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three days in any three month period. The City will document each instance of tardiness and will notify the employee after the 2nd documented tardiness during any 30-day period. Excessive tardiness or absenteeism is grounds for discipline, up to and including termination.

Abuse of leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination. Should the City suspect that there is an abuse of leave by an employee, the City may require that the employee submit a physician's certificate to support the absence.

604 Overtime and Compensatory Time Off

604.1 Overtime

Overtime is all hours a non-exempt employee actually works over 40 hours in his/her/their designated work week. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay; paid leave will not be counted. Non-exempt employees who are directed to work overtime must do so. For purposes of computing overtime, hours paid will count as hours worked.

Whenever a non-exempt employee is required to work overtime (i.e., hours worked exceeding 40-hours per week) at the discretion of the employee's department director, the employee will receive compensation for such overtime work at 1.5 times his/her/their regular rate of pay.

604.1.1 No Remote Access for Non-Exempt Employees

Unless authorized by the City Manager or designee, non-exempt employees cannot have remote access to City equipment, resources, or email.

604.1.2 Prior Approval Required for Overtime

Non-exempt employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by the City. 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 the 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 subjects the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.

604.2 Accurate Time Reporting

All employees must accurately report all work time to the nearest 15 minutes. Each employee is responsible for the completeness and accuracy of his/her/their timecards.

604.3 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. Non-exempt 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 non-exempt employees to volunteer work time.

604.4 Compensatory Time Off

A non-exempt employee may opt to accrue compensatory time-off (CTO) in lieu of cash payment for overtime worked. When a non-exempt employee works overtime, such employee has the choice of receiving (1) pay at time and on-half; or (2) extra time off ("compensatory time") at one and one-half time the hours worked. The employee's supervisor will decide whether to grant compensatory time requests, always making every reasonable effort to accommodate the employee's preference.

(a) Accrual Rate: CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated exceeding 40 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 employee's 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 not later than five calendar days before the date requested. 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) 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 are 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. (29 USC § 207(o)(3)(B) & (4); 29 CFR § 553.27.)

606 Pay and Merit Adjustments

606.1 Pay

Employees filling a position in the competitive service will be paid a salary or wage within the range established for position's class under the pay plan.

Employees re-employed after lay-off shall receive a rate within the range established for the class determined as if their service had been uninterrupted but excluded the time not actively employed by the City.

606.2 Merit Adjustments

(a) No newly appointed employee in a classified position will be hired at Step 6 to 10 without approval from the City Manager (or Step 3 to 5 for 5 step range).

(b) Advancement between steps may occur at intervals of no less than one year.

(c) To recognize an employee for outstanding work performed, a department director may recommend a two-step merit increase, if employee's position is in a 10 step salary range, to the City Manager for review and approval.

(d) Probationary Communication Dispatcher Trainees serving an eighteen-month (18) probationary period may advance one step upon achieving a "Meets Job Standards" evaluation at the completion of six (6) months service and one additional step upon achieving a "Meets Job Standards" evaluation at the completion of twelve (12) months service.

(e) Merit increases are based on the employee's anniversary date of appointment to their current classification or anniversary date adjustment. Any employee on a leave of absence (paid or unpaid) for more than 30 days in a rating period may have their anniversary date adjusted accordingly.

(f) Recommendation for merit increase will be effective the first of the pay period immediately following the employee's anniversary date and will be accompanied by a performance evaluation approved by the Department Director.

(g) Merit advancement will be contingent upon receiving an overall performance rating of "Meets Job Standards" or higher on their annual performance evaluation.

(h) Part-time, seasonal, temporary, or extra-help employees:

1) Part-time employees hired at step 1 who work for six months are eligible for a merit advancement to step 2 with a department director recommendation (and performance evaluation) and approval by the City Manager. These employees are eligible for a merit advancement to step 3 when they are employed for one year.

2) If part-time employees hired at step 1 but did not advance to step 2, they are eligible for a merit advancement to step 3 if they are employed for one year. Employees are eligible to receive a merit advancement with a performance evaluation each year they are employed until they reach the top step of the salary range.

700 Performance Evaluation Rules

702 Performance Evaluations

702.1 Performance Evaluations

A non-probationary employee's supervisor will prepare and sign a performance evaluation on a City form for each performance evaluation period. Performance evaluations should take place no later than 30 calendar days following the evaluation period. Merit increases should be fully processed within 21 days following the employee's receipt of their evaluation. The department director will review and approve all performance evaluations of subordinates in his/her/their department. The City Manager may review and approve all performance evaluations of department directors or any other employee. Additional performance evaluations may be prepared at any time the Personnel Officer or department director deems it desirable.

702.2 Probationary Employee Performance Evaluations

On or about the completion of three month, six month, and nine month of a probationary period, and again at any point before separation or the successful completion of the probationary period, the probationary employee's supervisor will prepare and sign a performance evaluation. The purpose of the probationary performance evaluation is to chart the probationer's progress toward meeting the standards of his/her/their position.

702.3 Performance Evaluation Meeting

The supervisor will meet with the employee to discuss the evaluation. The employee will sign the evaluation to acknowledge its contents and that he/she/they met with his/her/their supervisor to discuss the evaluation. The employee's signature does not mean that he/she/they agree with the contents of the evaluation. A copy of the employee evaluation will be provided to the employee upon request.

702.4 No Appeal Right

An employee who disagrees with the contents of a performance evaluation may comment on the evaluation in a written statement which will then be placed with the evaluation in the employee's personnel file. The written statement must be submitted within 10 calendar days after the employee receives the evaluation.

703 Withholding Merit Increases

703.1 Policy

Step increases are merit increases given as an incentive adjustment to encourage an employee to improve his/her/their work and to recognize seniority and increased skill on the job. They are given only if favorably recommended by the employee's department director and approved by the City Manager.

703.2 Merit Increase versus Step Increase

Where used in these Rules, the MOUs, and CP the terms "merit increase" and "step increase" have the same meaning.

703.3 Probationary Employee

Employees successfully completing probation will be given a step increase effective on the date at the end of probation.

a. Employees failing probation without right of reinstatement to a previously held position will be terminated.

b. Employees having the right of reinstatement to a previously held position will be reinstated to that position at the step previously held and with their merit increase due date reverting to that held at the time of their promotion.

703.4 Full-Time Employees

Step increases will generally be given annually, one year after the last step increase, except that:

a. The decision to deny a step increase is in the City Manager's, or designee's, sole discretion.
    - Non-probationary employee whose overall performance is rated "Improvement Needed" may be denied a step increase by the department director.

    - A non-probationary employee whose overall performance is rated "Unsatisfactory" will normally be denied a step increase by the department director.

b. To deny a step increase:

    1. As far in advance of the step increase due date as is practicable, the employee will be advised in writing clearly stating the deficiencies of their performance, what

remedy is expected, and that their next step increase may be denied if those expectations are not met.

2. Before the anticipated step increase date, the employee will be informed in writing by the supervisor and department director that their step increase is being denied and the reasons for denial, and a Personnel Action Form (PAF) used to document the denial of a step increase.

c. A step increase is denied, the employee will next be eligible to receive a step increase upon completion of satisfactory performance, as determined by his/her/their supervisor upon completion of the employee's next evaluation.

800 Leaves of Absences

802 Vacation Leave, Same Day Leave, and Holidays

802.1 Vacation Leave

Eligible full-time employees earn vacation leave while in paid status until they reach the applicable vacation accrual cap. Employees accrue vacation time according to their full-time status and the number of consecutive years the employee has worked for the City based on respective MOU, or resolution.

802.2 Limitations on Vacation Leave Accrual

No employee may accrue more vacation leave per the appropriate MOU or resolution. Vacation leave will not accrue during leaves of absence without pay unless required by law.

802.3 Scheduling of Vacation Leave

Vacation leave may not be used until it is earned. The employee will request leave approval from the department director or designee. The scheduling will be based on the employee's preference and the operational needs. An employee must provide a minimum of two week's written advance notice, unless waived by the department director, when requesting vacation time off. The City Manager may, at his/her/their discretion, require an employee to use accrued vacation.

802.3.1 Unused Vacation Leave Upon Separation

Any employee separating from the City who has accrued vacation leave must be paid for all accrued vacation at his/her/their rate of pay at the time of separation.

802.4 Holidays

Full-time employees receive the holidays listed below with pay based on MOU, resolution, or Rule. Full-time employees must be in a paid status on both the workday before and the workday following the holiday to receive compensation for the holiday hours. An employee on vacation, sick leave, or other paid leave of absence, is considered to be in a paid status and, therefore, would receive compensation for the holiday.

If New Year's Day, Independence Day, Veteran's Day, December 25th, or New Year's Eve Day fall on a Sunday, the Monday immediately following shall be treated as the holiday. If any of those five (5) holidays falls on a regular day off (Friday) or Saturday, the employee will receive holiday hours in holiday leave bank. Part-time employees whose scheduled work time falls on a holiday will receive that holiday off without pay unless the employee is required to work on such days.

- New Year's Day
- Martin Luther King's Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day After Thanksgiving Day
- December 24
- December 25
- December 31

802.5 Effect of Holiday on Vacation Leave

If one or more holidays falls within a vacation leave that an eligible full-time employee is taking, such holiday shall not be charged as vacation leave. Full time employees on a 9/80, 4/10, 3/12, or 5/40 work schedule, however, do not receive any holiday pay for a holiday that falls on the regular day off, the hours will be added to a holiday leave bank.

802.6 Floating Holidays

Full-time employees who are entitled to holidays receive two (2) floating holidays per calendar year that must be used during that year.

802.7 Pay for Holidays

Employees entitled to paid holidays or floating holidays shall be paid for the number of hours the employee was scheduled to work had it not been a holiday or floating holiday. A non-exempt employee who is required to work on a holiday will receive holiday pay based on respective MOU.

804 Sick Leave

804.1 Purposes for Sick Leave

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

(a) diagnosis, care, or treatment of an existing health condition of, or preventative care for an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; sibling, or designated person (Labor Code §§ 233(b)(2); 245.5(c); 246.5(a)(1)).)

(b) for an employee who is a victim of domestic violence, sexual assault, or stalking to i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his/her/their child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety. (Labor Code §§ 230(c); 233(b)(3)(A); 246.5(a)(2).)

804.2 Terms of Sick Leave

(a) Full time employees who are not part-time, seasonal, temporary, or extra help accrue eight hours of sick leave for each calendar month of paid status; Accrued sick leave carries over from year to year. Accrual limit applies per applicable MOU or resolution.

(b) A part-time, seasonal, temporary, or extra help employee may be eligible for 40 hours or five days of paid sick leave, whichever is greater, from the commencement of employment with the City**.** A part-time, seasonal, temporary, or extra help employee sick leave does not carry over from year to year.

(c) Sick Leave Use

An employee may use accrued sick leave hours, subject to the limits and request provisions in this Rule. (Labor Code § 246(c) & (j).)

(d) Protected Sick Leave:

For full time employees who are not part-time, 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 Rule. (Labor Code §§ 233(b)(2); 233(b)(3)(A); 246(d).)

(e) Sick Leave Request

To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice. (Labor Code §§ 246(l); 246.5(a).) If the need for sick leave is not foreseeable, the employee must provide written or oral notice of the need for the leave as soon as practicable. (Labor Code § 246(l).) If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by this Rule without good reason, may result in the employee being treated as absent without leave.

(f) Certification

The City may require that employees who are not part-time, seasonal, temporary, or extra help employees, must provide a licensed health care provider's certification to support any absence that involves the illness of the employee or family member if the City reasonably suspects and documents that there is an abuse of sick leave by the employee. Abuse of sick leave means the misrepresentation of the actual reason for taking sick leave for unauthorized purposes, failure to report sick leave, and may include chronic, persistent, or patterned use of sick leave. All employees, including part-time, seasonal, temporary, or extra help, who use paid leave to address issues related to domestic violence, sexual assault, or stalking and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter. (Labor Code § 230(d)(2).)

(g) Sick Leave on Separation from Employment

Unused sick leave is not cashed out upon termination, resignation, retirement, or other separation from employment. (Labor Code § 246(f)(1).) Unused sick leave may be converted

to retirement service credits only as may be permitted under applicable retirement system laws and regulations.

804.3 Terms of Sick Leave for Part-Time Employees

See Administrative Policy #30-31

806 Family and Medical Care Leaves

806.1 Statement of Rule; Concurrent Running of FMLA and CFRA Leaves

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

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

806.2 Definitions

(a) "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken. (29 CFR § 825.200(b)(4); 2 Cal. Code Regs. § 11090(b).)

(b) "Single 12 Month Period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date. (29 CFR § 825.200(f).)

(c) "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/they 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. (29 CFR § 825.102; Gov't Code § 12945.2(c)(1).)

(d) "Parent" means the biological or adoptive parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law. (29 CFR § 825.102; Gov't Code § 12945.2(c)(7).)

(e) "Spouse" means one or two persons to a marriage, regardless of the sec of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below. (29 CFR § 825.102; Fam. Code § 300; 2 Cal. Code Regs. § 11087(r).)

(f) "Domestic Partner" is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in Family Code § 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient. (Fam. Code § 299.2)

(g) "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 on designated person per 12 month period for family care and medical leave (Gov. Code § 12945.2(b)(2).).

(h) "Serious Health Condition" means an illness, injury impairment, or physical or mental condition that involves:

1) Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (*e.g.*, inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered "inpatient" when a health care facility admits him/her/them to the facility with the expectation that he/she/they will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or

2) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

    a. A period of incapacity (*i.e.*, inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and

    b. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:

i. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (*e.g.*, a physical therapist) under orders of, or on referral by a health care provider; or

ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

3) Any period of incapacity due to pregnancy or for prenatal care. (29 CFR § 825.120; Gov't Code § 12945.2(c)(8).) Note that pregnancy is a "serious health condition" only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave. (*See* Rule 808, Leave Because of Pregnancy, Childbirth, or Related Medical Condition.)

4) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

   a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

   b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and

   c. May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

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

6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment. (29 CFR § 825.113; Gov't Code § 12945.2(c)(8); 2 Cal. Code Regs. § 11087(q)(1).)

(i) "Health Care Provider" means:

1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;

2) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment or a serious health condition;

3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California law;

4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California law and who are performing within the scope of their practice as defined under California law.

5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

6) Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits. (29 CFR § 825.102; Gov't Code § 12945.2(c)(6).)

(j) "Covered active duty" means: (1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or (2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions. (29 CFR § 825.102.)

(k) "Covered Service Member" means: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. (29 CFR § 825.102 & 825.122.)

(l) "Outpatient Status" means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 CFR § 825.102.)

(m) "Next of Kin of a Covered Service Member" means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA. (29 CFR § 825.102.)

(n) "Serious Injury or Illness" means: (1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran. (29 CFR § 825.102.)

806.3 Reasons for Leave

Leave is only permitted for the reasons listed below:

(a) The birth of a child or to care for a newborn of an employee (29 CFR § 825.120; Gov't Code § 12945.2(c)(3)(A));

(b) The placement of a child with an employee in connection with the adoption or foster care of a child (29 CFR § 825.121; Gov't Code § 12945.2(c)(3)(A));

(c) Leave to care for a child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or designated person who has a serious health condition (29 CFR § 825.112 Gov't Code § 12945.2(c)(3)(A) & (B)). Leave to care for a grandparent, grandchild, sibling, domestic partner, or designated person is permissible under the CFRA, but does not apply to FMLA leave and will not run concurrently with leave under the FMLA;

(d) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of his/her/their position (29 CFR § 825.113; Gov't Code § 12945.2(c)(3)(C));

(e) Leave for a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation (29 CFR § 825.126 – This is a FMLA leave and not a CFRA leave); or

(f) Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered servicemember of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period. (29 CFR § 825.127 – This is a FMLA leave and not a CFRA leave.)

806.4 Employees Eligible for Leave

An employee is eligible for leave if:

(a) The employee has been employed by the City for at least 12 months; and

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

(c) The City directly employs at least 50 full or part-time employees within a 75-mile radius for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. The workweeks do not have to be consecutive. The phrase "current or preceding calendar year" refers to the calendar year in which the employee requests the leave or the calendar year preceding this request. (29 CFR § 825.109(d)-29 CFR § 825.111; Gov't Code § 12945.2(a) & (b); 2 Cal Code Regs. §§ 11087(d)(1) & 11087(e).)

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

(a) The employee has been employed by the City for at least 12 months; and

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

(c) The City directly employs at least 20 full or part-time employees within 75-mile radius. (Gov't Code § 12945.6(a)(1).)

806.5 Amount of Leave

Eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered servicemember) of leave during any 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first. (29 CFR § 825.127.)

806.6 Minimum Duration of Leave

(a) If leave is requested for the birth, adoption, or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (*e.g.*, bonding with a newborn) for less than two weeks duration on any two occasions. (2 Cal Code Regs. § 11090(d).)

(b) If leave is requested to care for a child, parent, parent-in-law, spouse, domestic partner, grandparent, grandchild, sibling or the employee him/her/them self 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 Rule is required. (29 CFR § 825.205; 2 Cal. Code Regs. § 11090(e).)

806.7 Parents both Employed by the City

If both parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period. (29 CFR § 825.120(a)(3).)

If both parents of a covered servicemember are employed by the City and are entitled to leave to care for a covered servicemember, 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 Rule. (29 CFR § 825.127(f).)

806.8 Employee Benefits While on Leave

(a) Group Health Insurance During Unpaid Leave: Leave under this Rule is unpaid. While on unpaid leave, employees will continue to be covered by the City's group health insurance for up to 12 weeks each leave year to the same extent that coverage is

provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the City will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks). (Gov't Code §§ 12945(a)(2)(A) & 12945.2(s).)

(b) Benefit Plans Not Provided through the City's Group Health Plan During Unpaid Leave Do Continue: While on unpaid leave, employees will continue to be covered by the City's benefit plans that are not part of its group health plan for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job. (2 Cal. Code Regs. § 11092(e).)

(c) Payment of Premiums: Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using his/her/their paid leave) or direct payments (if the employee is not using his/her/their paid leave). The City will inform the employee whether the direct payments for premiums should be paid to the carrier or to the City, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.

(d) Recovery of Premium if the Employee Fails to Return from Leave: If an employee fails to return to work after his/her/their leave entitlement has been exhausted or expires, the City may 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 his/her/their family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. (29 CFR § 825.213; Gov't Code § 12945.2(f)(1); 2 Cal. Code Regs. § 11092(c)(5).)

806.9 Substitution of Paid Accrued Leaves

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

806.9.1 Employee's Right to Use Paid Accrued Leave Concurrently with Family Leave

An employee may use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical care leave. An employee is entitled to use sick leave concurrently with family and medical care leave for the employee's own serious health condition or that of the employee's parent, parent-in-law, spouse, domestic partner, child, grandparent, grandchild, or sibling. (Gov't Code § 12945.2(e); Labor Code §§ 233 & 246.5(a)(1).)

806.9.2 City's Right to Require an Employee to use Paid Leave when using FMLA/CFRA Leave

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

(a) Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit (29 CFR § 825.207(d); 2 Cal. Code Regs. § 11092(b)(2) & (3)); and

(b) An employee must agree to use accrued sick leave to care for a child, parent, spouse or domestic partner, grandparent, grandchild, or sibling. (Gov't Code § 12945.2(e); 2 Cal. Code Regs. § 11092(b).)

806.9.3 City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any purpose which also qualifies under both the FMLA and CFRA, the City will designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. (Labor Code § 4850(e).)

806.9.4 City's and Employee's Rights if an Employee Requests Accrued Leave without Mentioning FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. (2 Cal. Code Regs. § 11092(b)(4)(A).) However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the City may require the employee to exhaust accrued leave as described above. (2 Cal. Code Regs. § 11092(b)(4)(A)(1).)

806.10 Medical Certification/ Recertification

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

(a) Employee's Own Serious Health Condition: Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his/her/their position. (Gov't Code § 12945.2(j)(2); 2 Cal. Code Regs. § 11087(a)(2); 2 Cal. Code Regs. § 11091(b)(2).) Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her/their own serious health condition, the employee must obtain recertification if additional leave is requested. (Gov't Code § 12945.2(j)(2); 2 Cal. Code Regs. § 11091(b)(2); 29 CFR § 825.308.)

(b) Family Member Serious Health Condition: Employees who request leave to care for a child, parent, parent-in-law, domestic partner, spouse, grandparent, grandchild, or sibling who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, spouse, grandparent, grandchild, or sibling and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, domestic partner, spouse, grandparent, grandchild, or sibling. The term "warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. (Gov't Code § 12945.2(k)(1); 2 Cal. Code Regs. § 11087(a)(1); 2 Cal. Code Regs. § 11091(b)(1).) Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested. (Gov't Code § 12945.2(j)(2); 2 Cal. Code Regs. § 11091(b)(1); 29 CFR § 825.308.)

(c) Servicemember Serious Injury or Illness: Employees who request FMLA leave to care for a covered servicemember 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 servicemember's serious injury or illness. (29 CFR § 825.310.) The City will verify the certification as permitted by the FMLA regulations. (29 CFR § 825.310(e) & (f).)

(d) Qualifying Exigency: The first time an employee requests FMLA leave because of a qualifying exigency, the 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 must 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. (29 CFR § 825.309.) The City will verify the certification as permitted by the FMLA regulations. (29 CFR § 825.309(d).)

806.11 Time to Provide a Medical Certification

When an employee has provided at least 30 calendar days' notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the City within the time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. (2 Cal. Code Regs. § 11091(b)(3); 29 CFR § 825.305(b).)

806.12 Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. (2 Cal. Code Regs. § 11091(b)(3); 29 CFR § 825.313(a) & (b).) However, if an employee fails to provide a medical certification within the time frame established in this Rule, 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. (2 Cal. Code Regs. § 11091(b)(3); 29 CFR § 825.313(a).)

806.13 Review of the Contents of Medical Certification for Employee's Own Serious Health Condition

(a) **Complete and Sufficient**: The employee must provide a certification for his/her/their own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the Personnel Officer will give the employee written notice of the deficiencies and seven calendar days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies. (29 CFR § 825.305(c).)

(b) **Authentication and Clarification:** After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the Personnel Officer may contact the health care provider who provided the certification to clarify and/or authenticate the certification. "Authentication" means providing the

health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Personnel Officer may not ask for additional information beyond that required on the certification form. (29 CFR § 825.307(a).)

806.14 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. (29 CFR § 825.307(b) & (c); 2 Cal. Code Regs. § 11091(b)(2)(A).) 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. (29 CFR § 825.307(d); 2 Cal. Code Regs. § 11091(b)(2)(D).)

806.15 Intermittent Leave or Leave on a Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule for his/her/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. (2 Cal. Code Regs. § 11090(e); 29 CFR § 825.202(b).) The City, in its discretion, may require an employee to provide additional certification of medical necessity every six months should the employee require a reduced leave schedule or intermittent leave for more than six months. The City, in its discretion, may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule. (2 Cal. Code Regs. § 11090(e)(1); 29 CFR § 825.204.)

806.16 Reinstatement Upon Return from Leave

(a) **Reinstatement to Same or Equivalent Position:** Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period. (2 Cal. Code Regs. § 11087(f) & (g); 2 Cal. Code Regs. § 11089(a); 29 CFR § 825.214-215; 29 CFR § 825.216.)

(b) **Date of Reinstatement:** If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her/their readiness to return. (2 Cal. Code Regs. § 11089(c)(1) & (2).)

(c) **Employee's Obligation to Periodically Report on His/Her/Their Condition:** Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return. (29 CFR § 825.311.)

(d) **Fitness for Duty Certification:** As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her/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. (Gov't. Code § 12945.2(k)(4); 29 CFR § 825.312.)

(e) **Reinstatement of "Key Employees":** The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. (Gov't. Code § 12945.2(r)(1); 29 CFR §§ 825.217-219.)

806.17 Required Forms

Employees must complete the applicable forms to receive family and medical care leave. The forms may be obtained from the City Manager or designee.

808 Leave Because of Pregnancy, Childbirth, or Related Medical Condition

808.1 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 they would normally work within four calendar months (one-third of a year or 17 1/3 weeks). (Gov't. Code § 12945(a).) 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. (2 Cal. Code Regs. § 11042(a)(1).) An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave. (2 Cal. Code Regs. § 11042(a)(2).)

808.2 Notice & Certification Requirements

(a) **Notice:** Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. (2 Cal. Code Regs. § 11042(c)(1).) All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Personnel Officer. (2 Cal. Code Regs. § 11042(a).)

(b) **Certification:** The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: the employee is disabled from working by pregnancy, childbirth, or a related medical condition; 2) the date on which the employee became disabled by pregnancy, childbirth, or a related medical condition; and 3) the estimated duration or end date of the leave. (2 Cal. Code Regs. §§11050(b)(7) and (e).)

808.3 Compensation During Leave

Pregnancy disability leaves are without pay. However, the employee must first use sick leave, if any. (2 Cal. Code Regs. § 11044(b)(1).) Once sick leave is expended, the employee may elect to use vacation leave or any other accrued paid time off during the leave. (2 Cal. Code Regs. § 11044(b)(2).)

808.4 Benefits During Leave

(a) **Group Health Insurance** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. (Gov't. Code § 12945(a)(2)(A); 2 Cal. Code Regs. § 11044(c).) The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act. (Gov't. Code § 12945(a)(2)(A); 2 Cal. Code Regs. § 11044(c)(3).)

(b) **Sick and Vacation Leaves** Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave. (*See* 2 Cal. Code Regs. § 11044(d)(1).)

(c) **Employee Status during Leave** The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided

when the leave began, without any new qualification period, physical exam, or other qualifying provisions. (2 Cal. Code Regs. § 11044(e).)

808.5 Reinstatement

(a) Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave. (2 Cal. Code Regs. § 11043(c).)

(b) If the employee's original position is no longer available, the employee will be assigned to a comparable, open position. (2 Cal. Code Regs. § 11043(c)(2).)

(c) 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. (*See* Rule 206, Reasonable Accommodation and Interactive Process.)

810 Other Leaves

810.1 Administrative leave

At the City Manager's sole discretion, those exempt employees whose duties require regular attendance at meetings of the City Council and/or City commissions and committees, or at weekend or evening special events (including after-hours callout of Public Works personnel), may be provided up to 80 hours of paid administrative leave per year. Paid administrative leave given to exempt employees is not cumulative from year-to-year, nor is it convertible to any cash benefit. Paid administrative leave afforded exempt employees will be requested and granted in the same manner as vacation time.

810.2 Jury Duty Leave/Subpoenaed or Court-Ordered Witness Leave

Any employee, including a temporary employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his/her/their supervisor or department director as soon as possible. Any employee who is released from jury service before the end of his/her/their scheduled work hours must report to work unless otherwise authorized by the employee's supervisor. (Gov't. Code § 1230; Labor Code § 230; 28 USC § 1875(c).)

Unless provided otherwise by court order, a full-time employee called for jury duty will receive his/her/their regular salary while actually performing jury service, for up to 80-hours in any 12-month period. When a full-time employee is subpoenaed (when the employee's family member

is not a party to the lawsuit) the employee will be compensated in a like manner to jury duty.

(a) Any employee, including a temporary employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his or her supervisor or department head as soon as possible.

1. (b) Employees paid for jury duty, whether for actual jury service or in response to a subpoena, will surrender any per diem paid them to the City's Finance Director. Employees may retain whatever mileage, if any, paid them in connection with this service. Employees may request reimbursement for eligible expenses incurred and not otherwise reimbursed.

2. (c) It is the duty of the City employee requesting compensation under this provision to obtain for and present to the City Manager any and all information as requested necessary to verify times and dates of such employee's court related attendance.

(d) Any employee who is released from jury service before the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her supervisor. (Gov't. Code § 1230; Labor Code § 230; 28 USC § 1875(c).)

810.2.1 Non-exempt Employees

All non-exempt employees will be paid for actual work hours missed because of time spent in jury service or court up to 80-hours per calendar year**.** The time spent on jury duty is not work time for purposes of calculating overtime compensation. The City will offset from pay the amount the employee receives from the Court for jury fees.

810.2.2 Exempt Employees

All FLSA-exempt employees will continue to receive their normal salary while on jury duty or as serving as a witness only for any work week in which they perform any work duties. (29 CFR § 541.602(a) & (b)(3).) The City will offset the amount from pay the employee receives from the Court for jury fees. (29 CFR § 541.602(b)(3).)

810.2.3 Part Time Employees

A part-time employee called for jury service will receive his/her/their regular pay for up to a number of hours equal to those actually worked during the immediately preceding pay period, not to exceed a total of 59-hours per calendar year.

810.3 Other Court or Administrative Proceeding Appearances

810.3.1 Regarding City Duties

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

810.3.2 Regarding Employee-Initiated Proceedings

Any employee, including a part-time, seasonal, temporary, or extra help employee, who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that he/she/they initiated, is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time. (Gov't. Code § 3505.3(a)(2) & (3).)

810.3.3 Regarding Crime Victim/Victim Family Member Court Attendance Leave

Any employee, including a part-time, seasonal, temporary, or extra help employee, who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the City a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the City, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court/governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off. (Labor Code § 230.2.)

810.3.4 Regarding Crime Victim/Family Member Victims' Rights Proceedings Leave

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

810.4 Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief

Any employee, including a part-time, seasonal, temporary, or extra help employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, without limitation: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/her/their child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or paid leave, or compensatory time off. (Labor Code § 230.5(f).)

810.4.1 Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning

Any employee, including a part-time, seasonal, temporary, or extra help employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the City within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for

physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or personal leave, or compensatory time off.

810.5 Bereavement Leave

All employees, including a temporary employee, may utilize paid bereavement leave to attend a funeral or memorial service, or to take care of family matters, that are related to the death of a member of immediate *family*. "Immediate family" consists of the following: employee's *spouse, domestic partner, child, stepchild, parent, grandparent, grandchild,* brother, sister, mother/father-in-law, son or daughter-*in-law*, brother or sister-in-law, legal guardian, or custodial child, or the same relatives of a domestic partner. Full time employees are entitled to up to three days and part time employees are entitled to up to two days for each death in the immediate family. An employee who utilizes bereavement leave must notify his/her/their supervisor or department director of the intent to use such leave.

Full Timers
Three days paid bereavement leave, not chargeable as leave, will be granted to full-time employees in the case of the death of a member of the employee's family. "Family" means any spouse, parent, child, brother, sister, grandparent, grandchild, great-grandparent, great-grandchild, or registered domestic partner; related by blood, marriage, adoption, a "step" relationship, or registered domestic partnership agreement. "Day" means the employee's scheduled workday, irrespective of the actual number of hours scheduled.

Part Timers
Two days paid bereavement leave, not chargeable as leave, will be granted to part-time employees in the case of the death of a member of the employee's family. "Family" means any spouse or registered domestic partner, parent, child, brother, sister, grandparent, grandchild, great-grandparent, great-grandchild, or registered domestic partner; related by blood, marriage, adoption, a "step" relationship, or domestic partnership agreement. "Day" means the employee's scheduled workday, irrespective of the actual number of hours scheduled.

810.6 Military Leave

Military leave will be granted in accordance with state and federal law. An employee requesting leave for this purpose must promptly provide the department director 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 department director may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

810.7 School-Related Leave

810.7.1 School or Licensed Day Care Activity Leave

Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed child care facility, is allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to: participate in activities of their child's school or licensed child care facility; find, enroll, or reenroll a child in a school or with a licensed child care provider; or to pick up a child due to a child care provider or school emergency. The employee must provide reasonable advance notice to his/her/their supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, personal leave or compensatory time off. The employee must provide documentation from the school or licensed childcare facility as verification that the employee participated in school or child care facility activities on a specific date and at a particular time. If both parents, guardians, or grandparents having custody work for the City at the same City work site, only the first parent requesting will be entitled to leave under this provision. (Labor Code § 230.8.)

810.8 Paid Administrative Leave

The City has the right to place an employee on leave with full pay for non-disciplinary reasons at any time when the Personnel Officer has determined that the employee's and/or City's best interests warrant the leave. The employee does not have a right to appeal the decision to be placed on administrative leave with pay.

810.9 Leave of Absence Without Pay Must Be Authorized by Law or These Rules

Unless authorized by law or a City policy, an employee is not entitled to a leave of absence without pay. 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 must be retained at the levels existing as of the effective date of the leave.

810.10 Workers Compensation

810.10.1.1 Coordination of Benefits

When the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's regular pay will be deducted from the employee's

accumulated sick leave, vacation, personal holidays, and compensatory time, if any. The employee will continue in pay status and receive his/her/their pay until his/her/their accumulated sick leave, and authorized compensatory time, personal holidays, and vacation days, have been depleted.

810.10.1.2 Accrual of Sick and Vacation Leave Continues While on Paid Leave

In any pay period, vacation and sick leave will only accrue to the employee who either works or is compensated for at least 40 hours (workers compensation does not count as compensation for the purposes of sick and vacation accrual).

810.10.1.3 Unpaid Leave and Continuation of Health Care Benefits

Any employee subject to this Rule who depletes his/her/their accumulated sick leave, compensatory time, personal holiday time and vacation days while absent from work by reason of an injury or illness covered by Workers' Compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

810.11 Time Off to Vote

Any employee, if he/she/they does not have sufficient time outside of working hours to vote, may request up to two hours of paid leave either at the beginning or end of scheduled working hours to enable him/her/them to vote. The employee must request time off to vote from his/her/their supervisor at least two business days before election day.

900 Resignation, Job Abandonment, Layoff, and Separation

902 Resignation, Job Abandonment, Layoff and Separation

902.1 Types of Separation

All separations of employees from positions in City employment are designated as one of the following types:

- Probationary Release;
- Release of part-time, seasonal, temporary, or extra help employees employee;
- Resignation;
- Retirement;
- Job abandonment;
- Layoff;

- Non-disciplinary separation; or
- Disciplinary separation.

902.2 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 Director, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance.

902.3 Release of Part-Time/Seasonal/Temporary/Extra Help Employees

A part-time, seasonal, temporary, or extra help employee may be separated at any time, without cause, and without right to any appeal or grievance.

902.4 Resignation /Retirement

An employee who wishes to resign or retire from his/her/their City employment in good standing must submit written notice of resignation to the Department Director at least two weeks before the planned separation date. The written notice should state the reasons for the resignation. Failure to follow the aforementioned procedure may be cause for denying future employment with the City. A resignation becomes final when the City Manager or designee accepts the resignation in writing. Once a resignation is accepted, it is final and irrevocable unless reversed by the City Manager. A resignation can be accepted by the Department Director even if it is submitted less than two weeks before the planned resignation date.

902.5 Job Abandonment

An employee is deemed to have resigned from his/her/their position if the employee is absent for five consecutive scheduled workdays/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at the employee's address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the agency's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Department Director before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment may be reinstated for good cause, e.g., severe accident or severe illness which prevented notification. No employee separated for job abandonment may appeal such separation.

902.6 Layoff

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

902.6.1 Order of Layoffs

Seasonal, temporary and part-time employees will be the first to be laid off in any job family. Thereafter, layoffs are accomplished in reverse order of seniority within the family of jobs. However, a displaced employee can displace ("bump") another employee in seniority order only; laterally to a classification within the family of jobs, down to a lower paid classification within the family of jobs, and down to a lower classification of previous standing in another family of jobs (an employee cannot "bump" upward).

When an employee in a layoff "bumps" down to a lower paid classification within a family of jobs, the employee will receive a step placement in the new salary range that gives the employee the minimal decrease in salary.

902.6.2 Notification of Layoff

An employee with less than three years of employment with the City will be given 30 calendar days written notice before layoff; an employee with three years of employment or more will be given 60 calendar days of written notice before layoff.

902.6.3 Recall

Recall from a layoff will be in direct order of seniority within by employee classification. Recall rights exist for 36 months from the date of the layoff. Seasonal, temporary, and part-time employees will be called back to work after employees covered by this agreement.

902.7 *Non-Disciplinary Separation*

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect. Any classified employee has the opportunity for a post-separation appeal as described in Rule 1002, Causes for Discipline and Procedures.

902.8 Disciplinary Separation

A classified employee may be separated for disciplinary reasons pursuant to the policy and procedures in Rule 1002, Causes for Discipline and Procedures.

902.9 Return of City Property

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

902.10 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 release only the employee's dates of employment, last position held, and final salary rate. Department directors 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.

1000 Discipline

1002 Causes for Discipline and Procedures

1002.1 Causes for Discipline

Employees may be disciplined for, without limitation, any of the following causes of discipline:

1. Violation of applicable law including, without limitation, these Rules; lawful direction of a superior; or rules established by collective bargaining and memorialized within a valid memorandum of understanding;

2. Absence without authorized leave or tardiness;

3. Excessive absenteeism and/or tardiness as defined by the employee's department director, and/or these Rules;

4. Use of leave from work in a manner not authorized or provided for these Rules;

5. Making any false representation or statement, or making any omission of a material fact;

6. Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;

7. Unsatisfactory job performance;

8. Damaging any City property, equipment, resource, or vehicle, or the waste of City supplies through negligence or misconduct.

9. Insubordination, or insulting or demeaning the authority of a supervisor or manager;

10. Dishonesty;

11. Theft;

12. Violation of the City's or a department's confidentiality policies, or disclosure of confidential City information to any unauthorized person or entity;

13. Misuse or unauthorized use of any City property including, without limitation, physical property, electronic resources, supplies, tools, equipment, City communication systems, City vehicles or intellectual property;

14. Mishandling of public funds;

15. Falsifying or tampering with any City record, including work time or financial records;

16. Discourteous or offensive treatment of the public or other employees;

17. Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance ;

18. Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;

19. Unapproved outside employment or outside employment activity, or other enterprise that constitutes a conflict of interest with service to the City;

20. Any conduct that impairs, disrupts or causes discredit to the City, to the public service, or other employee's employment;

21. Reckless or unsafe conduct;

22. Working overtime without prior authorization or refusing to work assigned overtime;

23. Carrying firearms or other dangerous weapons while on duty when not required by job duties; or

24. Horseplay or fighting.

1002.2 Types of Counseling, Reprimands and Discipline

The following are types of counseling, reprimands and discipline which the City may impose:

(a) **Counseling Memo:** A counseling memo may be provided to an employee to identify a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will be retained in the supervisor's file until the completion of the evaluation time period, and then documented in the performance evaluation, as the supervisor deems necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below.

(b) **Verbal Reprimand:** A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand must be documented in writing and retained in the supervisor's file until the completion of the evaluation time period and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.

(c) **Written Reprimand:** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be retained in the employee's personnel file and documented in a subsequent performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below. The employee may attach a written rebuttal to the reprimand and file it with the employee's personnel file, if the employee submits the rebuttal to the Personnel Officer within 14 calendar days after the reprimand is received.

(d) **Suspension Without Pay:** The City may suspend an employee without pay for cause. Documents related to a suspension become part of the employee's personnel file when the suspension is final and documented in the performance evaluation. A suspension without pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.

(e) **Reduction in Pay or Paid Leave:** The City may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of three forms: 1) a

decrease in salary to a lower step within the salary range; 2) a decrease in salary paid to an employee for a fixed period of time; or 3) loss of accrued paid vacation or administrative leave, floating holiday, or compensatory time off. Documents related to a reduction in pay become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation. A reduction in pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.

(f) **Demotion:** The City may demote an employee to a lower position for cause. Documents related to a demotion become part of the employee's personnel file when the demotion is final and documented in the performance evaluation. A demotion is subject to the discipline and discipline appeal procedures described below.

(g) **Dismissal:** The City may dismiss an employee for cause. Documents related to the dismissal become a part of an employee's personnel file when the dismissal is final. A dismissed employee is entitled to the discipline and discipline appeal procedures described below.

1002.3 Discipline Procedures

The following discipline procedures apply only to the City's classified employees. All employees other than classified employees (i.e., part-time, seasonal, temporary, extra-help, non-classified, or probationary employees) may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

(a) "***Skelly*" Notice of Intended Disciplinary Action to Employee:** A written notice of the intended disciplinary action must be given to the employee which includes the following information:

- The level of the intended discipline;
- The specific charges that support the intended discipline;
- A summary of the facts that show that the elements of each charge at issue in the intended discipline;
- A copy of all materials upon which the intended discipline is based;

- Notice of the employee's right to respond to the department director regarding the intended discipline within five business days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;

- Notice of the employee's right to have a representative of his/her/their choice at the *Skelly* conference; and

- Notice that failure to respond by the time specified constitutes a waiver of the right to respond before final discipline being imposed.

(b) **Response by Employee and *Skelly* Conference:** If the employee requests a *Skelly* conference, the department director or designee will conduct an informal meeting with the employee. During the informal meeting, the employee may rebut the alleged disciplinary charges or present any mitigating circumstances. The department director will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.

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

- The level of discipline, if any, to be imposed and the effective date of the discipline;

- The specific charges upon which the discipline is based;

- A summary of the facts that show that the elements of each charge at issue in the intended discipline;

- A copy of all materials upon which the discipline is based; and

- A reference to the employee's appeal right and deadline to appeal.

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

1002.4 Discipline Appeal Procedures

The following appeal procedures apply only to the City's classified employees. All employees other than classified employees (i.e., part-time, seasonal, temporary**,** extra-help, non-classified, or probationary employees) may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below. The following appeal procedures apply only to suspension without pay, demotion, reduction in pay or dismissal.

(a) **Appeal to City Manager:** An employee may submit a written request for appeal to the City Manager within 14 calendar days from: 1) receipt of the final notice of discipline; or 2) the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee. Failure to file a timely written request for an appeal waives the right to any appeal of the discipline. The written request shall state the reasons for appeal.

The City Manager shall review the final notice of discipline and either affirm, reject, or modify the department director's decision with 14 days of receipt of the written request for appeal. The City Manager's decision shall be sent by mail method that verifies delivery to the last known address of the employee or delivered to the employee in person. If the decision is not deliverable because the employee moved without notifying the City or the employee refuses to accept delivery, the effective date of the decision will be the date the post office or delivery service attempted delivery.

(b) **Appeal Personnel Commission:** An employee may file a written request with the Personnel Officer for an appeal to the Personnel Commission within 10 calendar days from: 1) receipt of the City Manager's decision; or 2) the date of attempted delivery by the post office or delivery service of the City Manager's decision to the last known address of the employee. Failure to file a timely written request for an appeal waives the right to further appeal of the discipline.

(c) **Date and Time of the Appeal Hearing:** Upon receipt of a timely written request, the Personnel Officer will set a date for a hearing. The employee must be notified in writing at least 21 calendar days before the hearing of the scheduled date.

(d) **Prehearing Notice of Witnesses and Evidence:** Not later than 10 calendar days before the hearing date, each party will provide the other and the Commission a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to call any witness or evidence that has not been listed unless that party can show that the party could not have reasonably anticipated the need for the witness or evidence.

(e) **Order to Attend:** Upon the request of either party, the Commission will issue orders to attend to compel attendance at the appeal hearing. City employees who are ordered to testify during working hours will be released with pay to appear at the hearing. City

employees who are ordered to testify during non-working hours will be compensated for the time they actually spend testifying.

(f) **Continuances:** The appeal hearing officer may continue a scheduled hearing only upon good cause shown.

(g) **Record of the Appeal Hearing:** The hearing must 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 business days of ordering or making the transcript and provide a copy of the transcript upon receipt of the costs of duplication.

(h) **Employee Appearance:** The employee must appear personally before the Commission at the time and place set for the hearing. The employee may be represented by any person he/she/they may select.

(i) **Conduct of the Hearing:**

1) **Sworn Testimony:** All witnesses must be placed under oath before testifying.

2) **Evidence:** Hearings need not be conducted according to technical rules relating to evidence and witnesses. The rules dealing with privileges are effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The Commission will determine the relevance, weight and credibility of testimony and evidence.

3) **Exclusion of Witnesses:** During the examination of a witness, all other witnesses, except the parties, must be excluded from the hearing.

4) **Burden of Proof:** The City has the burden of proof by the preponderance of the evidence.

5) **Authority of Personnel Commission:** The Commission does not have the power to alter, amend, change, add to, or subtract from any of the terms of these Rules.

6) **Professionalism:** All parties and their representatives shall conduct themselves professionally during the hearing. The Commission shall have authority to enforce this provision as appropriate within its discretion and otherwise ensure proceedings are conducted with appropriate professionalism.

(j) **Presentation of the Case:** The parties will address their remarks, evidence, and objections to the Commission. The Commission may limit redundant or irrelevant testimony, or directly question the witness. The hearing will proceed in the following order unless the Commission directs otherwise:

1) The City is permitted to make an opening statement;

2) The employee is permitted to make an opening statement;

3) The City will produce its evidence;

4) The employee will produce his/her evidence;

5) The City, followed by the employee, may present rebuttal evidence;

6) Oral closing arguments of no more than 10 minutes may be permitted at the discretion of the Commission. The City argues first, the employee argues second, and if the City reserved a portion of its time for rebuttal, the City may present a rebuttal.

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

(l) **Personnel Commission's Decision**: Within 60 calendar days of the conclusion of the hearing, the Commission must make written findings and a decision as to the discipline, either affirming, rejecting, or modifying the City Manager's decision. The City will mail a copy of the final written findings and decision to each of the parties. A copy of the decision will be provided to the Personnel Officer. The decision of the Commission is final.

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1100 Grievances

1102 Grievance Procedures

1102.1 Definition of a Grievance

A grievance is an alleged violation of a specific provision of these Rules that adversely affects the employee and that contains all of the information listed in the "Statement of the Grievance" below. The following procedure applies to all City employees, unless another dispute resolution procedure applies to the dispute or a discipline policy and procedure applies. The grievance procedure cannot be utilized to challenge the content of a performance evaluation. See Section 702.4

1102.2 Statement of the Grievance

A concern is not a grievance unless the affected employee is able to state each of the following: the date of the alleged violation; the specific provision(s) of these Rules that were allegedly violated; a description of all facts regarding how the alleged violation occurred; and a list of all persons who are witnesses or are involved. The grievant may use a City form to make the Statement of the Grievance. A Statement of the Grievance must be signed by the employee under penalty of perjury to certify that it is filed in good faith.

1102.3 Timelines

Failure of the City to comply with the time limits of the grievance procedures allows the grievant to appeal to the next level of review. Failure of the grievant to comply with the time limits of the grievance procedures constitutes settlement and resolution of the grievance on the basis of the last disposition. The parties may extend time limits by mutual written agreement in advance of a deadline.

1102.4 Procedures

(a) **Step I Informal Resolution with Supervisor:** The employee must first work in good faith to resolve the grievance informally through discussion with his/her/their immediate supervisor not later than 14 calendar days after the most recent grievable incident. The response from the supervisor must be provided within 14 calendar days of the informal discussion.

(b) **Step II Department Director:** If the employee believes that the grievance was not resolved through Step I, the employee may submit a written Statement of the Grievance to his/her/their department director. The employee must submit the Statement of the Grievance within 14 calendar days after receiving a written response from the supervisor in Step I. The department director will consider, discuss the grievance with the grievant, and/or investigate as the department directors believes appropriate, and will, within 14

calendar days after receiving the written Statement of the Grievance, submit a written decision to the grievant.

(c) **Step III Personnel Officer:** If the employee believes that the grievance was not resolved through Step II, the employee may appeal the grievance decision of the department director to the City Manager, or designee. Such appeal must be filed within 14 calendar days of the date of the department director's written decision. The City Manager must consider, discuss the grievance with the grievant, and/or investigate as the City Manager deems appropriate, and will, within 14 calendar days of receipt of the written Statement of the Grievance, submit a written decision to the grievant.

(d) That decision is final; there is no right to an appeal.

1200 Miscellaneous Rules

1202 Personnel Files

1202.1 Confidential City Files

The City maintains a personnel file for each employee. Files are kept for at least three years after separation of employment. (Labor Code § 1198.5(c)(1).) A personnel file contains only material that the City finds necessary and relevant or that is required by law. Personnel files are the City's property, and access to the information they contain is restricted to protect employee privacy interests.

1202.2 Notification of Changes

Each employee is responsible to promptly notify the Personnel Officer of any changes in contact and benefits information including, without limitation, mailing address; telephone number; persons to contact in emergency; and number and names of dependents.

1202.3 Access to Applicant or Employee Medical Information

All medical information about an employee or applicant is kept in separate medical files and is treated as confidential. Access to employee or applicant medical information is strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations. (2 Cal. Code Regs. § 11069(g)(1).)

1202.4 Employee Access to Personnel File

(a) **Inspection of File:** A current employee may inspect his/her/their own personnel file, at reasonable times and at reasonable intervals, within 14 business days of a written request. A former employee is entitled to inspect his/her/their personnel records one time per year. (Labor Code § 1198.5(d).) A current or former employee and/or his/her/their representative, who wishes to review his, her, their personnel file should make a written request to the Personnel Officer. (Labor Code § 1198.5(b)(2)(A).) The inspection must occur in the presence of the Personnel Officer or designee and at a location where the employee works and at a time other than the employee's work time (Labor Code § 1198.5(b)(1)); or 2) at another agreed upon location without loss of compensation to the employee. (Labor Code § 1198.5(c)(2).)

(b) **Copies:** A current or former employee is entitled to receive a copy of his/her/their personnel records within 10 business days after the employer receives a written request. (Labor Code § 1198.5(b)(1).) A current or former employee who wishes to receive such a copy should contact the Personnel Officer in writing. The City may charge a fee for the actual cost of copying. (Labor Code § 1198.5(b)(1); 1198.5 (b)(2)(A).)

(c) **Representative's Inspection:** If the current or former employee wishes to have another person/representative inspect his/her/their personnel file, he/she/they must provide the person/representative with written authorization. (Labor Code § 1198.5(e).) The Personnel Officer will notify the employee and/or representative of the date, time and place of the inspection in writing.

(d) **No Removal of File Documents:** No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

1202.5 Limitations on Access or Copying of Personnel File

Before making a copy of personnel records or allowing inspection, the City may redact the names of nonsupervisory employees. (Labor Code § 1198.5(g).) Under no circumstances will the City provide access or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained before employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination. (Labor Code § 1198.5(h).)

1204 Limitations on Outside Employment

1204.1 No Outside Employment Without Prior Approval

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with their City duties, functions, or responsibilities, or that of the department in which they are employed at the City. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the Personnel Officer or their designee prior to undertaking any outside employment.

Any City employee who engages in any outside employment for themselves or others, for compensation in violation of this section, shall be deemed to have committed an act of insubordination and shall be subject to disciplinary action.

1204.2 Authorization and Appeal Process

(a) **Written Request:** Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to his/her/their department head. The written request must include: the work hours and/or time required; job title or the nature of the activity; the work location; and the supervisor, manager and name of the employer or activity.

(b) **Analysis and Decision:** The Personnel Officer will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the City. If the Personnel Officer determines such activity is compatible, or would be if any conditions or restrictions applied, he/she/they will authorize the activity and specify the conditions/restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.

(c) **One Year Authorization:** An outside employment authorization is valid only up to one year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, he/she/they must make another request following the process in this Rule.

(d) **Appeal:** If the Personnel Officer denies an employee's outside employment request, the employee may submit a written notice of appeal to the City Manager within 10 business days after the date of the denial. The decision on appeal will be put in writing, provided within 10 business days after the receipt of the appeal, and is final.

1204.3 Prohibited Outside Activities

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

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

(b) involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee would be required or expected to render in the regular course of his/her/their City employment;

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

(d) involves time demands that would render the employee's performance of his/her/their regular City employment less efficient or dangerous to the employee.

1204.4 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 the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties**.**

1204.5 Revocation/Suspension of Outside Employment Authorization

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

(a) The employee's work performance declines; or

(b) An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the City**.**

1204.6 Use of City Equipment Prohibited

It is unlawful for an employee use any City equipment, vehicles, tools, supplies, machines, or any other item that is City property while an employee is engaged in any outside employment, activity or enterprise.

1206 Limitations on Political Activity

1206.1 No Solicitation During Work Hours or in City Offices

It is unlawful for City employees or officers to solicit or receive political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during the working hours of its officers and employees, or in City offices. (Gov't. Code § 3209.)

1206.2 No Targeted Solicitation of City Officers or Employees

It is unlawful for City officers or employees, or candidates for elective office of the City, to directly or indirectly solicit political contributions from other officers or employees of the City unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from and employees of the City. (Gov't. Code § 3205(c).)

1206.3 No Political Activity in Uniform

No City employee or official may participate in political activities of any kind while in a City uniform or other City-issued clothing. (Gov't. Code § 3206.)

1206.4 No Political Activity on City Property or During Work Hours

It is unlawful for City employees and officials to engage in political activity during working hours or on City property. (Gov't. Code § 3207.)

1208 Prohibitions on Drugs and Alcohol in the Workplace

1208.1 Purpose and Scope

See Administrative Policy #30-09

1210 Use of City Equipment or Resources

1210.1 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.

1210.2 Agency Equipment or Resources

City equipment and resources include any City-owned or supplied item or resource, including, without limitation, intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas); vehicles; telephones; mobile phones; tools; machines; supplies; office equipment; data systems; or electronic communications stored in or transmitted through City electronic resources or equipment.

1210.3 No Expectation of Privacy

City employees have no expectation of privacy in their use of any City equipment or resources. 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 agency with the employee's username or password for any City issued equipment or resource. The existence of passwords or delete functions does not restrict the City's access.

1210.4 Appropriate Use Only -- No Misuse

Employees may only use City equipment or resources in compliance with City policies. 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 which is offensive, harassing, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.

(c) Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law.

(d) Communication of confidential City information to unauthorized individuals within or outside of 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.

(m) Installing or downloading unauthorized software or equipment.

(n) Violating terms of software licensing agreements.

(o) Using City equipment or resources to access and/or use dating web resources, personal social media, or games of any type.

(p) Any unauthorized access to City equipment or resources including, without limitation, using keys or key cards; using or disclosing the username or password of another person or employee to gain access to his/her/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.

1210.5 *Electronic Communications and Social Media*

All employees must comply with the City's electronic communications and social media policies set forth in Administrative Policy 10-28.

1210.6 Incidental Personal Use of City Communications Equipment Permitted

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

(a) Is kept to a minimum and limited to break times or non-working hours;

(b) Does not interfere or conflict with City operations or the work performance of any City employees;

(c) Allows the employee to more efficiently perform City work;

(d) Is not abusive, illegal, inappropriate, 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.

1212 Rule Against Violence in the Workplace

1212.1 Safe and Secure Workplace

The City is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. (Labor Code § 6400.) The workplace includes any location where City business is conducted, including vehicles and parking lots. Any violation of this Rule may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

1212.2 Prohibited Behavior

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

1212.3 "Workplace Violence"

"Workplace violence" is defined as any conduct that causes an individual to reasonably fear for his/her/their personal safety or the safety of his/her/their family, friends, and/or property. Specific examples of workplace violence include, without limitation, the following:

(a) Threats or acts of physical harm directed toward an individual or his/her/their family, friends, associates, or property.

(b) The destruction of, or threat of destruction of City property or another employee's property.

(c) Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.

(d) Striking, punching, slapping, or assaulting another person.

(e) Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.

(f) Harassing or threatening phone calls.

(g) Surveillance.

(h) Stalking.

(i) Possessing a weapon(s) during work hours unless the City issues the weapon(s) for performance of the job. "Weapon" is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

1212.4 Incident Reporting Procedures

(a) Employees must immediately report to their supervisor or department director whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department director will immediately report the matter to the Personnel Officer.

(b) The Personnel Officer or designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.

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

1) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;

2) Asking any threatening or potentially violent person to leave the site; or

3) Immediately contacting an appropriate law enforcement agency.

1212.5 Investigations

The Personnel Officer will see that reported violations of this Rule are investigated as necessary.

1212.6 Prevention

Each department director has authority to enforce this Rule by:

(a) Training supervisors and subordinates about their responsibilities under this Rule;

(b) Assuring that reports of workplace violence are accurately and timely documented and addressed;

(c) Notifying the Personnel Officer and/or law enforcement authorities of any incidents;

(d) Making all reasonable efforts to maintain a safe and secure workplace; and

(e) Maintaining records and follow up actions as to reports of workplace violence.

1214 Appearance Standards

1214.1 Basis for Standards

The City of Monterey Park strives to maintain a workplace environment that functions well and is free from unnecessary distractions. Employees project a public image to customers, clients, and colleagues. Employees must maintain a professional appearance appropriate for the workplace setting and the work being performed. This policy establishes guidelines and enforcement for workplace-appropriate attire and grooming.

Depending on the nature of job-specific positions, specific departments or employees may have unique attire and grooming standards, such as wearing uniforms or protective clothing. The Agency will provide employees with requisite uniforms and protective clothing, or a stipend to purchase them.

1214.3 Grooming

The standards of grooming apply to all employees, volunteers, and temporary staff. The City recognizes that its employees' grooming contributes to a professional environment and public image and expects employees to be groomed and professional in appearance.

Every employee must practice grooming habits as follows:

Hair - Hair should be clean and worn in a professional manner. Except as otherwise required by law, the City considers an employee's natural hair as professional.

Fragrance - Recognizing that employees and visitors to the workplace may have sensitivities or allergies to fragrant products including, without limitation, perfumes, colognes, scented body lotions, or hair products, employees should use scented products in moderation.

Nails - Hands and nails should be clean and appropriately trimmed to maintain professionalism.

Jewelry - The size and number of earrings, rings, necklaces, and bracelets may be determined at the department level based on specific job functions, operational, and safety factors. Where job duties present a safety risk, jewelry may be prohibited or severely limited.

1214.4 Acceptable Attire

The following guidelines apply to acceptable attire for non-uniformed employees:

Appropriate	**Inappropriate**
Clothing	
• Suits, dresses, skirts (more formal attire may be required for certain events and meetings) • Pants, Khakis, corduroys, capris, skorts • Jeans (must be clean and free of rips, tears, and fraying; may not be excessively tight or revealing; may be limited to specified days) • Polo collar knit or golf shirts • Oxford shirts • Agency logo wear • Blouses or shirts • Turtlenecks • Blazers, sport coats, jackets, sweaters	• Sweatpants, leggings as pants, exercise wear • Shorts, pants, or jeans that expose the midriff • Shirts with writing (other than agency logo) • T-shirts or sweatshirts • Beachwear • Exercise wear • Crop tops, tops exposing the midriff, spaghetti straps
Footwear	
• Boating, deck shoes, closed-toe shoes, open-toe shoes with back support • Casual, low-heel, open-back shoes (e.g., mules, sling backs, etc.)	• Thongs, flip-flops • Croc-like sandals

1216 Teleworking Rule

1216.1 Purpose

The purpose of the Rule is to allow certain employees, subject to their execution of a Teleworking Agreement, to telework from an alternative worksite for some or all of their regularly scheduled work hours and to ensure that, for the duration of such telework, employees perform their job duties, and in so doing provide quality work in a timely manner, and to the benefit of the public.

1216.2 Definitions

"Alternative Worksite" means the employee's home, place of residence or from another location approved by the City other than the employee's normal workplace at a City worksite or facility.

"Telework(ing)" means a work arrangement under which an employee works from their home, place of residence or from another location other than the employees' normal workplace at a City worksite or facility (Alternative Worksite) for all or a portion of their regularly scheduled work hours.

"Work Schedule" means the days and hours determined by supervisors or managers during which non-exempt, overtime eligible employees should be in attendance at the Alternative Worksite. The Work Schedule shall provide for and include the rest and meal breaks required under applicable federal and state law as well as under contract.

1216.3 Scope of Rule

This policy covers teleworking voluntarily requested by a City employee and provided by the City, subject to certain conditions and requirements.

1216.4 Voluntary Teleworking Arrangements

The City may allow teleworking for certain eligible employees who request to Telework.

1216.4.1 Eligibility Criteria

The City Manager or department director, or their designee, possesses the discretionary authority to determine the job classifications, positions, and employees who are eligible to telework under this policy.

The City Manager or department director, or their designee, may make such determination using criteria including, but not limited to, the following:

(a) The operation needs of the agency and employee's department and division;

(b) The disruption of or potential for disruption to the agency's functions;

(c) The ability of the employee to perform their job duties (both essential and marginal) from an alternative worksite without diminishing the quantity or quality of the work performed;

(d) The degree to which the employee's job functions require face-to-face interaction with other agency employees, contractors, and members of the public;

(e) The employee's job performance, as determined by their last performance review;

(f) The portability of the employee's work, including the employee's ability to remotely access tools, equipment, and materials necessary to perform their job functions;

(g) The availability of or ability to create a functional, reliable, healthy, safe, and secure alternate worksite for the employee;

(h) The risk factors associated with performing the employee's job duties from a location other than the employee's normal workplace at an agency worksite;

(i) The agency's capacity to monitor and measure the employee's work performance at the alternate worksite;

(j) The employee's supervisory responsibilities;

(k) The employee's need for supervision; and

(l) Other considerations deemed necessary and appropriate by the agency, including tax and other legal implications of teleworking.

1216.4.2 Process for an Employee to Request to Telework

To make a request for a Teleworking arrangement, employees must complete a Voluntary Telework Request Form and file the completed request form with their supervisor or manager.

The employee's supervisor or manager will provide the request form to the department director, or their designee, and will discuss the employee's request with the department director, or their designee.

In consultation with or based on information provided by the employee's supervisor or manager, the department director, or their designee, will make a determination regarding the employee's request to telework. No employee may telework while on protected leave.

The department director will consider teleworking requests on a case-by-case basis consistent with the criteria above and other factors relevant to the employee's request to telework.

1216.4.3 Final Determination; No Right to Appeal

The decision of the department director regarding an employee's Teleworking request is final and binding. Neither the employee nor the employee's employee organization possesses any right to appeal or grieve the decision.

1216.4.4 Approval of Requests; Voluntary Telework Agreement

An eligible and qualified employee who has requested and been granted the opportunity to Telework, must execute a Voluntary Teleworking Agreement ("Agreement") prior and as a precondition to the employee teleworking.

The Agreement shall provide the mutual understanding of the employee, the employee's supervisor or manager, and the department director concerning the teleworking arrangement.

(a) The Teleworking Agreement does not constitute employment contracts;

(b) The teleworking employee is subject to the same job duties, responsibilities and expectations as if the employee was working from an agency worksite or facility;

(c) Teleworking is only authorized for the time period specified in the agreement and that the Teleworking Agreement is void and shall not apply after the time expressly provided for in the Agreement;

(d) The agency possesses discretionary authority to terminate the Agreement before the time specified in the Agreement, and the agency's determination to terminate the Agreement before the time specified in the Agreement is final and not subject to appeal;

(e) The teleworking employee's work schedule and hours, including applicable meal and rest breaks, and whether the workday is continuous or whether work may be performed intermittently;

(f) Teleworking employees are prohibited from performing any off-the-clock work, and

employees who perform off-the-clock work may be subject to discipline, up to and including, termination of employment;

(g) Teleworking employees are prohibited from performing any overtime, unless they request and receive prior approval for such work by their manager or supervisor, and employees who perform overtime work without prior approval may be subject to discipline, up to and including, termination of employment; and

(h) Any breach of the teleworking Agreement by the employee may result in termination of the Agreement and/or disciplinary action, up to and including termination of employment.

1216.5 Mandatory Teleworking Arrangements during Exigent Circumstances

Where an exigent circumstance exists, the City may direct City employees to remain at their homes or places of residence and the City of Monterey Park adopt and implement a short-term teleworking arrangement for such employees in order to provide for the continuity of essential services provided by the City.

Exigent circumstances means a situation in which there is an imminent threat of extreme peril to life, property and resources. Exigent circumstances may include, but are not limited to, war, public health emergencies, power failures, natural and man-made disasters, and other states of emergency.

Where such an exigency exists and necessitates the adoption and implementation of a short-term mandatory teleworking arrangement for City of Monterey Park employees, the City Manager is expressly authorized to suspend some or all provisions of this policy and adopt and implement alternative provisions necessary to provide for the continuity of essential services.

1216.6 Duties, Obligations and Responsibilities for Teleworking Employees

Teleworking employees must adhere to the provisions set forth in these policies, including, but not limited to the following:

1216.6.1 General Duties, Obligations, and Responsibilities

(a) All existing duties, obligations, responsibilities, and conditions of employment remain unchanged. Teleworking employees shall abide by all City and departmental policies and procedures, rules and regulations.

(b) All of the Teleworking employees' existing supervisory relationships, lines of authority

and supervisory practices remain in effect.

(c) Teleworking employees authorized to perform work at an alternate worksite must meet the same standards of performance and professionalism expected of City employees in terms of job responsibilities, work product, timeliness of assignments, and contact with other City employees and members of the public.

(d) Teleworking employees are required to be accessible in the same manner as if they are working at a City worksite or facility during the established teleworking Work Schedule, regardless of the designated location for teleworking, or alternate worksite. Teleworking employees must be accessible via telephone, email, and/or network access to their supervisor and other City employees while teleworking, as if working at the City worksite. Teleworking employees shall check their City-related business phone messages and emails on a consistent basis, as if working at their City worksite.

1216.6.2 Work Schedule, Overtime, Leave, Benefits

(a) For non-exempt employees, the City will either provide such employee: 1) a work schedule that will be included in the Agreement, and which will include meal and rest breaks ("Work Schedule"); or 2) authorization to work on an intermittent basis.

(b) For non-exempt employees assigned a Work Schedule, any deviation from the Work Schedule must be approved in advance, in writing, by the employee's supervisor or manager and the department director.

(c) Non-exempt employees may not Telework outside their normal work hours without prior written authorization from their supervisor or manager and the department director. A non-exempt employee who fails to secure written authorization before Teleworking outside their normal work hours may face discipline in accordance with the City's rule for working unauthorized overtime.

(d) Non-exempt employees, regardless of whether assigned a Work Schedule or authorized to work intermittently, must take meal and rest breaks while teleworking as required under applicable law and/or under applicable contract or City rule.

(e) For non-exempt employees assigned a Work Schedule, all periods of teleworking employees' unavailability must be approved in advance by their supervisor or manager and the department director in accordance with City or Department rule and documented on the appropriate leave request form. For non-exempt employees authorized to work intermittently, all periods of teleworking employees' unavailability lasting longer an hour or 60 minutes must be approved in advance by their supervisor or manager.

(f) Non-exempt employees, regardless of whether assigned a work schedule or authorized to work intermittently, are required to report in a timely manner all hours worked at the Alternate Worksite and make that record available to their supervisor upon request. Employees shall record all non-productive work time on their timesheet.

(g) Employees shall continue to abide by City rules and procedures for requests of sick, vacation, and other leaves of absences. If an employee becomes ill while working under the Agreement, they shall notify their supervisor or manager immediately and record on their timesheet any hours not worked due to illness and/or incapacitation.

(h) Non-exempt employees, regardless of whether assigned a work schedule or authorized to work intermittently, are required to request to work overtime in advance of doing so and such requests must be pre-approved in writing by the employee's supervisor or manager.

(i) Teleworking employees' salary and benefits remain unchanged during the teleworking arrangement.

(j) Workers' Compensation benefits will apply only to injuries arising out of and in the course of employment as defined by Workers' Compensation law. Teleworking employees must report any such work-related injuries to their supervisor or manager immediately. The City shall not be responsible for injuries or property damage unrelated to such work activities, including injuries to third-persons when said injuries occur at the Alternate Worksite.

1216.6.3 Space and Equipment, Information Security, Confidentiality

(a) Teleworking employees will either receive approval to use personal computer equipment or will be provided with City-issued equipment at the discretion of the City Manager.

(b) If the City provided any City-issued equipment, teleworking employees agree to follow the City's policy for the use of such equipment. Teleworking employees must report to their supervisor any loss, damage, or unauthorized access to City owned equipment, immediately upon discovery of such loss, damage, or unauthorized access.

(c) Where, in response to a request to telework, the City allows an employee to telework, the City shall not be responsible for teleworking costs, including, but not limited to, the employee's use of their home or place of residence, their personal computer, utilities, internet, data, network costs, home maintenance, workspace furniture, ergonomic equipment, or any other incidental costs, unless expressly provided for in the Agreement.

(d) Employees must take reasonable precautions to ensure their devices (*e.g.*, computers, laptops, tablets, smart phones, etc.) are secure before connecting remotely to the City's network and must close or secure all connections to City desktop or system resources (*e.g.*, remote desktop, VPN connections, etc.) when not conducting work for the City. Employees must maintain adequate firewall and security protection on all such devices used to conduct City work from the alternate worksite.

(e) Teleworking employees shall exercise the same precautions to safeguard electronic and paper information, protect confidentiality, and adhere to the City's records retention policies, especially as it pertains to the California Public Records Act (CPRA). Teleworking employees must safeguard all sensitive and confidential information (both on paper and in electronic form) relating to City work they access from the alternate worksite or transport from their City worksite to the alternate worksite. Teleworking employees must also take reasonable precautions to prevent third parties from accessing or handling sensitive and confidential information they access from the alternate worksite or transport from their City worksite to the alternate worksite. Teleworking employees must return all records, documents, and correspondence to the City at the termination of the Agreement or upon request by their supervisor or manager, department director or Personnel Officer.

1216.6.4 Miscellaneous

(a) Teleworking employees must notify their supervisor or manager promptly when unable to perform work assignments because of equipment failure or any other unforeseen circumstances.

(b) Teleworking employees must have access to an Alternate Worksite that is quiet and free of distractions and which has reliable and secure power, internet and/or wireless access.

(c) Teleworking employees shall ensure that all official City documents are retained and maintained according to the normal operating procedures in the same manner as if working at a City worksite.

(d) Teleworking employees must ensure dependent care will not interfere with work responsibilities.

1218 Expenses for Certain Teleworking Employees

1218.1 Purpose

In conjunction with the Teleworking rule, the purpose of this rule is to provide the conditions and requirements for reimbursements for certain expenses incurred by employees required to

telework.

1218.2 Applicability of Rule to City of Monterey Park Employees

This policy covers and applies to all employees required to telework. This policy does not apply to employees voluntarily teleworking.

1218.3 Teleworking Expenses Subject to Stipend

The City may issue a stipend only for those expenses incurred which are necessary for the teleworking employee to perform the job duties assigned to the teleworking employee by the City from their home, place of residence, or location other than a City worksite as determined at the sole discretion of the City. Such expenses may include the following:

1) Computer, if the employee does not have such a device and the City of Monterey Park does not have a such a device to lend to the employee;

2) Computer monitor, if the employee does not have such a device and the City of Monterey Park does not have such a device to lend to the employee;

3) Keyboard and mouse, if the employee does not have such devices and the City of Monterey Park does not have such a device to lend to the employee;

4) Teleconferencing equipment (i.e., a video camera and microphone), if the employee does not have such a device and the City of Monterey Park does not have such equipment to lend to the employee;
5)
6) Internet or telephone service in an amount reasonably attributable to the extent required to perform assigned job duties.

1218.3.1 Process for Requesting Stipend for Teleworking Expenses Not Covered Above

An employee that believes that other equipment or supplies are necessary in order for the employee to perform the job duties assigned by the City from their home, place of residence, or location other than a City worksite may request that the City provide a stipend for such expense(s). In order to request a stipend for an expense not enumerated above, the employee may file with their Supervisor or Manager, a Teleworking Expense Stipend Request form. An employee organization may file with the Personnel Officer a Teleworking Expense Stipend Request form. The manager or supervisor will discuss the request with the department director who will make a determination as to the expense at issue. The determination of the department director shall be final and not subject to appeal or grievance.

1218.4 Amount of Stipend for One-Time and Recurring Expenses

One-time and recurring expenses of covered Teleworking employees may be eligible for a stipend by the City at amounts to be determined at the sole discretion of the City Manager, Director of Finance, or Personnel Officer.

1218.7 Requirement that Employee Request Prior Approval for Stipend Expenses

If a covered Teleworking employee expects to incur an expense that is subject to a stipend as identified in this policy, that employee is required to file with their manager or supervisor, a Teleworking Expense Stipend Form. The manager or supervisor will discuss the request with the department director who will make a determination as to the expense at issue. The determination of the department director shall be final and not subject to appeal.