

OAKLEY



CALIFORNIA

# PERSONNEL MANUAL

*Adopted by the City Council*

*April 25, 2017*

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## **Section 1. Introduction & Purpose of Personnel Manual**

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The City of Oakley (hereinafter "City") has prepared this Personnel Manual to familiarize its employees with City policies, benefits and rules, as well as the privileges and responsibilities of City employment. It is important that all employees read, understand and follow the provisions of the Manual to make the City work environment as positive and productive as possible. Please feel free to contact the City's Human Resources Division, or the City Manager, with any questions.

The City strives to improve its policies and services and employees are encouraged to suggest improvements. By working together, the City hopes to instill a sense of individual and organizational pride that shows in the work, products and services that we provide to the community.

### **1.1 MISSION AND VALUES STATEMENT**

The City exists to build and enhance a quality community and to serve the public in a friendly, efficient and responsive manner. The City values:

Honesty and Integrity

Quality Customer Service

Community Input and a Proactive Approach to solving community issues

A Positive and Encouraging Environment

Teamwork

Professionalism

Fiscal Responsibility

All employees are committed to be polite, professional and progressive.

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## **1.2 HUMAN RESOURCES DIVISION**

The City's Human Resources Division, designated by the City Manager, provides employees with information and assistance in understanding the City's personnel policies and procedures. The Human Resources Division is the best place for employees to obtain current information on work rules, benefits, personnel policies and procedures, payroll data, personnel records, insurance, job opportunities, and training. Human Resources personnel are also responsible for maintaining complete and up-to-date personnel records for all current employees.

## **1.3 DISCLAIMER**

This Manual describes important City policies, procedures, practices, and benefits and is intended to acquaint employees with the privileges and responsibilities of City employment. However, it is not a legal document and does not constitute or create any expressed or implied contractual obligations between the City and its employees.

## **1.4 ACCEPTANCE OF EMPLOYMENT**

As a condition of employment, each employee agrees to be governed by and to comply with the provisions of the Personnel Manual, all City ordinances and the rules, regulations and directives of the City department in which the employee is assigned and other official rules, policies, practices and procedures of the City applicable to the employee. Each employee is required to sign a statement of receipt acknowledging that:

- (a) he or she has received a copy, or has been provided access to this Manual; and
- (b) understands that he or she is responsible to read and become familiar with the contents and any revisions to this Manual.

## **1.5 APPLICABILITY**

Except as indicated, the provisions in this Personnel Manual shall apply to all officers and employees of the City, except for the City Council. Independent contractors

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and volunteers are not officers or employees. By separate employment agreement, the City Council may provide alternate personnel rules for the City Manager and City Attorney.

### **1.6 PERSONNEL OFFICER**

The City Manager is authorized by the City Council to implement these policies and procedures. The City Manager is designated as the Personnel Officer and has the authority to:

1. Act as the appointing authority for the City as to all employees, except the City Attorney and her/his staff
2. Prepare and recommend to the City Council personnel rules and revisions and amendments to such rules
3. Administer all the provisions of this chapter and of the personnel rules not specifically reserved to the City Council
4. Maintain a classification plan, including class specifications and periodic revisions to the plan
5. Maintain a compensation plan, including ranges for pay increases within classifications
6. Provide increases in compensation for employees as set forth in the compensation plan approved by the City Council
7. Discipline employees in accordance with the personnel rules
8. Delegate any of the powers and duties of this Manual to a staff member or any other officer or employee of the City or to recommend that such powers and duties be performed under contract

### **1.7 DEPARTMENT/DIVISION RULES AND REGULATIONS**

Department Directors/Division Managers may develop, implement and revise as necessary any departmental policies, procedures, rules and regulations required by unique

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operational requirements and their effect upon department/division personnel as needed for the full performance of duties and responsibilities and which are not contrary to this Personnel Manual, the City's ordinances and administrative policies, other official rules, policies and procedures of the City, state and/or federal law, or direction of the City Manager. All departmental policies, procedures, rules and regulations must be approved by the City Manager, or designee.

### **1.8 APPROVAL OF AND AMENDMENT TO PERSONNEL MANUAL**

This Manual and any amendments thereto shall be approved by City Council resolution. The City retains the full discretion to modify this Manual, and the Policies and Procedures contained within this Manual, at any time, and in accordance with law.

### **1.9 RIGHTS OF MANAGEMENT**

The approval of this Personnel Manual shall not be deemed a waiver or surrender of any management prerogative. Management rights are defined in Section 2 and outlined throughout this Manual, and any applicable Memorandum of Understanding ("MOU") with any City bargaining group.

### **1.10 VIOLATION OF PERSONNEL RULES**

Each employee is responsible for knowledge of and compliance with the provisions of the Personnel Manual and any amendments hereto. Violation of any provision of this Personnel Manual shall be grounds for disciplinary action, up to and including termination.

## **Section 2. DEFINITIONS**

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The following terms, whenever used in this Manual, unless otherwise specified, shall be defined as follows:

**Advancement:** A pay increase within the limits of the salary range established for a classification.

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**Applicant:** A person who has filed an application for an employment position.

**Appointment:** The offer to and acceptance by a person of a position in the City service in accordance with the provisions of this Manual.

**Appointing Authority:** The City Manager is designated as having the power to make appointments to any position to be filled in any City Department/Division, and to perform those duties and obligations set forth under the duties of the Personnel Officer in Section 1.

**At-Will Employee:** Employment with the City that may be terminated with or without cause and with or without notice, or right to pre- or post-disciplinary due process or evidentiary appeal. The employee serves at the pleasure of the City Manager, who retains the authority to terminate any such employee at any time. At-will employees have no property interest, expressed or implied, in the positions to which they are appointed. An “at will” employee has no right of appeal of discipline or termination. Nothing in this Manual or in any document or statement shall limit the right to terminate an at-will employee.

**Authorized Position:** A full-time position authorized by the City Council.

**Budgeted Position:** An authorized full-time position for which funds are appropriated.

**Candidate:** Any person who has been accepted for participation in an examination.

**City:** The City of Oakley, California; to also include the Successor Agency to the Oakley Redevelopment Agency and the Oakley Public Financing Authority, and any other governing body in which the City Council of the City of Oakley serves as the majority membership of the governing board, unless specifically excluded in this Manual.

**Classification Plan:** A list of titles of the classes of all regular positions in the City service, including a written specification of each class title and general description of the

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work to be performed by each class, a summary statement of duties and responsibilities for each class, and desirable qualifications for appointment.

**Classified Service:** All positions in the City service except the following: Elected Officials, the City Manager, the Assistant City Manager, the Assistant to the City Manager, the City Attorney, all Department Directors/Division Managers (as defined herein), all Limited-Term positions, and any other employee hired as “at-will.”

**Collective Risk Management Team (CRMT):** A group of at least three employees appointed by the City Manager to be available to review, investigate, and evaluate, as a team, any workplace liability risk or wrongdoing, such as employee safety, theft, harassment, discrimination, etc. The CRMT will recommend to the City Manager appropriate corrective courses of action.

**Compensation Policy:** Policy adopted by the City Council that sets the salary ranges for each job position; and sets forth the process and procedure for adjustments of the salary ranges, benefits and movement within the salary ranges.

**Continuous Service:** Service without an unauthorized break during the period for which the employee has been employed by the City. An unauthorized break in continuous service shall be construed as a deliberate severance of employment initiated by either the City or the employee for a period of more than three (3) working days, unless otherwise provided by law.

**Council:** The City Council of the City of Oakley, California.

**Days:** Calendar days, unless otherwise stated.

**Demotion:** The movement of an employee from one class to another class having a lower salary range.

**Department Director:** The Director, or Lead Staff Person of a City Department or Division, or other manager who reports directly to the City Manager - all serve “at-will.”

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Other employees that report directly to the City Manager serve "at-will" pursuant to job description, job offer letter and/or employment agreement.

**Dismissal or Discharge:** The termination of an employee's employment with the City, usually for disciplinary reasons. At-will employees may be released from employment for any reason, whether disciplinary or not.

**Division Manager:** see Department Director.

**Domestic Partners:** Two adults who have satisfied all requirements of domestic partnership under the California Family Code.

**Elected Official:** A person currently a member of the City Council.

**Eligible:** A person who has earned a place on an active eligibility employment list established by a competitive examination.

**Employee:** A person who performs services for the City in the Classified, Limited, or Unclassified Service.

**Exempt Employee:** An employee who meets the qualifications for exemption from overtime compensation established by federal law.

**Full-Time Position:** Appointment to a position in which the employee typically works forty (40) hours per work week.

**Grievance:** An alleged violation, misinterpretation, improper application or non-compliance with the Personnel Manual, or other official City policies or departmental rules, affecting the status or working conditions of City employees, filed by one or more employees.

**Human Resources Division:** The staff designated by the City Manager to provide employment and benefit information, administer recruitments, safety and wellness programs, and other duties as assigned.

**Job Description:** A written statement of the general duties of a classification and the minimum qualifications required to perform them.

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**Immediate Family Member:** Includes individuals who are related by blood, marriage or adoption with the following relationships: spouse, domestic partner, child, child of a domestic partner, step-children, parent, step-parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, first cousin, parent-in-law, daughter-in-law, son-in-law, brother-in-law and sister-in-law. A spouse is a partner in marriage as defined in California Civil Code 4100.

**Layoff:** The non-disciplinary separation of an employee because of a material change in organization, or shortage of work or funds, or for other business reasons as determined by the City Council. Layoff is action taken as a management prerogative and is without fault of the employee.

**Leave:** Absence, with or without pay, by an employee from work.

*Authorized leave:* Absence from work with prior approval from the supervisor or the Department Director and for which an employee will use accrued and available leave. Employees who do not have sufficient leave accruals, including eligibility for statutory leaves, to cover her/his absences shall not be granted authorized leave except for good cause.

*Unauthorized leave:* Absence from work without prior approval from the supervisor or the Department Director.

**Limited Term Part-Time:** A specifically budgeted position that is not a Part-Time Regular or Full-Time position. Limited Term Part-Time employees work less than Part-Time Regular and Full-Time employees, typically less than twenty (20) hours per week and not more than 960 hours in any fiscal year (includes all time spent in one or more positions). Limited Term Part-Time employees are paid for time worked on an hourly basis. Positions assigned as Limited Term Part-Time include, but are not limited to: Administrative Assistant, Accounting Assistant, Public Works Receptionist, Senior Recreation Leader, and



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Management Analyst. Limited Term employees serve “at-will” and may be terminated at any time with or without cause and without right of appeal. They have no property interest, express or implied in the position. The only benefits provided to Limited Term Part-Time employees are those required by law.

**Limited Term Seasonal:** A position that is not a budgeted Part-Time Regular or Full-Time position, but rather has a specific term or seasonal purpose (limited to not more than 960 hours in any fiscal year). Limited Term Seasonal employees are paid for time worked on an hourly basis. Positions assigned as Limited Term Seasonal include, but are not limited to, hourly, temporary, intermittent positions, such as Recreation Aide, Recreation Leader, Seasonal Parks and Landscape Maintenance Laborer, Streets Laborer, Sports Field Maintenance Laborer, student, project, intern, some contract positions, and emergency positions. Limited Term Seasonal employees serve “at-will” and may be terminated at any time with or without cause and without right of appeal. They have no property interest, express or implied, in the position. The only benefits provided to Limited Term Part-Time Seasonal employees are those required by law.

**Management Rights:** The City of Oakley retains the exclusive right, except as expressly stated herein, to operate and direct the affairs of the departments of City government and all of their various aspects, including, but not limited to the right to direct the work force; to plan, direct and control all of the operations and services of the City; to determine the methods, means, organization and schedule by which such operations and services are to be conducted; to assign and transfer employees within the various departments to hire, promote, suspend, demote, discharge, reprimand, and evaluate employees; to relieve employees from duty due to lack of work or other legitimate reasons set forth in the City reduction-in-force policy; to change or eliminate existing methods, equipment, or facilities in order to maintain or increase the efficiency of

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governmental operations; and to exercise complete control and discretion over its organization and the technology of performing its work.

These Management Rights also include, but are not limited to, the following:

1. To determine the mission of its departments, commissions and boards and to determine issues of policy;
2. To set standards of service to be offered to the public;
3. To exercise control and discretion over its own organization and operations;
4. To determine methods of financing;
5. To determine the methods, means, number and kind of personnel by which its operations are to be conducted, including the right to contract or subcontract work or City functions and to determine workloads and staffing patterns;
6. To prescribe qualifications for employment, selection procedures and standards, job classifications, and to reclassify employees in accordance with applicable resolutions, rules and ordinances of the City;
7. To administer the City's personnel system; to reclassify positions; to amend the Compensation Policy; and, to add or delete position or classes;
8. To issue reasonable employee performance standards and to require compliance therewith;
9. To maintain order, efficiency, and safety in its facilities and operations.

Nothing herein shall not be deemed a waiver or surrender of any management prerogative.

**Nepotism Policy:** Policy prohibiting the hire or promotion of individuals who are related by blood, marriage or adoption to a member of the City Council, to a member of the Planning Commission, the City Manager, the City Attorney, or any person exercising appointing authority, or would have or are likely to have in the future any supervisory authority over such individuals. This prohibition includes the following relationships: spouse,

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domestic partner, child, step-children, parent, step-parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, first cousin, parent-in-law, daughter-in-law, son-in-law, brother-in-law and sister-in-law. A spouse is a partner in marriage as defined in California Civil Code 4100.

**Outside Employment:** Any employment, activity or enterprise outside of an employee's normal City working hours wherein the employee is compensated for specific hours or duties on a regular basis. Outside employment does not include sporadic employment or occasional employment unless the employee is required to perform work related to her/his position with the City or utilize any City owned/controlled facilities, equipment, information, records, supplies, and/or uniforms.

**Overtime:** Hours worked in excess of forty (40) during the workweek, with prior Department Director approval, are compensable as overtime. Overtime shall be compensated in increments of 15 minutes at a rate of time and one-half. Time within any 15 minute increment shall be rounded off, with 0-6 minutes adjusting back to the preceding increment and 7-15 minutes adjusting forward to the next increment. Therefore,

**Overtime Eligible:** Employees who are designated by the City as non-exempt pursuant to the Fair Labor Standards Act (FLSA). Such employees are eligible to receive overtime, with prior Department Director approval. FLSA exempt employees are not eligible for overtime.

**Part-Time Regular:** A person appointed to an authorized and specifically budgeted position who is scheduled to work at least 20 but less than 40 hours per week, or at least 1,040 hours but less than 2,080 hours per year in a job-share or continued part-time work schedule and who has successfully completed the probationary period. A Part-Time Regular employee occupies an authorized budgeted position and may be eligible for pro-rated benefits.

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**Personnel Officer:** The City Manager or someone appointed by him/her to act in that position.

**Promotion:** The movement of an employee from one classification to another classification having a higher maximum rate of pay.

**Personnel Action:** Any action taken with reference to appointment, compensation, classification, leave of absence, disciplinary action, separation, or termination.

**Personnel Ordinance:** Oakley Municipal Code Title 2, Chapter 3 which creates a personnel system for the City and which the City Council from time to time may amend.

**Position:** A group of duties and responsibilities requiring employment of one person.

**Probationary Period:** A trial “at-will” period of one (1) year after date of appointment, or date of promotion, during which an employee is required to demonstrate her/his fitness to perform the actual duties required of a specific position. The probationary period is an integral part of the examination of an individual, and the City will use the employee’s probationary period to evaluate the employee’s conduct, performance, attitude, adaptability, job knowledge and adherence to the policies found within this Personnel Manual. During the probationary period, a probationary employee serves at the pleasure of the City, has no property right in continued employment, and has no right of appeal of discipline or termination, and is an at-will employee. The City Manager may extend the probationary period up to an additional six (6) months, in his/ her sole discretion. At-will employees do not have a formal probationary period and remain at-will during their tenure as employees.

**Reclassification:** The change in the assignment of a position from one existing class to a new class or another existing class.

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**Regular Day Off (RDO):** The scheduled day off (the first and third Fridays) following eight nine hours days and one eight hour days in two weeks, stemming from the modified 9/80 schedule

**Regular Full-time Employee:** A person appointed to a regular position with the City who is scheduled to work five (5) days and forty (40), or more, hours per week, or other comparable full-time work schedule and who has successfully completed the probationary period. A regular full-time employee occupies an authorized budgeted position.

**Reinstatement:** The appointment, without examination, of either a former regular employee who resigned in good standing not more than one (1) year previously, or the return from a non-disciplinary demotion of an employee to a classification in which status was held not more than one (1) year previously. A reinstated employee must begin a new probationary period upon reinstatement.

**Resignation:** Resignation is a voluntary separation from the City with either verbal or written notice on the part of the employee. It is expected that employees will give at least two (2) weeks' notice of resignation, preferably in writing. If employee gives verbal notice of resignation, the supervisor or the City Manager will acknowledge and accept the resignation in writing. Notice of resignation shall be final and may only be rescinded with approval of the City Manager.

**Retirement:**

***Service Retirement:*** The voluntary separation and concurrent retirement of a regular employee after becoming eligible for retirement benefits.

***Disability Retirement:*** The separation and concurrent retirement of a regular employee due to physical or mental inability to perform the duties of the position.

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Non-industrial disability means the disability need not be job-related. Industrial disability means the disabling injury or illness is work-incurred or job-related.

**Salary Range:** The minimum and maximum salary that is assigned to a job position. Salary ranges for full-time employees are set by the City Council.

**Suspension:** An involuntary absence from duty without pay imposed for disciplinary purposes.

**Termination:** The separation of an employee from City service, either voluntarily or involuntarily.

**Time Sheet:** The document on which an employee's actual hours worked and absences from work are recorded.

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

**Unclassified Service:** Positions that are not part of the Classified Service and in which there is no property interest. The Unclassified Service includes the City Manager, City Attorney, Assistant City Manager, all Department Directors, and Limited Term Part-Time, Limited Term Seasonal positions and any employees hired at-will. Employees serving in the Unclassified Service do so in an "at-will" status and employment may end at the lawful request of either the employee or the City.

**Vacancy:** An authorized position that is not occupied.

**Work Week:** The workweek for non-exempt City employees shall be from 12:01 p.m. Friday through the following Friday 11:59 a.m., unless otherwise designated in writing by the Department Director with approval of the City Manager.

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## **Section 3. Classifications of Positions**

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### **3.1 CLASSIFICATION PLAN**

The City Manager maintains a classification plan, authorized by the City Council, which arranges every regular employment position in the City into classes with titles and job specifications, duties and responsibilities for each class. The classification plan and all future amendments must be approved and adopted by the City Council. The City Council reserves the right to eliminate classifications or staffed positions with at least fifteen (15) business days' notice to any affected employee.

### **3.2 RECLASSIFICATION**

The City Manager 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 City Manager shall make a recommendation regarding reclassification to the City Council.

### **3.3 TYPES OF EMPLOYEES**

#### **Management Employees**

Management Employees, including Department Directors and other designated positions with significant responsibilities and that report to the City Manager are "at-will" and these employees can be terminated with or without cause and without the right of appeal. Management Employees are paid on a salary basis and are exempt from overtime provisions pursuant to FLSA guidelines.

#### **Probationary Employees**

Probationary employees are not regular employees and are still being evaluated as part of the testing process for the position. Probationary employees are "at-will" and can be released from employment during the probationary period with or without notice

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or cause and without the right of appeal. Probationary employees serve a probation period either at the outset of initial employment with the City or at the outset of a promotion to a higher position. The probationary period for the City is one (1) year.

### **Regular Full-Time Employees**

Regular full-time employees are employees who, upon the recommendation by the Department Director and approval by the City Manager, have successfully passed probation and are employed in a budgeted position with an indefinite term, regularly scheduled to work full-time hours (5 days and 40 (or more) hours per week). within the classified service. Non-management, regular full-time employees can only be subject to certain types of disciplinary action that result in a deprivation of property for cause and may utilize the disciplinary appeal process outlined in this Manual. Management, regular full-time employees can be released from employment with or without notice or cause and without the right of appeal.

### **Regular Part-Time Employees**

Regular part-time employees are employees who have successfully passed probation and hold a regular position in the classified service, but work between 20-40 hours per week. Regular part-time employees may hold either management or non-management positions. Non-management, regular part-time employees can only be disciplined or terminated for cause and may utilize the disciplinary appeal process outlined in this Manual. Management, regular part-time employees can be released from employment with or without notice or cause and without the right of appeal. Depending on the position, at the discretion of the City Manager, part-time employees may be eligible to receive pro-rated benefits for their position based on the number of hours worked. Employees working nineteen (19) hours or less per week shall not receive prorated benefits.



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## **Limited Term Employees**

### **Volunteers**

Individuals who agree to provide specified services to the City for civic or philanthropic reasons on a strictly voluntary basis for no pay or other compensation, other than nominal fees and reimbursement of expenses. A volunteer serves at-will and at the pleasure of the City, has no property right in continued service or in employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. Unpaid interns are considered volunteers.

### **Independent Consultants/Contractors**

An independent contractor is not an employee, and serves solely pursuant to a contract to perform specified services for the City that has been formed and approved as required by City purchasing policies and procedures. . These individuals are not City employees and are subject to the terms and conditions in their contracts with the City and have no employment rights with the City. An independent contractor cannot be used to perform any part of the City's regular and customary work.

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## **Section 4. Recruitment and Selection of Employees**

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### **4.1 ADMINISTRATION**

The City is committed to administering a fair and equitable recruitment and selection process for hiring new employees and promoting current employees. Vacancies that occur shall be filled by competitive process. This process shall include appropriate posting and notice of the vacancy, review of the qualifications of each applicant based upon the education, training, characteristics, skills, knowledge, abilities required, and establishment of a list of eligible candidates (“finalists”). As the appointing authority for the City, the City Manager shall review the list of finalists for each position and approve the final appointment of an applicant.

### **4.2 ANNOUNCEMENT OF VACANCIES**

The recruitment announcement for vacant positions shall specify the position; title; salary range; nature of the work to be performed and essential job duties of the position; the minimum qualifications required for the job; the time, place and manner of making an application; a statement of the employment status of the position - for cause or at will; and any other pertinent information, including who to contact in the event that reasonable accommodation may be needed during the application process. In addition, if any medical examination and/or drug screen will be required following a conditional offer of employment, the recruitment announcement will include the type of examination and, if known, the time and place of the examination.

When the City seeks only promotional candidates, distributions will be limited to internal sources. Additionally, when distribution of a job announcement would detrimentally delay the filling of a position the City, in its sole discretion, may opt to fill the position temporarily from immediately available sources. At the City Manager’s discretion, an

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employment list may be maintained and may be utilized to fill vacant positions. Eligible persons would be those who meet minimum qualifications and originally applied through a competitive process. The eligibility list will expire within nine (9) months.

#### **4.3 APPLICATIONS**

An applicant for a position must submit an employment application as determined by the City. Job applications shall 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 but not limited to: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. All applications must be completed in full and signed by the person applying. The City will not process any application which is not fully completed and signed.

Once submitted, the application will become an official record of the City and will not be returned. The City Manager, or designee, shall review all applications for completeness and will make final determination of the applicant's qualifications. Whenever an applicant is rejected, disqualified, or not selected for any reason, the applicant shall be notified in writing within a reasonable period. The City Manager may extend or reopen the time for filing applications.

Should an applicant be appointed to a position, the application and supplemental information shall become part of the individual's permanent employment records.

#### **4.4 DISQUALIFICATION OF APPLICATIONS**

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

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#### **4.5 COMPETITIVE SELECTION PROCESS**

The City shall use a competitive testing and selection process designed to determine the applicants with the best qualifications to perform the job. The content of any tests or examinations will be kept confidential prior to the administration of the examination. An eligibility list will be established of all qualified candidates who successfully pass the testing and selection process and are deemed the finalists for the position. The City Manager shall approve the final appointment of an applicant to a position.

#### **4.6 EMPLOYMENT CONDITIONS**

##### **1. United States Citizenship**

All employees of the City, except as otherwise provided by the laws of the State of California, must be citizens of the United States or authorized to work in the United States.

##### **2. Physical Examination**

The City of Oakley may require an employee to submit to an independent medical examination by a doctor selected by the City of Oakley to determine an employee's fitness for duty. Human Resources Division will maintain a list of the applicable classifications. At the City Manager's discretion, other classifications may also be required to undergo a physical examination.

##### **3. Background Check**

Prior to employment, all candidates who the City determines meet the minimum qualifications are subject to a background investigation. For some classifications this which may include a criminal background check consisting of fingerprinting and law enforcement records being checked for past criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially

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sealed, eradicated or expunged. The extent of the investigation varies by classification and type of appointment, and inquiry is limited to collection of the job-related information necessary to make an employment decision. Any information thus obtained shall be confidential. Employment of or the continuation of service of employees with a criminal conviction must have the approval of the City Manager.

#### **4.7 REASONABLE ACCOMMODATION FOR DISABILITIES**

In accordance with applicable Federal and State laws, the City will attempt to accommodate reasonably qualified individuals with disabilities unless doing so would create an undue hardship on the City. Any qualified applicant or employee with a physical or mental disability who requires an accommodation in the testing and/or selection process or in order to perform the essential functions of the job should contact the Human Resources Division and request an accommodation. Following receipt of a request for accommodation, the City Manager, or designee, may require additional information, such as reasonable documentation of the existence of a disability. With any such request, the City will follow its Reasonable Accommodation/Interactive Process policy contained in this Manual.

#### **4.8 DRIVER'S LICENSES**

All employees who are required to operate a City vehicle or operate City equipment shall be required to maintain a valid California Driver's License in the proper classification and with the proper endorsement (for example, a Recreation Supervisor responsible for transporting passengers must maintain a valid Class B license with passenger endorsement). All employees who may be assigned work entailing the operation of a City vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment. The Human Resources Division shall process such checks.

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#### **4.9 EMPLOYER PULL NOTICE PROGRAM**

The City participates in the Department of Motor Vehicles Employer Pull Notice Program. The purpose of the program is to provide the City with a means of promoting driver safety through the ongoing review of driver records. All records are maintained by the Human Resources Division and are strictly confidential.

A report indicating a suspended or revoked license status or indicating an unsafe driving record may be cause to deny or terminate employment. Any employee who does not hold a valid driver's license will not be allowed to operate a City vehicle until she/he obtains a valid license, and may be subject to disciplinary action. Any employee performing work, which requires the operation of a City vehicle, must notify her/his immediate supervisor in those cases where her/his license is expired, suspended, or revoked and/or who is unable to obtain an occupational permit from the Department of Motor Vehicles. Any employee who fails to report such revocation or suspension to her/his supervisor and continues to operate a City vehicle shall be subject to the full range of disciplinary action, up to and including termination from employment. Any employee whose job specification requires him/her to have a valid driver's license in order to fulfill the requirements of the position may be subject to disciplinary action, up to and including termination, for inability to obtain a valid license due to suspension or revocation of the license.

#### **4.10 OTHER TYPES OF APPOINTMENTS**

A vacant position may be filled from an original appointment, temporary appointment, reinstatement, transfer, promotion, or demotion.

##### **4.10.1 Transfer**

A transfer is the appointment of a person from one classification to another which is equivalent to that of the classification held prior to the transfer, and/or from one

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department or division to another, upon approval of the City Manager and the affected Department Directors/Division Managers. A transfer of a regular employee from a position in one classification in the Classified Service to a position in another classification having related duties and responsibilities as determined by the City Manager and the same salary range, shall assume regular status in the classification to which assigned and may be required to serve a probationary period at the discretion of the City Manager. All other employees transferred to a position in the Classified Service shall serve a probationary period as set forth in this Manual.

#### **4.10.2 Promotion**

The appointment of any employee to a position, other than special assignment, in a classification, which has a higher maximum rate of pay than the employee's present position, constitutes a promotion. Advancement from level I to level II of a classification is also deemed a promotion. In all cases, such promotion will be at the recommendation of the Department Director and upon approval of the City Manager, with confirmation that the expenditure created by such promotion is covered by the department budget. If not, the request for a budget adjustment will be presented to the City Council for consideration.

The promoted employee's new anniversary date shall be the effective date of the promotion. Unless extended or otherwise stated, an employee who has been promoted to a position in the classified service must successfully complete a one (1) year probationary period in the new position in order to attain regular employment status in such position. A regular part-time or full-time employee who is rejected during the probationary period from a position to which she/he has been promoted, may be reinstated to a position in the classification from which she/he was promoted if a vacancy in such

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a classification exists and unless the employee is terminated from City service as provided for in this Manual.

#### **4.10.3 Demotion**

A demotion is the appointment of a person to a classification having a lower maximum rate of pay. An employee may be demoted at her/his request, or because of a reduction in force, for disciplinary reasons, because of organizational restructuring, or for other reasons. Before a non-disciplinary demotion is considered effective, such action requires approval of the City Manager. Disciplinary demotions shall be imposed pursuant to the provisions in this Manual which address disciplinary actions. For a disciplinary demotion, a new anniversary date shall be established as of the effective date of demotion. For a non-disciplinary demotion, the employee's previous anniversary date shall be retained. If the demotion involves an employee with regular status in her/his position at the time of demotion, then the demoted employee shall assume regular status in the classification to which she/he is demoted.

#### **4.10.4 Acting/Interim Position**

Employees directed to work in a vacant higher level regular position may receive a *temporary* salary increase to the beginning of the salary range of the higher-level position, or at least a 5% temporary increase in pay, whichever is greater, when the employee serves in the higher level position in excess of 20 workdays. The increase does not apply to an employee who does not serve at least 20 workdays in the higher level position, but all employees who serve in an acting position for at least 20 workdays shall receive acting pay. Such increase shall be paid as if the assignment had been a promotion retroactive to the first day of such assignment. For purposes of this Manual, a vacant position is defined as an authorized regular position that is unoccupied due to attrition or due to the incumbent being on an extended leave of absence. The City



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Manager must approve requests for higher compensation. The City Manager may only approve such requests upon certification that the assigned employee meets the minimum training and experience guidelines for the position and is held responsible to perform fully the scope of duties that are outlined in the job description of the higher-level position. Assignment rotations among qualified staff are encouraged unless such rotations would considerably disrupt the operations of the department/division(s).

#### **4.11 MARITAL STATUS AND IMMEDIATE FAMILY**

It is the City's policy not to discriminate against employees based on marital status. The City retains the right to:

1. Refuse to place one spouse or immediate family member under the direct or indirect supervision of the other spouse or immediate family member in that the placement has the potential for creating an adverse impact on supervision, safety, security, or morale.
2. Refuse to place spouses or immediate family members in the same department, division or facility in that it has the potential for creating an adverse impact on supervision, safety, security or morale, or potential conflicts of interest.

"Immediate family member" is defined in the definitions section of this Manual.

##### **4.11.1 Anti-Nepotism Policy**

The City prohibits the hiring or promotion of individuals who are related by blood, marriage, or adoption to a member of the City Council, to a member of the Planning Commission, the City Manager, the City Attorney, or any person exercising appointing authority, or could have supervisory authority over such individuals. This prohibition includes the immediate family members as defined in this Manual.

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#### **4.11.2 Marriage of Co-Employees**

If employees marry or become domestic partners, or an employment relationship listed above is created by any other means, the City shall make reasonable efforts to assign job duties to minimize problems of supervision, safety, security, morale, or potential conflicts of interest. Should reasonable efforts to assign job duties to minimize such problems fail, one of the following must occur:

The City Manager or designee will attempt to arrange a transfer to a similar position in another department, division, or facility for one of the employees, usually the one in the junior classification. While the wishes of the involved parties will be considered, the controlling factors in determining which relative shall be transferred shall be the positive operation, efficiency, and needs of the City. There can be no guarantee that the new position will be within the same classification or at the same salary level; OR

One of the employees must be separated from City employment if a transfer or demotion is not available. If one of the employees does not voluntarily resign, the City Manager may dismiss one employee and retain the other based on the best interest of the City. Neither the transfer of an employee nor the separation from service of an employee or any other decision implemented pursuant to this policy shall be subject to any administrative appeal or the grievance procedures.

#### **4.12 EMPLOYMENT INCENTIVES**

In the process of recruitment, selection, and retention, the City may consider various employment incentives. In no case, however, shall the City offer or authorize loans for real property or for any type of equity share agreements for real property to potential or existing City employees.

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## **Section 5. Equal Employment Opportunity**

The City is committed to providing equal opportunity in all of its employment practices, including selection, hiring, promotion, transfer, training, discipline, termination, and compensation to all qualified applicants and employees. The City prohibits discrimination on the basis of race/color, national origin/ancestry, sex (including gender, gender identity, and gender expression), religious creed (including all aspects of religious belief, observance, and practice, including religious dress and grooming), age, mental or physical disability, veteran status, medical condition, marital status or status as a registered domestic partner, sexual orientation, citizenship status (including a driver's license issued to undocumented persons), pregnancy (including, medical conditions related to pregnancy or childbirth, and breastfeeding, or medical conditions related to breastfeeding), or any other protected status in accordance with the requirements of all federal, state and local laws. Unless based upon a bona fide occupational qualification, employment procedures and policies shall be implemented without regard to any protected classification listed above. Discrimination and harassment on the basis of a protected classification is unlawful and all persons involved in the operations of the City are prohibited from engaging in this type of conduct. Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination are encouraged to report the conduct immediately by using the complaint procedures provided in this Manual or by contacting the U.S. Equal Employment Opportunity Commission or California Department of Fair Employment and Housing.

The City's Equal Employment Opportunity Policy can be found in Section 5 of this Manual. The City's Harassment, Discrimination, and Retaliation policy can be found in this Manual.

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## **Section 6. Probationary Period**

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### **6.1 APPLICATION**

This section applies only to employees who have been hired or promoted to regular full-time or regular part-time positions. It does not apply to management employees, Limited Term Part-Time, and Limited Term Seasonal employees or any other employees that are “at-will” employees as set forth in this Manual.

### **6.2 PROBATIONARY STATUS**

All regular part-time and regular full-time employees hired or promoted shall be required to serve a one (1) year probationary period beginning from the date of appointment or promotion. The probationary period is considered an extension of the testing process, is intended to allow the City to determine if the employee can successfully perform the job, and is a good fit for the organization. The probationary employee’s performance will be periodically reviewed during this period. The probationary period does not include time served under a temporary or part-time appointment or for any period of unpaid leave.

During the probationary period, the employee may be rejected from employment at any time, with or without cause, and without any right of appeal, hearing, or grievance procedure. No justification or cause will be provided to a probationary employee rejected from probation.

A regular part-time or full-time employee who is rejected during the probationary period from a position to which she/he has been promoted, may be reinstated to a position in the classification from which she/he was promoted if a vacancy in such a classification exists and unless the employee is terminated from City service as provided for in this Manual.

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### **6.3 ACTION REQUIRED TO REMOVE EMPLOYEE FROM PROBATIONARY STATUS**

An employee remains on probation until the City takes formal, written action to remove the probationary employee from probationary status.

### **6.4 EVALUATION AFTER REMOVAL FROM PROBATIONARY STATUS**

If an employee successfully completes the probation period, her/his Supervisor shall complete a performance appraisal review at the approximate date of the probationary employee completing one (1) year in the probationary position. This performance appraisal will be accompanied by a Personnel Action Form (PAF) fully executed by the Department/Division Director, Finance Director, Human Resources Division, and the City Manager.

### **6.5 EXTENSION OF PROBATION**

An employee's probation may be extended for up to six (6) months if it is determined by the City Manager that there is a need for further evaluation before making a regular appointment to the position. An employee not removed from probationary status pursuant to the provision of Section 6.3 within ten (10) working days following the completion of one (1) year of probationary employment shall have his/her probationary status automatically extended for thirty (30) working days. An employee who is automatically extended may request a written performance appraisal to be completed within ten (10) working days of the request. The failure to perform the performance evaluation does not in any way limit the City's ability to release the employee from probation, without cause and without right of appeal, hearing, or grievance procedure.

An employee's probationary period will also be automatically extended for any leave of absence or sick leave of more than thirty (30) calendar days taken by the employee during the probationary period. The probation period will be extended by the length of time that the employee is on leave. A transfer of a regular employee from a

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position in one classification in the Classified Service to a position in another classification having related duties and responsibilities as determined by the City Manager and the same salary range, shall assume regular status in the classification to which assigned and may be required to serve a probationary period at the discretion of the City Manager.

#### **6.6 REJECTION FROM PROBATION**

The City Manager may determine that an employee did not pass probation at any time during the probationary period with or without cause or notice. The probationary employee does not have the right to appeal this decision. No justification or cause will be provided to the probationary employee rejected from probation.

#### **6.7 COMPLETION OF PROBATION**

Once a regular full-time or regular part-time employee has successfully completed the probationary period, including any extended probationary period, or subsequent probationary period if promoted or transferred, the employee will hold a regular position and can only be disciplined or terminated for cause or a reduction in force as set forth in this Manual.

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## **Section 7. Performance Expectations, Evaluations and Professional Development**

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### **7.1 PERFORMANCE EXPECTATIONS**

The City's expectation is for all employees to perform their job duties in a polite, professional and progressive manner. The City's goal is to provide the guidance and tools necessary to make this level of job performance possible. Together, with effective communication, the employer/employee team can be more successful.

#### **7.1.1 The 3P's of Public Service**

**POLITE** means we are customer-friendly, courteous and tactful. We have a "CAN DO" attitude. We acknowledge people who have concerns and we listen and try to understand. We treat people fairly and how we would like to be treated. We are respectful and we are friendly. We never raise our voices or use unkind words or expressions.

**PROFESSIONAL** means we are trained and competent in our jobs. We seek to learn more about our jobs so we can perform better - we "sharpen the saw." We take pride in the quality of our work and we do not just seek to do our best, we always strive to do better. If we are not moving forward professionally then we are moving backward. "Every job is a self-portrait of the person who did it."

**PROGRESSIVE** is that we are willing and anxious to find more creative and efficient ways of doing things. We do not do things "the same way we have always done them." We listen to suggestions from our supervisors, co-workers (especially new employees), and members of the public. We take advantage of new technology and ideas. We have a vision and look to the future of how things can and should be. In fact, we dream of things that never have been and say, "Why not?"

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## **7.2 PERFORMANCE EVALUATION**

Performance evaluations are communication tools used to provide constructive feedback on work performance, professional relationships, goals, and expectations. During the evaluation, the parties should discuss progress on goal achievement from the prior year, identify and correct weaknesses, encourage and recognize strengths, and discuss methods for improving individual and team performance. Performance evaluations also provide an opportunity for the employee to notify the supervisor of any problems, concerns, or suggestions that would help improve the City, the work environment, or the employee's job performance. Employees and supervisors should not wait to discuss any matters of concern until a performance evaluation is held. These items of concern should be addressed as they arise.

A performance evaluation for each regular employee (including regular part-time) shall be made each year by the Department Director/Division Manager using the City's performance evaluation form (see Appendix A), pursuant to the City's Compensation Policy. The performance evaluation will serve as the basis for determining any increase in pay within the pay range for the employee's position pursuant to the City's adopted Compensation Policy, as it may be modified from time to time by the City Council.

## **7.3 PROCEDURE FOR CONDUCTING PERFORMANCE EVALUATIONS**

As a part of the performance evaluation, each employee will be given the opportunity to conduct a written self-evaluation regarding her/his own performance and to develop goals and identify areas for professional development. The employee's supervisor and Department Director will utilize the employee's self-evaluation as part of the formal preparation of the annual performance evaluation. The Department Director/Division Manager will utilize the City's performance evaluation form and prepare a draft for the City Manager's review. Following the City Manager's review, the Department Director will meet



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with the Employee to complete the evaluation. The employee shall sign the evaluation to acknowledge its contents and that he or she has met with his/her supervisor to discuss the evaluation. The employee's signature shall not mean that he/she endorses the contents of the evaluation. The Department Director shall then forward the completed evaluation to the Human Resources Division, and a copy of each performance evaluation shall be retained in the employee's personnel file on a permanent basis.

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

#### **7.4 INFORMAL PERFORMANCE EVALUATIONS**

In addition to the more formal annual performance evaluations, the City encourages discussions of an employee's job performance on an ongoing basis.

#### **7.5 EMPLOYEE TRAINING AND DEVELOPMENT**

The City encourages all employees to seek additional training and development of their job skills and knowledge. When possible, the City will provide periodic training to assist employees in developing their professional skills and knowledge.

#### **7.6 TUITION REIMBURSEMENT**

##### **7.6.1 Eligibility**

To be eligible for tuition reimbursement, an employee must:

1. Be a regular full-time, employee of the City at the time of enrollment in course(s)
2. Obtain prior written approval for the course from her/his Department Director and the City Manager

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3. Enroll at an accredited college or university for courses taken for credit

Regular part-time employees may request to participate in the Tuition Reimbursement Program. Approval is at the discretion of the City Manager. If approved by the City Manager, the maximum reimbursable amount would be pro-rated.

#### **7.6.2 Criteria**

In order to be approved, the course(s) must be:

1. Scheduled on the employee's own time
2. Directly related to the employee's work
3. Required for an academic degree in a field that is directly related to the employee's work or of clear benefit to the City, at the discretion of the City Manager.

#### **7.6.3 Tax Issues**

Tax consequences of participating in the City's Tuition Reimbursement Program depend on current IRS regulations and are ultimately the responsibility of the employee, not the City.

#### **7.6.4 Reimbursement**

When an employee has demonstrated completion of the approved course with a Grade of "B" or better, or a "pass" if the course is offered on only a "pass or fail" basis, the employee will be reimbursed for one hundred percent (100%) of the expenses covering tuition, registration fees, textbooks, and any required or mandatory fees for the approved class. The maximum allowable reimbursement is \$2,500 per fiscal year. No other expenses will be considered. Amounts not used are not carried over to the next calendar year. Should an employee drop or fail to complete a course, she/he shall not be entitled to reimbursement.

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### **7.6.5 No Reimbursement**

No tuition reimbursement will be made in the event of employment termination prior to satisfactory completion of the course.

### **7.6.6 General Information Regarding Tuition Reimbursement Program**

The City reserves the right to amend, modify, or terminate the program at any time. All employees will be notified in writing if any such changes occur. Under such circumstances, all commitments made up to the time of cancellation will be honored by the City.

Participation in the program is intended to help employees improve their knowledge and skills in order that they may perform their present and future job assignments in a more proficient manner. However, promotion within the City is predicated upon many factors; therefore, participation in the program is not a guarantee of advancement or promotion.

## **7.7 PROFESSIONAL ORGANIZATION MEMBERSHIP/CERTIFICATE RENEWAL**

The City encourages participation in professional organizations and shall reimburse employees for professional memberships and certification expenses, which are considered by the City Manager to enhance the employee's job-related skills, abilities, and knowledge. Questions on whether or not a particular membership or certification is an approved expense must be brought to the employee's Department Director or to the City Manager, prior to joining the professional organization. Dues for approved membership in professional organizations and fees for approved professional certification may be paid directly by the City or will be reimbursed upon submittal of satisfactory evidence of payment.

## **7.8 TRAVEL AND TRAINING FOR PROFESSIONAL DEVELOPMENT**

The City strongly encourages on-going training and professional development, some of which requires out of town travel. Such out of town travel and training will follow the policies and procedures outlined in the City's Travel Policy, found in Appendix B.

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## **Section 8. Workweek, Schedules, Attendance and Overtime**

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### **8.1 HOURS OF BUSINESS**

The City operates under a modified 9/80 Work Schedule Policy. City offices shall be open Monday through Thursday from 8:00 a.m. to 6:00 p.m. and Friday from 8:00 a.m. to 5:00 p.m., except that City offices are closed on the first and third Fridays of each month, unless otherwise established and authorized by the City Manager in writing.

### **8.2 ATTENDANCE**

Employees shall be in attendance at their work or assigned duties at the time and place prescribed by the department to which they are assigned. Tardiness and absenteeism will not be tolerated.

Employees who anticipate an absence from all or a portion of their regular work schedule and wish to request a form of accrued leave time or unpaid leave must file written notice to the Human Resources Division.

Employees who are unexpectedly unable to report for work as scheduled on any particular day must call their immediate supervisor no later than their scheduled time to begin work for that day, or as otherwise required by the Department Director/Division Manager. Employees must inform their supervisor of the expected duration of any absence. Employees who fail to call to inform their supervisor of their absence shall be deemed to have an unauthorized absence in violation of this attendance policy.

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 Manual, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence. The employee may be subject to a reduction

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of pay for unauthorized tardy or absence. Any such reduction in pay will be subject to the disciplinary/due process procedures in this Manual.

#### **8.2.1 Excessive Tardiness/Absenteeism and Abuse of Leave**

Excessive tardiness occurs when an overtime-eligible 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. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination. Abuse of, or misrepresentation of any form of accrued or unpaid leave time may be grounds for discipline, up to and including termination.

#### **8.2.2 Abandonment of Position**

Failure on the part of an employee, who is absent without notification or authorization to return to duty within twenty-four (24) hours after a notice to return to duty has been delivered to their last known telephone number and/or address will be deemed a voluntary resignation, effective as of the last day an employee worked. If, within ten (10) days of said notice, the employee can show good cause for the failure to return to duty, the City Manager, in his/her discretion may, reverse the resignation. In the event that an employee's absence is deemed a "voluntary resignation" in accordance with the Rule, the employee shall have the same right to appeal afforded the employees who are terminated for cause. However, an employee's absence without notification or authorization for twenty-four (24) hours or more shall be deemed just cause for automatic resignation pursuant to this rule.

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### **8.3 OFFICIAL WORKWEEK FOR COMPUTING OVERTIME AND COMPENSATORY TIME**

The workweek for non-exempt City employees shall be as follows, unless otherwise designated in writing by the Department Director with approval of the City Manager. The workweek for City employees is a 168 hours (i.e. seven 24-hour periods) beginning at Noon on Friday and ending at 11:59 a.m. on the following Friday. The workday begins at Noon on any given day and continues until 11:59 a.m. on the following day.

Employees using the 9-80 work schedule are required to work nine (9) hours (for example from 8:00 a.m. to 6:00 p.m.) for eight (8) work days, and eight (8) hours on a ninth (9<sup>th</sup>) work day (Fridays). Due to City Hall being closed the first and third Fridays of every month, the first and third Fridays are the scheduled week days off for employees designated to work a 9/80 schedule.

For employees working a 9/80 schedule, each employee's designated work week shall begin exactly four hours after the start of his/her eight hour shift on the day of the week that corresponds to the employee's alternating regular day off. Overtime would not be paid unless an employee exceeded 40 hours of work in the work week (not the calendar week).

There are also two or three times per year when an employee would work 44 hours in two consecutive weeks due to City Hall closure the first and third Fridays of the month. These extra four hours and any hours exceeding 40 in any given work week (not calendar week) are compensable as overtime for any employee eligible for overtime.

### **8.4 STANDARD WORK PERIODS FOR NON-EXEMPT, FULL-TIME EMPLOYEES**

Consistent with the 9/80 work schedule, non-exempt full-time employees are normally scheduled to work a total of 44 hours in one calendar workweek and 36 hours in the

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second calendar of the two-week payroll period. The customary workday or work period for non-exempt City personnel shall be as follows:

**8.4.1 Non-Exempt Office Personnel:**

8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on the second, fourth and any fifth Fridays of each month with a one (1) hour unpaid lunch period.

**8.4.2 Non-Exempt Public Works/Parks Field Personnel:**

7:30 a.m. to 4:30 p.m. with a one (1) hour unpaid lunch period. These employees do not have a 9/80 schedule.

The City Manager shall designate the work schedule for employees. Due to the changing needs of the City, work schedules of employees may vary from time to time. Supervisors will be in charge of notifying employees when work schedules change, and employees will be notified in writing of any changes in the employee's standard work schedule with at least ten (10) working days' notice. Employees shall be in attendance at work in accordance with their approved work schedule.

**8.5 LUNCH OR MEAL PERIODS**

A regular schedule for lunch or meal periods will be authorized by the supervisor or Department Director for non-exempt employees. Typically, this will include a break of 1/2 hour, after 5 hours, except when the workday will be completed in 6 hours or less and there is mutual employer/employee consent to waive meal period. After 10 working hours per day the employee will be provided with a second meal period of not less than 1/2 hour.

The customary lunch period for full-time employees is one (1) hour and typically from 12:00 pm to 1:00 pm. A Department Director/Division Manager may consider a thirty (30) minute non-paid lunch period in lieu of the regular one (1) hour lunch period,

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if requested in writing or via email by an employee and if such a schedule will not impair the efficiency and effectiveness of the department, at the discretion of the Department Director. The Department Director/Division Manager may rescind approval of a shortened lunch period with at least ten (10) working days written notice to the employee.

#### **8.6 DESIGNATION OF ALTERNATIVE WORK SCHEDULES**

The City Manager is authorized to designate alternative work schedules for employees. Examples of alternative schedules are the 9/80 or 4/10 workweek.

An employee may request an alternative work schedule by submitting a written request to her/his Department/Division Director. For an alternative work schedule other than a shortened lunch period, the Department/Division Director will then discuss the request with the City Manager who shall have final authority to approve or deny the request. The employee will then be notified if the requested alternative work schedule is approved. Approval will be on a case-by-case basis and the City Manager reserves the right to rescind approval of the alternative work schedule with at least ten (10) business days written notice to the employee. A record of approval of an alternative work schedule shall be on file in the Human Resources Department.

#### **8.7 BREAK PERIODS - NON-EXEMPT ELIGIBLE EMPLOYEES**

Non-exempt employees shall be allowed one, paid fifteen (15) minute break for each four (4) hour period worked. Breaks are generally scheduled in the middle of each four (4) hour work period. However, the supervisor or Department Director shall have the authority to arrange break times which best meet the needs of the department, but not within one (1) hour of the employee's starting time, quitting time, or lunch period. With approval of the Department Director and City Manager, an employee may voluntarily agree to place one or both break periods within one (1) hour of the employee's quitting



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time. Break periods may not be scheduled or taken consecutively or in conjunction with the lunch period. Further, break periods do not accrue and cannot be “saved” or used at a later time.

## **8.8 LACTATION BREAKS**

### **8.8.1 Lactation Break Time**

An non-exempt employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Those desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### **8.8.2 Private Location**

The City will make reasonable efforts to accommodate employees by providing an appropriate location to express milk in private. The City will attempt to find a location in close proximity to the employee’s work area, and the location will be other than a toilet stall. Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

### **8.8.3 Storage of Milk**

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

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## **8.9 TIME SHEET SUBMITTAL**

Department Directors must submit time sheets to the Finance Department's employee who is designated to process payroll, every other week by 10:00 a.m. on the Monday following the completion of a pay period. The failure to submit a timesheet within the appropriate time frame may result in the paycheck not being processed until the following pay period. Time sheets must be signed by the employee and her/his Department Director, or designee, in order to be processed. All employees must accurately report all work time to the nearest five minutes.

## **8.10 TIME REPORTING - EXEMPT EMPLOYEES**

Exempt employees may be required to use accrued leave time (e.g., vacation, sick, or management leave) for partial day absences of four hours or more if the employee has such accrued time available.

## **8.11 TIME REPORTING - NON EXEMPT EMPLOYEES**

### **8.11.1 Purpose of Time Reporting**

Recording of hours worked and/or leave time taken by employees is necessary to provide an accurate basis for preparing paychecks, monitoring leave accruals, assuring compliance with Federal and State law, and maintaining an effective and efficient accounting system.

### **8.11.2 Hours Worked**

Overtime eligible employees will be paid for all hours worked. Hours worked include:

1. Hours before or after the normally assigned shift, if approved in advance by the Department Director in writing. Record hours worked to the nearest quarter (1/4) hour. Periods of six (6) minutes or less are not considered overtime when such work periods are not regularly recurring. Prior permission of the

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employee's supervisor or Department Director must be obtained for overtime work. Unless it is a justifiable emergency, working overtime that has not been pre-approved will result in disciplinary action.

2. Rest periods of fifteen (15) minutes or less, as outlined in this Manual.
3. Out-of-town travel is covered by two sets of rules, depending on whether the assignment is for one day or requires an overnight stay. If an employee is given a one-day assignment in another city which does not require an overnight stay, all the time spent traveling between cities is counted as hours worked. However, time spent traveling between the employee's home and the airport or train station (during the employee's departure or return) is not considered work time because it is equivalent to travel between work and home. If the employee's out-of-town travel requires an overnight stay, time spent traveling to another city is counted as hours worked only to the extent that it coincides with the employee's regular workday. Travel that occurs during hours of the day in which the employee normally works, is counted as work time, even if it falls on a non-working day for the employee (for example, a Saturday or Sunday). If, on the other hand, the travel occurs during hours that are outside the employee's regular workday, it is not counted as hours worked unless the employee actually performs work for the City while traveling during these regularly unscheduled hours. Please see the City's Travel Policy in Appendix B.
4. Hours spent at lectures and training activities conducted by the City, unless attendance is voluntary and the employee's job performance is not dependent upon such training.

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5. Hours spent in public or charitable work if it is at the City's request or as part of an employee's regularly scheduled shift.

### **8.11.3 Responsibility for Completion of Time Sheets**

Employees are responsible for the accurate and timely submission of time sheets and other supporting documentation to their supervisor for approval. Timesheets should reflect the actual time worked and be filled out on at least a daily basis.

1. All overtime eligible employees will record all hours worked and all leave time taken, and the type of leave to be charged, whether paid or unpaid, on the time sheet.
2. All exempt employees in positions which require an accounting of hours worked by work order (as determined by the Department of Industrial Relations by work order number) number will record their hours worked for each project and all leave hours taken on the time sheet.
3. Exempt employees in positions not required to account for hours worked by work order number will record only those hours off for sick leave, management leave, vacation, or other applicable leave.
4. Supervisors or Department Directors shall not alter or adjust the hours that an employee reports on her/his time sheet. If an employee's time sheet is inaccurate or appears to be inaccurate, the Department Director/Division Manager will meet with the employee and if it is determined the employee's time sheet is, in fact, inaccurate, the Department Director will direct the employee to correct the time sheet. If an inaccurate time sheet is forwarded for payment by the Department Director due to an error by the employee and the pay to the employee is more or less than what would have been payable due to the

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error, the adjustment in pay will be made on the employee's next regular paycheck.

5. Intentional inaccuracies or falsification of any kind of the submitted timesheet will result in disciplinary action, up to and including termination.

## **8.12 OVERTIME REPORTING**

Employees designated as "non-exempt" pursuant to the provisions of FLSA are eligible for overtime pay. As stated in this Manual, overtime must be approved in advance and in writing by an employee's Department Director/Division Manager. Overtime-eligible employees who are directed to work overtime must do so.

### **8.12.1 Hours for Overtime**

For overtime purposes, City employees in positions designated as overtime eligible will receive additional compensation, either cash or compensatory time off, in any workweek during which they work more than 40 hours. Employees required to work overtime will not be forced to take time off in the same workweek to avoid paying overtime, but may volunteer to do so. City employees in exempt positions are not eligible for overtime pay or compensatory time off.

Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay. Time paid but not worked, including sick leave, compensatory time off, holiday and vacation, does not count as hours worked for the purpose of computing overtime hours. If an employee is compensated for holidays on which he or she does not work, the holiday hours do not count in determining overtime entitlement as overtime premiums are based upon hours worked, not upon hours paid.

1. The Human Resources Division will maintain a list of employees in positions eligible for overtime pay.

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2. Overtime pay for work on an employee's scheduled day off will be based on actual hours worked in excess of 40 hours per workweek.
  3. Hours worked on a regular day off (RDO) may be taken as unpaid time off at a later date at the discretion of the Supervisor and City Manager

**8.12.2 Accounting for Portions of an Hour Worked**

Partial hours of overtime are accounted for in quarters of an hour as indicated below:

Time Worked	Indicate on Time Sheet
7 - 15 min.	¼ hour
16 - 33 min.	½ hour
34 - 48 min	¾ hour
49 - 60 min.	1 hour

**8.12.3 Work Period for Police - FLSA Section 207(k)**

The workweek for employees, consistent with the 7(k) exemption of the Fair Labor Standards Act, is one hundred seventy-one (171) hours per 28-day period. The workweek is not necessarily the same as the calendar week. The workweek for all sworn police officers, begins at 12:00 a.m. Sunday and ends at 11:59 p.m. Saturday as adopted in August of 2015.

**8.12.4 Compensation for Overtime**

Compensation for overtime hours worked shall be at the rate of 1.5 times the eligible employee's regular rate of pay (including all FLSA-applicable salary differentials and special pays), in either cash or compensatory time off.

The form of compensation shall be at the option of the employee; provided, however, that no employee shall accrue more than forty hours (40) of unused compensatory time off. Accrual of compensatory time off shall be at the rate of 1.5

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hours of compensatory time off for each overtime hour worked, or fraction thereof. An employee who has accrued the maximum allowed balance of compensatory time off shall be paid cash on her/his next regular paycheck for any additional overtime hours worked. Compensatory time off is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays).

Compensatory time off is intended to be taken as soon as it is mutually convenient following the date on which it was earned. When requesting to use compensatory time, the employee shall complete a Request for Leave form and submit it to her/his supervisor for approval. The City will grant an employee's request to use accumulated Compensatory time off provided that: 1) the Department or Division can accommodate the use of compensatory time off on the day requested without undue disruption to Department or Division operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date the employee requests the compensatory time off. If the employee does not provide five days' notice, or if the Department or Division cannot accommodate the time off without undue disruption, the City will provide the employee the opportunity to cash out the amount of compensatory time off requested at the end of the pay period in which the employee made the request.

At any time, the City may pay an employee in cash on any regular paycheck for compensatory time off earned and not used, no matter the amount of hours accrued. A promotion or reclassification will result in the cash out of any accrued compensatory time prior to the effective date of the promotion or reclassification. Employees separating from City employment will be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their FLSA regular rate for the prior three (3) years, whichever is higher.

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### **8.13 NO REMOTE ACCESS**

Unless the City Manager approves otherwise, non-exempt employees may not have remote access to City equipment, resources, or email.

#### **8.13.1 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 overtime-eligible employees to volunteer work time.

### **8.14 EXEMPT EMPLOYEE POLICY**

FLSA exempt personnel are hired with the understanding that they are responsible for accomplishing the duties outlined for their assigned position or job, and not for a certain number of hours each day. The focal point is the job to be done, not the number of hours worked. However:

1. Exempt positions are designed with an "at least 40-hour" workweek in mind. The necessity to perform consistent work for a substantial amount of hours over 40 per workweek should be examined so that exempt employees are utilizing their time wisely. A part-time regular employee may be classified as exempt and would be expected to perform work for "at least" the hours she/he is on average expected to work.
2. Exempt employees, including Department Directors/Division Managers, are generally expected to be available to perform their job duties during normal business hours (usually 8:00 a.m. to 6:00 p.m., Monday through Thursday and 8:00 a.m. to 5:00 p.m. on the second, fourth and any fifth Fridays of each month). However, completing the work assigned for an exempt position will,



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- from time to time, require extra work to be performed outside of normal business hours or on the weekend (Saturday and/or Sunday).
3. Recognizing the varying demands placed on an exempt employee's time, and in recognition of exempt employees spending substantially more than a typical workweek in accomplishing the job, the City allows exempt employees to take limited periods off without using accrued vacation or sick leave. Typically, an exempt employee will have a deduction from her/his accruals to equal the amount of time absent from work that reduces the employee's normal workday, similar to non-exempt employees. For an exempt employee, absences of less than four (4) hours are not to be charged to leave accruals, as long as at least 80 hours total have been worked otherwise during the timesheet reporting period (this would include a holiday day). Absences of 4 hours or more (including a full day) may also be eligible to not be charged leave time, if prior approval has been granted by the City Manager via email and the timesheet is clearly marked "flex time" on the day the absence or partial absence took place. Regular days off (RDO) may also be exchanged with prior approval of the City Manager.
  4. Neither flexible work hours nor paid management leaves constitute additional compensation to exempt employees on an hour-for-hour basis for hours worked in excess of 40-hours per week. Accordingly, exempt employees do not accrue a balance of compensatory leave hours.

#### **8.15 MANAGEMENT LEAVE - EXEMPT EMPLOYEES**

In lieu of the payment of overtime, exempt employees are granted eighty (80) hours of management leave (sometimes called "Admin Leave") on January 1<sup>st</sup> of each calendar year. The City Manager may grant up to sixteen (16) hours of additional management

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leave for exempt employees working the modified 9/80 schedule. An exempt employee hired or promoted after January 1<sup>st</sup> of any given year will have her/his management leave prorated according to the following schedule:

<b>Month of Hire or Promotion</b>	<b>Allocation of Hours</b>
January	80.00
February	73.33
March	66.67
April	60.00
May	53.33
June	46.67
July	40.00
August	33.33
September	26.67
October	20.00
November	13.33
December	6.67

All 80 hours of management leave must be used during the calendar year in which they are granted. Management Leave will not be cashed out except for resignation, layoff, or retirement of an employee who has passed her/his probation period. An employee eligible for Management Leave that separates prior to July 1<sup>st</sup> of any given year, shall have his/her payout of Management Leave reduced by 50%. Management leave will not carry over into the next calendar year unless approved in writing by the City Manager. Such a request must be submitted to the City Manager on or before December 15<sup>th</sup> of each year. Failure to request carry over by December 15<sup>th</sup> will waive an employee's right to

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receive carryover. If an exempt employee has been previously approved to take Management Leave in December of a calendar year and the City then requires the employee to cancel such previously approved leave, the employee may carry over the amount of previously approved Management Leave to the next calendar year; however, the previously approved leave must be used by the employee no later than March 1<sup>st</sup> of the next calendar year.

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## **Section 9. Compensation and Benefits**

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### **9.1 COMPENSATION PLAN**

The City Council shall by resolution adopt and maintain a Compensation Policy with a salary range for each regular full-time position. The City Manager shall administer the Compensation Policy.

### **9.2 NEW EMPLOYEES**

New employees shall be appointed at the pay rate designated by the City Manager within the pay range to which their classification is assigned. Typically, a new employee's salary will be placed at the beginning of the salary range. When the City Manager determines that the education and previous training or experience of a proposed employee, or the difficulty in recruiting for the position, would justify a salary in excess of the beginning salary, the City Manager may authorize a higher beginning salary within the pay range for the classification.

### **9.3 MERIT INCREASES**

Advancement within the salary range will be made based on merit as determined by the supervisor and approved by the City Manager after reviewing the employee's work performance and contributions to the City. All increases will be consistent with the City's Compensation Policy, which may be amended from time to time by the City Council.

### **9.4 PAY UPON SEPARATION**

An employee separated from employment for any reason, including resignation, termination, release from probation, layoff or retirement, is entitled to pay for any work completed for the City from the first day of the final pay period to the effective date of separation. The employee is also entitled to receive payment for any accrued vacation, floating holidays, management leave, and compensatory time actually earned, but not taken. The City does not compensate employees for unused sick leave, unless the employee has successfully completed at least five (5) years of total employment with the

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City, then the employee will be compensated for fifty percent (50%) of the value of any unused sick leave at separation, pursuant to the terms and conditions found in this Manual.

### **9.5 EMPLOYEE PAYCHECKS**

Paychecks are distributed biweekly on the normally scheduled payday unless otherwise notified. Employees who enroll in direct deposit will receive a pay stub in lieu of a check. Any questions about pay amount or deductions should immediately be brought to the attention of the Finance Director.

### **9.6 OVERTIME AND COMPENSATORY TIME OFF**

Overtime will be paid pursuant to Section 8 of this Manual.

### **9.7 INSURANCE BENEFIT PROGRAMS**

The City provides health insurance (dental/medical/vision), life insurance and long term disability insurance benefits for regular full-time employees at percentages or rates determined by the City Council. (See Sections 9.15 and 9.16 for applicability to Part-Time and Limited Term employees). Employees should contact the Human Resources Division for details concerning the terms, enrollment, and eligibility to receive these benefits, as well as other optional benefits provided, if any. The City Council reserves the right to modify the insurance benefit program at any time and provide as much notice as possible to employees affected by any change.

### **9.8 HEALTH INSURANCE BENEFIT AND WAIVER**

The City provides a health insurance benefit for regular employees at percentages or rates determined by the City Council. Staff employed by the City prior to August 1, 2016 who have alternate qualified group health coverage, can waive group insurance coverage by completing the Waiver Form and providing evidence of the coverage, certifying that adequate health care benefits are being provided by another group insurance source.

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The City will provide “cash in lieu” to the employee equivalent to the health benefit amount set by the City Council, not to exceed \$1,235. An employee whose group coverage costs less than \$1,235 per month may receive the difference between the costs of coverage and the \$1,235 as “cash in lieu”, which will be considered regular income for taxation purposes. Any employee hired after August 1, 2016, who waives coverage as described herein or has group coverage cost that is less than the \$1,235, the City will provide a benefit payment of an amount not to exceed \$400 per month as “cash in lieu”, which will be considered regular income for taxation purposes.

This election may take up to 30 days to process.

#### **9.9 RETIREMENT BENEFIT PROGRAM**

The City participates in the California Public Employees Retirement System (CalPERS). The Human Resources Division and/or CalPERS should be contacted for details concerning the terms, enrollment, and eligibility to receive these benefits as well as other optional retirement plans that may be provided. Current CalPERS policy stipulates that when an employee completes five (5) years of employment within the system, she/he is then fully vested in CalPERS.

Eligible City employees currently fall within one of three different levels of CalPERS Plans. Employees hired before October 18, 2010 are currently enrolled in the 2.5% at 55 CalPERS plan. Any employees hired between October 18, 2010 and December 31, 2012 would have been enrolled in the 2% at 60 CalPERS plan. Currently, the City pays both the employer and the employee contributions for these plans, and this may be modified from year-to-year by action of the City Council.

Any individual hired any time after January 1, 2013 will be enrolled in the 2% at 62 CalPERS plan, in compliance with the California Public Employees’ Pension Reform Act (PEPRA). Those enrolled in the PEPRA Plan are required to pay the employee

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contribution for their own plan and contribution rates vary from year to year. To learn what the current employee rate is, please contact Human Resources.

New employees can apply for member reciprocal self-certification, if they had previously participated in CalPERS or any other eligible retirement system, in order to be enrolled as a "Classic" member in the 2% at 60 CalPERS Plan. To find out if you are eligible for reciprocity, please contact Human Resources.

#### **9.10 EMPLOYEE ASSISTANCE PROGRAM (EAP)**

The City offers an employee assistance program that allows confidential discussions with a professional counselor at no initial cost to the employee. This program is intended to help employees when they have personal problems or other matters that are affecting their work.

All employees are given an informational brochure with their new employee information package upon hire. The brochures are also available via the Employee Bulletin Board and from the Human Resources Division. The EAP brochure explains in more detail how to use the program and provides the phone number to call. The City encourages employees to use this benefit when needed.

#### **9.11 CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA)**

##### **CONTINUATION OF GROUP HEALTH BENEFITS**

The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan. The coverage is for a limited period under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified individuals may be required to pay the entire premium for coverage up to 102 percent (102%) of the cost to the plan.

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Employees covered by the City's medical insurance plan who voluntary or involuntary terminate employment for reasons other than gross misconduct or who have a reduction in the number of hours of employment have a right to choose to pay for continuation coverage if they lose their group health coverage, pursuant to applicable state or federal law. An employee's eligible dependents may also have the right to elect and pay for continuation of coverage for a temporary period in certain circumstances where their coverage under the plan would otherwise end.

Questions concerning employee rights under COBRA should be directed to the Human Resources Division.

#### **9.12 BILINGUAL PAY**

With a significant percentage of Oakley residents being Hispanic, the City embraces its cultural diversity and recognizes that there are occasions when a customer needs to communicate with employees in Spanish. This bilingual ability is not only beneficial in the performance of department tasks, but also reflects the City's progressive approach to its delivery of services. Employees who receive bilingual pay shall be determined at the discretion of the City Manager based on the business needs of the City. Employees who demonstrate a proficiency in Spanish based on an oral and/or written assessment, approved by the City Manager or her/his designee, shall receive thirty-five dollars (\$35) per pay period as bilingual pay. Employees receiving bilingual pay will be asked to translate and assist other departments/divisions as requested. Bilingual pay shall be prorated for employees working less than full-time and/or who are in an unpaid status for any part of the biweekly pay period.

Unless operational needs of the City change, a maximum of ten (10) employees, not including the Police Department, will be eligible to receive bilingual pay. Other languages



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in addition to Spanish may be added in the future, if it is determined that it is necessary to meet the operational needs of the City.

### **9.13 CALL OUT PAY**

Non-exempt regular full-time employees designated as “call out employees” by their Department Director who are called to perform work after hours, shall be compensated for at least two (2) hours pay at one and one-half (1.5) times the employees hourly rate of pay for each call out occurrence.

### **9.14 WELLNESS PROGRAM**

The City encourages health and wellness for its employees. As a part of this effort, and as a benefit to employees, the City may pay a portion of monthly health club dues for employees that join an approved local health club located in Oakley. Employees must notify Human Resources within seventy-two (72) hours for all changes to membership status or dues level. Employees are responsible for all membership dues or amounts incurred pursuant to their membership less the City’s monthly contribution.

The City’s payments for this benefit do not qualify for income tax exclusion under Section 132 of the Internal Revenue Code and therefore are taxable income. Taxes are the responsibility of the employee, and for those employees electing to participate in the program, applicable income will be reported and taxes withheld as part of payroll processing.

### **9.15 PART-TIME EMPLOYEES ELIGIBILITY FOR PRO-RATA BENEFITS**

Regular part-time employees receive employee benefits such as medical, dental, vision, and retirement benefits as do regular full-time employees in the same job classification, but the health benefits amounts are pro-rated beginning at 30 hours (average of hours worked per week over the course of a fiscal year), based on the anticipated

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regularly scheduled work hours indicated at the time of hire. For example, a regular full-time employee, working 40 hours per week is considered as 100% full-time equivalency, whereas a part-time regular employee, working 30 hours per week is considered 75% of full time equivalency and would receive health benefit amount prorated to 75%. Sick leave, vacation leave, bereavement leave, floating holidays, and holidays are also available to regular part-time employees on a pro-rated basis.

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## **Section 10. Holidays, Vacation, Sick Leave and Other Leaves of Absence**

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### **10.1 HOLIDAYS**

The City observes the following twelve (12) holidays and two (2) floating holidays for use at the employee's discretion

New Year's Day

Martin Luther King Day

Presidents' Day

Memorial Day

Independence Day

Labor Day

Veterans' Day

Thanksgiving Day

Day after Thanksgiving

Christmas Eve Day

Christmas Day

New Year's Eve Day

Floating Holidays (2)

All regular and probationary full-time and management employees receive two (2) eight (8) hour floating holidays on January 1 of each year. Regular part-time employees who are eligible for benefits will receive the floating holidays on a pro-rated basis according to her/his work schedule. An employee who is requesting to use her/his floating holidays shall complete and return a Request for Leave form to her/his supervisor for approval.

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Newly hired full-time employees will receive floating holidays based upon the quarter in which they are hired. The hours will be pro-rated according to the following schedule:

<b>MONTH OF HIRE</b>	<b>HOURS</b>
January - March	16 hours
April - June	12 hours
July - September	8 hours
October - December	4 hours

Employees shall be paid for any accrued but unused floating holiday hours at the time of separation of employment.

### **10.2 HOLIDAY BENEFITS FOR FULL-TIME EMPLOYEES**

The City provides regular and probationary full-time and management employees with eight (8) hours of pay for the observed holidays listed in Section 10.1. If a full time employee is working an alternative schedule, including the 9/80 schedule, the employee must use vacation or compensatory time (one hour) to make up the difference. Alternatively, with supervisory permission, an employee may work the additional time necessary to make up the difference, with approval of her/his Department Director/Division Manager. Overtime will not be paid for this make-up time. In addition, holiday time does not count as time worked for the purpose of calculating overtime eligibility.

### **10.3 HOLIDAY BENEFITS FOR REGULAR PART-TIME EMPLOYEES**

Regular and probationary part-time regular employees are entitled to receive time off with pay on a pro-rated basis for the holiday, unless scheduled to work at the direction of the City. Holiday pay for regular and probationary part-time employees shall be paid on a pro-rated formula, based on the number of hours per week budgeted for

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their position during the fiscal year. For example, a regular part-time employee whose position is budgeted to work twenty (20) hours per week will receive one-half of the hours received by regular full-time employees or four (4) hours of paid holiday time (20 divided by 40 = .50 x 8 = 4).

Limited Term Part-Time and Limited Term Seasonal employees that are normally scheduled to work on an observed holiday are provided the day off without pay.

#### **10.4 WORK PERFORMED ON HOLIDAY**

Employees are expected to observe all City-designated holidays unless job demands require the employee to work.

A regular and probationary full-time employee scheduled to work on a holiday shall be paid at her/his straight time regular hourly pay for actual hours worked, and the eight (8) hours of holiday pay.

Part-time regular, Limited Term and Limited Term Seasonal employees scheduled to work on a holiday shall be paid at their straight time regular hourly pay for actual hours worked, and the actual hours worked of holiday pay.

#### **10.5 HOLIDAY FALLING ON A WEEKEND OR SCHEDULED DAY OFF**

Generally, if a holiday falls on a Saturday, the City will observe the holiday on the preceding Friday. If the holiday falls on a Sunday, the City will observe the holiday on the following Monday. If the preceding Friday or succeeding Monday is also a holiday, the holiday is observed on the next preceding or succeeding work day, as determined by the City.

If the holiday falls on an employee's regularly scheduled day off, the employee's day off is moved to the next closest work day within the same pay period or another

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day within the same pay period, with supervisory approval. The employee will still be paid for the holiday.

### **10.6 RELIGIOUS OR OTHER OBSERVANCES**

An employee who wishes to observe a holiday particular to the employee's ethnicity or religion may do so with approval of the City Manager. The time off shall be charged to vacation, floating holiday, or compensatory time off.

### **10.7 PAID VACATION LEAVE**

Vacation accruals are calculated on a bi-weekly basis in accordance with the City's pay-period schedule and are reflected on the employee's paycheck.

The City recognizes its employees' loyalty and longevity of service by granting an increase in vacation hours at milestone anniversary dates. Regular full-time employee shall be entitled to accrue paid vacation for active completed service according to the following schedule:

<b>YEARS OF SERVICE</b>	<b>VACATION HOURS ACCRUED PER YEAR</b>
Year 0-3	80 hours per year
Year 4-7	120 hours per year
Year 8+	160 hours per year
Year 15+	200 hours per year

The increase in rate of paid vacation accrual is effective on the next pay period following the anniversary of the employee's hire date. For example, if an employee completes three full years of service on July 1st and the next full pay period begins on July 5th, the employee will begin accruing the 120 hours per year on July 5th.

Regular part-time and probationary employees earn vacation hours on a pro-rated basis.

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Service anniversary dates shall be established as of the effective date of employment into a regular full-time position. For example, a 100% FTE employee works 2,080 hours per year (40 hours x 52 weeks = 2,080 hours per year), therefore, an employee would not be eligible to accrue 120 vacation hours until having completed 6,240 hours (2,080 hours x 3 years), which may or may not coincide with the calendar 3 year anniversary of the date of the employee's employment.

#### **10.8 ELIGIBILITY FOR VACATION**

There is no waiting period before an employee can request to take accrued vacation time. However vacation hours cannot be used in the pay period within which they are earned. Further, employees may not utilize vacation that has not yet been accrued.

Each employee requesting vacation time must submit a written/email request to her/his immediate supervisor for review and approval. The time at which an employee may use her/his accrued vacation leave and the amount taken at any one time shall be determined by her/his Department Director, with particular regard for the needs of the City.

#### **10.9 INITIAL ACCRUALS - CITY MANAGER DISCRETION**

The City Manager may grant up to two weeks of additional vacation leave and sick leave at the time of initial appointment without City Council approval to new employees who enter the City with prior local government experience as necessary to recruit and retain employees.

#### **10.10 ELIGIBILITY TO EARN VACATION**

At the discretion of the City Manager, a regular employee will accrue vacation leave while on paid leave, such as sick leave, vacation or non-industrial leave. An

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employee may not accrue vacation while on any unpaid leave of absence or while on Family Medical Leave.

**10.11 HOLIDAY DURING VACATION**

An employee will not be charged vacation leave for a holiday occurring during the employee's scheduled vacation.

**10.12 ILLNESS DURING VACATION**

Vacation leave may be changed to sick leave if an employee submits a doctor's certificate stating that the employee was ill and unable to work during the employee's scheduled vacation.

**10. 13 EARNING AND ACCUMULATING VACATION LEAVE**

The City provides vacation leave to encourage employees to take time away from work on a regular basis. For this reason, employees may earn and accumulate vacation leave up to a maximum of two and one-half (2.5) times the amount of the annual accrual of the employee:

**10.14 MAXIMUM AMOUNT OF ACCRUAL**

Year 0-3	200 hours maximum
Year 4-7	300 hours maximum
Year 8+	400 hours maximum

Any hours accrued above this maximum as of December 1<sup>st</sup> of any given year will be paid to employee at the next full pay period following December 1<sup>st</sup>.

**10.15 VACATION BUYBACK**

Employees are eligible to exchange up to forty (40) hours of accrued vacation for a lump sum payment at the employee's current salary rate twice each fiscal year as follows:



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1. The lump sum payments will occur in conjunction with the last pay period for March and for October of each year.
  2. The employee must have reached his/her three-year (3) anniversary date in order to be eligible to exchange vacation pay.
  3. The employee desiring to exchange vacation leave must have taken at least two weeks (the equivalent of ten 8-hour working days) of vacation, compensatory time off, or management leave during the previous twelve (12) months. . Use of sick leave or leave without pay does not satisfy this program requirement.
  4. The employee, after the requested exchange of vacation leave, must still have at least one-hundred and twenty (120) hours of vacation leave remaining.

#### **10.16 HARDSHIP REQUEST**

In the event that an employee eligible for vacation accrual experiences a financial hardship due to circumstances beyond his/her control, he/she may submit a request to the Human Resources Division to receive cash payment of accrued vacation at any time during the year. The Hardship Request form is available in the Human Resources Division. Examples of qualifying hardship requests include unexpected legal expenses, unbudgeted medical expenses not covered by other means, or any unforeseen situation that would necessitate a hardship request.

In order to keep hardship requests and the circumstances surrounding such a request as confidential as possible, all hardship requests will be reviewed in the following manner:

1. The employee submits a completed Hardship Request form to Human Resources.

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2. The Human Resources Division will obtain an updated copy of the employee's absence schedule from payroll to verify the number of vacation hours available. The employee must still have at least one-hundred and twenty (120) hours of vacation leave remaining to be eligible for a Hardship Request.
  3. If clarification of the request is necessary, Human Resources will contact the requesting employee to obtain additional information.
  4. A request that meets the qualifications described above will be reviewed by Human Resources and then presented to the City Manager with a recommendation for denial or final approval.
  5. The employee will receive a response regarding the status of their request within five (5) working days from the date it is received by Human Resources.
  6. The approved request will be delivered to payroll. A check will be prepared within three (3) business days.

**10.17 REGULAR PART-TIME EMPLOYEE VACATION LEAVE BENEFIT**

Consistent with Section 10.7, Regular Part-time employees, who are eligible for benefits, accrue vacation leave on a pro-rata basis, depending on the average expected hours of work per week. See the table below that sets forth the rate of accrual for an employee who has 0-3 years of service:

20-22 Average Hours	1.53 per pay period (.50 FTE)
23-25 Average Hours	1.92 per pay period (.625 FTE)
26-30 Average Hours	2.30 per pay period (.75 FTE)

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## **10.18 LIMITED TERM AND SEASONAL EMPLOYEES**

Limited Term Part-Time and Limited Term Seasonal employees do not accrue vacation leave.

## **10.19 PAID MANAGEMENT LEAVE**

In addition to paid vacation leave, full-time FLSA exempt management employees receive 80 hours of paid Management Leave as outlined in Section 8.13 of this Manual. The City Manager may grant up to sixteen (16) hours of additional management leave for exempt employees working the modified 9/80 schedule.

## **10.20 SICK LEAVE**

Sick Leave is to be used if an employee or his/her family member becomes ill. Sick leave shall be used only as permitted in this Manual. Abuse of the sick leave benefit, as described in this Manual, is grounds for disciplinary action, up to and including termination.

### **10.20.1 Sick Leave Notice**

An employee must notify her/his immediate supervisor prior to the beginning of any working shift, which the employee will not report for work and for which she/he desires to use sick leave.

An employee is to request prior authorization for any absence due to attendance at any medical appointment. For the purpose of this section, "request prior authorization" shall mean that the employee has notified her/his supervisor with at least one (1) workday's advance notice.

### **10.20.2 Eligibility**

All regular and probationary full-time and part-time employees shall be eligible to accrue sick leave benefits. Employees working in a Limited Term Part-Time or Limited Term Seasonal capacity who work 30 or more days within a year from commencement

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of employment will accrue sick leave consistent with the Healthy Workplaces, Healthy Families Act of 2014. Limited Term Part-Time and Limited Term Seasonal employees can begin to use accrued paid sick leave upon reaching their 90<sup>th</sup> day of employment. For regular, full-time and part-time employees there is no waiting period to utilize sick leave; however, sick leave hours cannot be used within the pay period which they were earned. Further, employees may not utilize unaccrued sick leave.

### **10.20.3 Accrual**

Regular full-time employees earn 3.69 hours per pay period. All part-time regular employees accrue sick leave on a pro-rata basis depending on the average expected hours of work per week (.50 FTE, .625 FTE or .75 FTE). In no case does the number of sick leave hours accrued each pay period exceed 3.69 hours. Limited Term Part-Time and Limited Term Seasonal employees will accrue sick leave at the rate of .034 for every hour worked.

Sick leave is earned during any paid leave of absence, but it is not earned during any unpaid leave of absence, or during Family Medical Leave. Employees that are off of work due to illness or injury shall not accrue sick leave once they begin to receive disability benefits or are no longer receiving wages through payroll, beginning with the first full pay period that they are off payroll, unless otherwise required by law.

### **10.20.4 Earning and Accumulating Sick Leave**

Regular and probationary full-time and part-time employees may accrue a maximum of seven hundred and twenty (720) hours of sick leave. For Limited Term Part-Time and Limited Term Seasonal employees accrued sick leave is capped at 48 hours, or 6 days. Once the accrual maximum is reached, the employee can earn no other paid sick leave until the accrual balance is reduced.

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#### **10.20.5 Sick Leave at Separation**

Sick leave is forfeited and not cashed out upon separation from employment, unless an employee has completed five (5) years or more with the City at the date of separation. For such employees, fifty percent (50%) of the value of an employee's accrued sick leave will be paid to the employee at separation. For Limited Term Part-Time and Limited Term Seasonal employees, accrued sick leave not used will carry over to the following year of employment, but is capped at 48 hours, or 6 days. If an employee is retiring at separation, the cash payment for sick leave may be disbursed to the retiring employee through a lump sum cash payment that is deposited into the employee's deferred compensation account (as allowed under terms and conditions of the plan and Internal Revenue Service regulations), used as a payment to CalPERS to buy service time (if eligible), placed in a retiree health savings account, or a combination of these options, at the election of the employee.

#### **10.20.6 Use of Sick Leave**

Sick leave shall be requested only in cases of actual personal sickness or qualifying instances. The employee requesting sick leave shall notify his/her supervisor or Department Head prior to the start of the employee's regular work shift that he/she will be absent and will utilize sick leave. Sick leave with pay shall not be allowed unless the employee has met and complied with the provisions of these Rules and Regulations and his/her Department Head has approved such payment. Failure to reasonably provide notice of the need for leave, or otherwise comply with the sick leave benefit provisions of this Manual, may be grounds for denial of such sick leave with pay.

Sick leave can be used for the following purposes:

1. 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:

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child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or

2. 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 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. An employee shall have her/his accumulated sick leave balance reduced by an amount equal to the number of hours of sick leave for which pay is received.

#### **10.20.7 Abuse of Sick leave**

The City of Oakley provides a generous amount of sick leave hours and encourages employees to use these hours wisely and maintain a comfortable number of hours available for unforeseen situations. The City considers the abuse of sick leave as a serious offense and evidence substantiating use of sick leave for willful injury, gross negligence, intemperance, or any instances of misrepresentation will result in disciplinary action, up to and including termination from employment.

Other examples of abuse of sick leave include the following:

1. Failure to notify supervisor of medical absence
2. Failure to provide physician's verification when required
3. Fraudulent physician verification
4. Use of sick leave for that which it was not intended or provided
5. Continued pattern of maintaining zero or near zero leave balances or seeking approval of leave without pay because sick leave accrual has been exhausted
6. Pattern of abuse, for example, the routine use before, and/or after holidays;

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before, and/or after weekends or regular days off; after pay days; of any one specific day; following overtime worked; frequent use of half days; and/or any routine use of any combination of the above.

The City of Oakley maintains minimum staffing levels, and excessive absenteeism creates a negative impact on the workplace by disrupting work schedules, increasing overtime costs, leaving projects incomplete, decreasing organizational efficiency, moving additional work upon others, and creating an overall negative morale within the organization.

#### **10.20.8 Proof of Illness/Injury**

The City Manager, or designee, may request, in his/her discretion, that the employee produce a certificate issued by a licensed physician or other satisfactory proof of illness before sick leave is granted.

Additionally, an employee may be required to provide a health care provider's statement verifying the employee's absence from work in the following instances:

1. When an employee returns to work after three (3) days of absence on sick leave
2. Frequent use of sick leave
3. When a pattern of sick leave use has been identified
4. When a supervisor has reason to believe that sick leave is being abused
5. Release to Return to Work

The employee may be required by her/his Department Director or the Human Resources Division to submit a statement/certificate from the attending physician or dentist stating that the employee is or was incapacitated and unable to perform her/his duties, and attest to the employee's ability to resume work. In the event that the employee is not released to full duty, a written statement is required that specifically defines the

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employee's limitations. The City has the right to determine whether or not it has meaningful modified work for the employee to conduct based on her/his work restrictions and the duration that such work, if any, is available.

If the employee has a disability covered under the Americans with Disabilities Act (ADA), the City will enter into an interactive discussion with the employee in an attempt to comply with any reasonable accommodation requested or reasonable alternative accommodation that does not create an undue hardship for the City. The City reserves the right to get a second medical opinion, at the City's expense, regarding the employee's ability to return to work and/or any reasonable accommodation requested.

#### **10.20.9 Sick Leave Donation Program for Catastrophic Circumstances**

With the City Manager's written approval an employee may be eligible to receive donations of up to four-hundred eighty (480) hours of paid sick leave. The employee must have suffered a catastrophic illness or injury which prevents her/him from being able to work, and only if the employee is in good standing (defined as not in the process of a disciplinary separation from employment). The donated hours will be added to an employee's sick leave "bank", if exhausted.

A catastrophic illness or injury is defined as a medically certified illness, injury impairment, or physical condition that prevents an eligible employee from returning to work for a period of 60 or more calendar days.

#### **10.20.10 Rules of Sick Leave Donation Program**

An employee is not eligible to receive sick leave donations if she/he is currently receiving workers' compensation, short-term or long-term disability benefits.

An employee using donated sick leave accrues no sick leave or other leave accruals while utilizing donated leave; however, other benefits, such as insurance and



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participation in the CalPERS defined benefit plan, will continue to be provided to the employee while utilizing donated sick leave.

Donated leave will be counted as sick leave, but shall never be converted into a cash benefit.

#### **10.20.11 Donation Guidelines**

An Employee may donate sick leave if the donating employee:

1. Voluntarily elects to donate sick leave and does so with the understanding that donated leave will only be returned if not used by the affected employee within ninety (90) days of the donation;
2. Donates a minimum of eight hours;
3. Retains a combined leave balance (vacation and sick) of at least one-hundred sixty (160) hours;
4. Donates time in one (1) hour increments. For every one (1) hour of sick leave time donated by the donor, the recipient will be credited with one (1) hour of sick leave. The pay levels of the two employees shall not affect the transaction

#### **10.20.12 Donations are Voluntary**

The City Manager shall respect an employee's right to privacy, however, she/he may, with the permission of the employee who is in need of leave, inform employees of their co-worker's critical need for sick leave hours. The City Manager or any other employee shall not directly solicit leave donations from employees. The donation of leave shall occur on a strictly voluntary basis.

#### **10.21 MEDICAL TERMINATION**

If during an employee's leave of absence, it is medically determined that the employee's condition is permanent and that the employee will not be able to perform the essential functions of her/his job with or without reasonable accommodation (including

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transfer to an alternate available position within the City for which the employee qualifies and where a position is available, or a leave of absence), the City and/or the employee may choose to process an application for non-industrial disability retirement and the employee will separate from employment with the City.

#### **10.22 FAMILY MEDICAL LEAVE ACT AND CALIFORNIA FAMILY RIGHTS ACT**

It is the policy of the City of Oakley to provide family care and medical leave to eligible employees in accordance with the federal Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1994 (CFRA). If you are eligible, and the leave you have requested pursuant to the City's policy qualifies as family care and medical leave, all eligible employees shall be entitled to take up to twelve (12) weeks of unpaid, job-protected leave during any twelve (12) month period for specified family and medical reasons. If the employee has accrued paid leave available, then the employee shall use paid leave first and if insufficient to cover the entire FMLA/CFRA absence in full, the balance of the leave shall be in an unpaid status. This Policy 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.

Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use FMLA or CFRA leave are not protected by the law's provisions for job restoration or maintenance of health benefit provisions.

#### **10.23 DEFINITIONS**

1. "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.

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2. "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.
  3. "Child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is "incapable of self care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
  4. "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
  5. "Spouse" means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below.
  6. "Domestic Partner" is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.

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7. "Serious Health Condition" means an illness, injury impairment, or physical or mental condition that involves:

- a. 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 or her to the facility with the expectation that he or she 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
- b. 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:
  - i. 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
  - ii. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
    - 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
    - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the

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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.

- c. Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a “serious health condition” only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave.
- d. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
  - i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
  - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- e. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or

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family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.

- f. 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.

8. Health Care Provider” means:

- a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
- b. 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 of a serious health condition;
- c. 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 State law;
- d. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;

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- e. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
  - f. 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.
9. "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.
10. "Covered Servicemember" 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.
11. "Outpatient Status" means, with respect to a covered servicemember, 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.

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12. "Next of Kin of a Covered Servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his/her nearest blood relative for purposes of military caregiver leave under the FMLA.

13. "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.

#### **10.23.1 Covered Reasons for Leave**

The following are the reasons for which leave may be taken:

1. The birth of a child or placement of a child for adoption or foster care;



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2. To care for an immediate family member (spouse, domestic partner, child, or parent) with a serious health condition;
  3. To take medical leave when the employee is unable to work because of a serious health condition.
  4. 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 C.F.R. §825.126 - This is a FMLA leave and not a CFRA leave);  
or
  5. 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 either: incurred in the line of duty while on active military duty; or existed before the beginning of the member’s active duty 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 C.F.R. §825.127 - This is an FMLA leave and not a CFRA leave.)

Disabilities due to pregnancy or pregnancy-related conditions are covered under FMLA, but not the CFRA. In California, pregnancy and pregnancy-related disabilities are covered under the Pregnancy Disability Leave Act (PDL). For additional information, please see Section 10.22 Pregnancy Disability Leave Act (PDL).

#### **10.23.2 Employee Eligibility**

An employee shall be entitled to family leave if:

1. The employee has worked for at least twelve (12) months for the City. The twelve (12) months need not have been consecutive. (If the employee was on

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the payroll for part of a week, the City will count the entire week. The City considers fifty-two (52) weeks to be equal to twelve (12) months.)

2. The employee has worked for the City for at least one-thousand two hundred fifty (1,250) hours over the twelve (12) months immediately preceding the commencement of the leave
3. The City directly employees 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 the request.

#### **10.23.3 Parents Both Employed by the City**

When both spouses are employed by the City, they are jointly entitled to a combined total of twelve (12) work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition. 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 workweeks during the 12-month period. This limitation does not apply to any other type of leave under the City’s Family Medical Leave Policy.

#### **10.23.4 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. The City

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will use a rolling twelve (12) month period measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the City computes the amount of leave the employee has taken under this policy, subtracts it from the twelve (12) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken five (5) weeks of leave in the past twelve (12) months, the employee could take an additional seven (7) weeks under this policy.

#### **10.23.5 FMLA Coordination with CFRA and Other Leaves**

Leave granted under the FMLA runs concurrently with CFRA, California Pregnancy Disability Leave, Workers' Compensation and other leaves in accordance with law. 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:

1. An employee may use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical care leave. An employee is entitled to use sick leave concurrently with family and medical care leave for the employee's own serious health condition or that of the employee's parent, spouse, domestic partner or child.
2. 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

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leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; and

b. An employee must agree to use accrued sick leave to care for a child, parent, spouse or domestic partner.

3. 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. The only exception is for peace officers who are on paid industrial injury leave.

In unusual circumstances, leave beyond the 12 work weeks granted under FMLA and CFRA may be available in accordance with the City's leave policies and other state and federal laws.

#### **10.23.6 City Designated FMLA/CFRA Leave**

Even when an employee does not specifically request family and medical leave under FMLA or CFRA, the City may designate time away from work as FMLA and CFRA after three days of absenteeism if the leave meets the requirements outlined in this policy as outlined by state and federal law.

#### **10.23.7 Cities and Employee's Rights if Employee Requests Accrued Leave**

##### **Without Mentioning FMLA/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. 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.

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#### **10.23.8 Maintenance of Benefits**

An employee shall be entitled to maintain City group health, dental, and vision insurance benefits (if any) on the same basis as if she/he had continued to work for the City. To maintain uninterrupted coverage, the employee will have to continue to pay her/his share of insurance premium payments, if any. This payment shall be made either in person or by mail to the Finance Department by the fifteenth (15th) day of each month. The coverage will be dropped by the City if the employee's payment is more than 30 days overdue. Employee contribution rates are subject to any changes in rates that occur while the employee is on leave.

If the employee informs the City that she/he does not intend to return to work at the end of the leave period the City's obligation to provide health, dental and vision insurance benefits (if any) ends. If the employee chooses not to return to work, the City will require the employee to reimburse the City the amount the City contributed towards the employee's health, dental, and vision insurance benefits (if any) during the leave period.

If the employee contributes to a life insurance or disability plan, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the City will require that the employee continue to make those payments. If the employee does not continue these payments, the City will recover the payments at the end of the leave period, in a manner consistent with the law.

No sick leave, vacation, floating holiday, or administrative leave shall accrue to the employee during any time in which the employee is on FMLA/CFRA leave that is unpaid. Holidays, as identified in Section 10.1 of this Manual, shall be paid and no other leave will be required to be used for holidays that occur while an employee is on

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FMLA/CFRA leave; however, holidays do count in the calculation of the twelve (12) weeks of FMLA/CFRA leave.

#### **10.23.9 Job Restoration and Return to Work**

Under federal law (FMLA) and state law (CFRA) you must be reinstated to the same position you had prior to taking the leave, or to an equivalent position provided that you return to work immediately following the conclusion of family and medical leave. If your position is unavailable (for example, due to a temporary or indefinite layoff), you have no greater right to reinstatement than had you been continually employed during the FMLA leave period. You are not entitled to reinstatement if your appointment end date occurs before your scheduled return date from family care and medical leave.

As a condition of returning to work, an employee must provide a certification from her/his health care provider verifying her/his ability to return to work, including any work restrictions. Failure to return to work on the date the employee indicated on the FMLA/CFRA request form (if not extended) may result in disciplinary action up to and including termination. Failure to return to work after the exhaustion of all twelve (12) weeks of FMLA/CFRA leave may result in immediate termination, at the discretion of the City Manager.

The City may choose to exempt certain highly compensated, "key" employees from the job restoration requirement and not return them to the same or similar position at the completion of FMLA/CFRA leave. Employees who may be exempted will be informed of this status when they request leave. If the City deems it necessary to deny job restoration for a key employee on FMLA/CFRA leave, the City will inform the employee of its intention and will offer the employee the opportunity to return to work immediately.

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#### **10.23.10 Intermittent Leave and Reduced Work Schedules**

In certain cases, intermittent (a few days or hours at a time) use of the twelve weeks of FMLA/CFRA or a reduced workweek may be allowed by the City. Employees wishing to use leave intermittently or to utilize a reduced workweek for birth or adoption purposes will need to request and gain approval for such use from the employee's Department Director and the City Manager.

Employees may also use FMLA/CFRA intermittently, or as a part of a reduced workweek whenever it is medically necessary. "Medically necessary" means that there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. If the need to use leave is foreseeable and based on preplanned and prescheduled medical treatment, the employee is responsible to schedule the treatment in a manner that does not unduly disrupt the City's operations. This provision is subject to the approval of the health care provider. In some cases, the City may temporarily transfer an employee using intermittent or a reduced workweek to a different job with equivalent pay and benefits if another position would better accommodate the intermittent or reduced schedule.

#### **10.23.11 Minimum Duration of Leave**

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

If leave is requested to care for a child, parent, spouse or the employee him/herself with serious health condition, there is no minimum amount of leave that must be taken.

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However, compliance with the notice and medical certification provisions in this Policy is required.

#### **10.23.12 Procedure for Requesting Leave**

All employees requesting leave under this policy must complete the Family Medical Leave form available from the Human Resources Division. When an employee plans to take leave under this policy and the leave is foreseeable, the employee must give the City 30 days' notice. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact day(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. If it is not possible to give 30 days' notice, the employee must give as much notice as is possible. If the situation was unforeseen, the employee must submit a leave request form within the first three (3) days of missed work. While on leave, employees are requested to report on a monthly basis to the City regarding the status of the medical condition and her/his intent to return to work.

For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

#### **10.23.13 Procedure for Notice & Certification of Serious Health Condition**

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



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Qualified health care providers include: doctors of medicine or osteopathy, podiatrist, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners and nurse-midwives authorized to practice under State law and performing within the scope of their practice under State law.

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

1. **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 position. Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested.
2. **Family Member Serious Health Condition:** Employees who request leave to care for a child, parent, domestic partner or a spouse 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, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment

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or supervision of the child, parent or spouse. The term “warrants the participation of the employee” includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

3. **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. The City will verify the certification as permitted by the FMLA regulations.
4. **Qualifying Exigency:** The first time an employee requests FMLA leave because of a qualifying exigency, an employee may require the employee to provide a copy of the military member’s active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member’s active duty service. A copy of the new active duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member. The City will verify the certification as permitted by the FMLA regulations. If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established

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in this Policy, the City may delay the taking of FMLA/CFRA leave until required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

#### **10.23.14 Deficiencies in Certification**

The employee must provide a certification for his/her 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 City Manager will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the City Manager 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 City Manager may not ask for additional information beyond that required on the certification form.

#### **10.23.15 Second and Third Medical Opinions**

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 ask for a second opinion. The City will pay for the employee to get a certification from a second doctor, which the

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City will select. If there is a conflict between the original certification and the second opinion, the City may require the opinion of a third doctor. The City and the employee will jointly select the third doctor, and the City will pay for the opinion. The third opinion is considered final. The City must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon request of the employee.

#### **10.25. 16 Return to Work**

Except as provided by law, the employee will return to the same position she occupied when the leave commenced or, if the position is no longer available, the employee will return to a comparable position (equivalent pay and benefits). 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.

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 readiness to return.

As a condition of returning to work, an employee must provide a certification from her health care provider verifying her ability to return to work, including any work restrictions. Failure to provide this certification will result in a denial of reinstatement. If the employee fails to return to work within three (3) days after the approved leave expires, the employee will be considered to have voluntarily resigned employment.

#### **10.26 PREGNANCY DISABILITY LEAVE**

##### **10.26.1 Eligibility and Leave Purposes**

An employee who is disabled due to pregnancy, childbirth, or related medical condition may request an unpaid pregnancy disability leave. There is no length of City

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service requirement before an employee disabled by pregnancy is entitled to a pregnancy disability leave. An employee is “disabled” if, in the opinion of her health care provider, she is unable due to pregnancy to work at all, or is unable to perform any one or more of the essential functions of her job, or to perform these functions without undue risk to herself, the successful completion of her pregnancy, or to other persons. An employee is also considered to be “disabled” if she is suffering from severe morning sickness or needs to take time off for prenatal care.

#### **10.26.2 Duration of Leave**

Subject to the conditions of this policy, eligible employees may take pregnancy disability leave as defined by law up to a maximum of the number of hours the employee would normally work within four (4) calendar months (one-third of a year or 17 1/3 weeks. For an employee who works 40 hours per week, “four (4) months” means 693 hours of leave entitlement, based on 40 hours per week times 17 1/3 weeks). An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave.

Leave granted under the PDL runs concurrently with FMLA and other leaves as appropriate and sanctioned by law. While pregnancy disability leave counts against the amount of leave required to be provided under the FMLA, it does not count under the California Family Rights Act (CFRA). As a result, the employee still may be eligible for an additional twelve (12) weeks of leave under the CFRA for “bonding” leave. Leave may be taken intermittently or on a reduced work schedule if the employee’s health care provider determines that it is medically advisable for the employee to take such leave. Intermittent leave may also be taken for prenatal care appointment and for morning sickness.

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### **10.26.3 Requirements Regarding the Use of Paid Leave**

Pregnancy disability leaves are without pay. However, the employee must use accrued sick leave (if any) during a pregnancy disability leave for any portion of the leave that is otherwise unpaid. After the employee's sick leave is exhausted, she may elect to use accrued vacation time, compensatory time and administrative leave (if any) in order to continue to receive pay during the leave.

### **10.26. 4 Notification Requirements**

An employee requesting pregnancy disability leave must provide proper notification to the Human Resources Division. If the leave is foreseeable, the employee must provide written notice at least 30 days before the leave is needed. If 30 days advance notice is not practicable or the need for the leave is not foreseeable (i.e., a lack of knowledge of when leave will be required, a change in circumstances, or a medical emergency), notice must be given as soon as practicable. All leaves must be confirmed in writing and have agreed-upon specific date of return.

A failure to comply with these notification requirements may result in a denial or postponement of the requested leave until the employee complies with these provisions. However, if the need for pregnancy disability leave results from an emergency or is otherwise unforeseeable, the leave will not be denied for failure to provide advance notice.

### **10.26.5 Certification by Health Care Provider**

Employees must provide the Human Resources Division with a written certification issued by the employee's health care provider verifying that the employee is disabled from working by the pregnancy, or related medical conditions, , the date on which the employee became disabled by pregnancy, child birth or a related medical condition; and the expected duration of the leave.

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### **10.26.6 Benefits, Transfers, Job Restoration and Return to Work while taking Pregnancy Disability Leave**

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

Matters of other benefits, transfers, job restoration, and return to work shall be under the same terms and conditions as the City's Family Medical Leave policy found in this Manual.

### **10.27 DOMESTIC VIOLENCE LEAVE**

Employees may take domestic violence leave pursuant to California Labor Code 230.1 An employee must provide reasonable advance notice to the Human Resources Division of the employee's intention to take time off for domestic violence leave, unless the advance notice is not possible.

If the appointment is unscheduled, or the leave is taken to respond to an emergency or crisis, the employee will be required to provide the Human Resources Division with written documentation of her/his status as a domestic violence victim within a reasonable time after the absence from work. The written documentation will be kept confidential, and can be any of the following:

A police report indicating that the employee is a domestic violence survivor;

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A court order protecting or separating the employee from the batterer, or other documentation from the court or the prosecuting attorney that the employee has appeared in court; or documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse caused by domestic violence.

The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave, accrued vacation or personal leave, or compensatory time off.

This Domestic Violence Leave Policy does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by the City's Family Medical Leave Act Policy.

#### **10.28 LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING TO OBTAIN RESTRAINING ORDERS OR INJUNCTIVE RELIEF**

Any 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, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/her 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, accrued vacation or paid leave, or compensatory time off.



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**10.29 CRIME VICTIM/FAMILY MEMBER VICTIMS' RIGHTS PROCEEDINGS LEAVE**

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

**10.30 BEREAVEMENT LEAVE**

A regular, full-time or management employee is allowed a leave of absence with pay not to exceed three (3) working days per calendar year in the case of the death of a member of the employee's immediate family. Immediate family is defined as spouse, domestic partner, child, child of a domestic partner, stepchild, brother, stepbrother, sister, stepsister, parent, step-parent, mother-in-law, father-in-law, or any other person serving as a parent, grandmother, grandfather, or any other person living in the same household as the employee or an immediate family member of the employee's spouse. (The definition of "immediate family member" for purposes of bereavement leave is different from the definition located elsewhere in this Manual.) Any additional days of absence must be approved by the City Manager and may be charged to sick leave, vacation time or compensatory time.

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## **10.31 COURT APPEARANCES**

### **10.31.1 Jury Duty**

Employees who are summoned for jury duty shall be granted leave for this purpose upon presentation of the jury notice to the supervisor or City Manager. Employees are to notify their supervisors of the jury duty notice as soon as possible in order to minimize any disruption of work.

Employees who are released from jury service before the end of their regularly scheduled shift or who are not asked to serve on a jury panel are expected to call their supervisor as soon as possible and report to work, if feasible.

An employee who is summoned for jury duty is entitled to receive full pay if she/he remits to the City all compensation received for jury duty. Compensation for mileage is not considered compensation for jury duty.

### **10.31.2 Personal Court Appearances/Depositions**

If an employee is required to appear in court or at depositions for personal or non-work related reasons, he/she must notify her/his supervisor immediately and present any relevant documentation, such as a subpoena. Employees are expected to return to work as soon their court appearance is completed. Vacation or compensatory time off must be used for this purpose. If the employee does not have accrued vacation or compensatory time off, the time will be unpaid.

### **10.31.3 Job-Related Court Appearances**

If an employee is required to appear in court or at depositions for work-related cases, she/he will be compensated for her/his time spent for this purpose. The employee should give his/her supervisor as much advance notice as possible of any subpoena received for this purpose. The City will determine whether the matter is work-related (i.e., involves a matter regarding an event or transaction that occurred in the scope of

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the employee's City job duties). Any witness fees received by the employee must be remitted to the City.

### **10.32 PARENTAL PARTICIPATION 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 one (1) through twelve (12), or who are in a licensed child care facility, shall be allowed up to forty (40) hours each school year to:

1. participate in activities of their child's school or licensed child care facility (time for this purpose cannot exceed eight (8) hours per month);
2. find, enroll, or reenroll a child in a school or with a licensed child care provider (time for this purpose cannot exceed eight (8) hours per month);  
or
3. to pick up a child due to a child care provider or school emergency.

The employee must provide reasonable advance notice to his/her supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, personal leave or compensatory time off. 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. The Department Director may require the employee to provide documentation from the school or day-care facility that the employee participated in a school activity on a specified date and a specified time.

Employees wishing to take leave for a child's school activity and who have exhausted their vacation or other accrued leave must request leave without pay and gain the approval from the City Manager or designee for the planned absence.

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### **10.33 CHILD SUSPENSION LEAVE**

Any employee who is the parent or guardian of a child in grades 1 through 12 may take time off to go to the child's school in response to a request from the child's school, if the employee gives advance notice to his/her supervisor. A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel.

### **10.34 INDUSTRIAL LEAVE**

Employees, other than those covered by Labor Code section 4850, who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in pay status under the following provisions.

#### **10.34.1 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 pay until his/her accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.

#### **10.34.2 Accrual of Sick and Vacation Leave Continues While on Paid Leave**

During the time the employee is in fully paid status while absent from work by reason of injury or illness covered by Workers' Compensation, he or she shall continue to accrue sick leave and vacation benefits as though he or she were not on leave of absence.

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### **10.34.3 Unpaid Leave and Continuation of Health Care Benefits**

Any employee subject to this Policy who depletes his/her 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.

### **10.35 INDUSTRIAL LEAVE: EMPLOYEES COVERED BY LABOR CODE SECTION 4850**

Sworn Police and Fire employees covered by Labor Code Section 4850 et seq. will be allowed up to one year leave of absence for an industrial injury or illness without loss of salary in lieu of disability payments, consistent with state law. The employee will continue to accrue sick leave and vacation benefits while in paid status.

#### **10.35.1 Coordination of Benefits**

Whenever the injury or illness continues beyond the one-year 4850 leave period, and when the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's pay may be deducted from the employee's accumulated sick and vacation leave, personal holidays, and compensatory time, if any. Thereafter, the employee may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

### **10.36 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 City Manager, or designee, has determined that the employee's and/or City's best interests warrant the leave. The employee does not have the right to appeal the decision to be placed on administrative leave with pay.

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## **10.37 FITNESS FOR DUTY**

### **10.37.1 General Policy**

If, in the opinion of the Department Director, an employee is unable to perform the duties of her/his position for physical or psychological reasons, the Department Director shall refer that employee to the City Manager. The Department Director/Division Manager, in consultation with Human Resources, may direct an employee to attend a physical examination, at City expense, to ascertain whether the employee is fit to perform the duties of his/her position if there is significant evidence that:

1. The employee's ability to perform one or more essential functions of his/her job has declined; or
2. Could cause a reasonable person to question whether an employee is still capable of performing one or more of his/her essential job duties, or is still capable of performing those duties in a manner that does not harm him/herself or others.

The fitness-for-duty examination is a medical assessment the results of which determine an employee's ability to perform the duties of the position. Specific reasons for the fitness-for-duty request must be stated by the requesting official.

### **10.37.2 Role of Health Care Provider**

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

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health care provider will examine the employee and provide the City with non-confidential information regarding whether:

1. the applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
2. the applicant or employee is fit to perform essential job functions;
3. workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
4. there are any reasonable accommodations that would enable the employee to perform essential job functions; and
5. the employee's continued employment poses a threat to the health and safety of him or herself 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.

#### **10.37.3 Results of the Fitness-for-Duty Exam**

If the results of the fitness-for-duty exam indicate that the employee has a disability which impacts his/her ability to perform the essential functions of his/her position, the City will engage in the interactive process with the employee to determine whether the City can provide a reasonable accommodation to the employee that would allow the employee to perform his/her duties. This may include a leave of absence, paid or unpaid. If the fitness-for-duty exam results state that the employee is cleared to return to work with no restrictions, the employee shall be returned to his/her duties.

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#### **10.37.4 Confidentiality 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. All fitness-for-duty examination results are strictly confidential.

#### **10.38 VOTING**

The City encourages each of its employees to perform her/his civic duty and vote. An employee may request up to two hours of paid leave either at the beginning or end of scheduled working hours if he/she does not have sufficient time outside of working hours to vote. An employee who needs time off from work in order to vote should notify her/his supervisor or the City Manager with at least three (3) working days' notice in order to make the necessary arrangements to allow the employee to take time off to vote. Employees are encouraged to vote by mail/absentee ballot.

#### **10.39 MILITARY LEAVE OF ABSENCE**

Employees who require time off from work to fulfill military duties will be treated in accordance with applicable requirements of State and Federal laws. An employee granted military leave shall give the City Manager a copy of the orders calling him/her to military duty, which will be filed in the employee's personnel file. The military leave of absence will be unpaid and computed as part of the employee's service with the City, except that an employee who takes a military leave of absence before the completion of her/his probationary period shall be required to complete the remaining probationary period upon return to employment. As outlined by law, upon return, the employee shall be reinstated to a position in the same classification or a classification with equivalent status, pay, benefits and other employment terms, if she/he returns to work following the military leave of absence. Under USERRA, employees and their dependents may elect to



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continue coverage for up to 24 months, or if earlier, up to the day after the date that they fail to apply for, or return to work within the time required by USERRA. Employee rights to continued health coverage under USERRA are similar to an employee's rights under COBRA. Any election that employees make pursuant to USERRA will also be an election under COBRA (and vice versa), and COBRA and USERRA will both apply with respect to the continuation coverage elected. The U.S. Armed forces may also provide coverage.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protect the job rights of individuals who voluntarily or involuntarily leave employment to undertake military service or certain types of service in the National Disaster Medical System. USERRA prohibits employers from discriminating against past and present members of the uniformed services and applicants to the uniformed services. The USERRA provides for reemployment rights, the right to be free from discrimination and retaliation, and health insurance protection.

Except in cases of emergency, employees must provide notice to their supervisor or the Department Director prior to utilizing leave under this policy. Please contact Human Resources for additional information regarding your USERRA rights.

#### **10.40 LEAVE WITHOUT PAY**

Any leave without pay must be approved by the City Manager based on the operational needs and the best interests of the City. Such leave is not a right, but a privilege. Employee must make a written request stating the date of leave, the reason for the leave and the estimated duration of the leave. (Leaves of absence as accommodation for disability are not covered by this policy.)

Requests for use of leave without pay will not be approved if an employee has applicable leave hours available to cover the absence.

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Benefits such as vacation or sick leave will not accrue during any leave without pay. Except for as provided elsewhere in this Manual, benefits such as health, dental, vision insurance and retirement contributions may not accrue during leave without pay, at the City Manager's discretion.

#### **10.41 UNAUTHORIZED ABSENCE FROM WORK**

Whenever an employee is absent from work during her/his regular shift without permission or without advance notification to her/his supervisor, or without sufficient accrued leave to cover the absence, it shall be reported as an unauthorized leave of absence. Such unauthorized absence shall be considered as unpaid time off and the amount equal to the time the employee was absent without pay will be deducted from the employee's pay to the extent provided for by law. Without extenuating circumstances, an unauthorized leave of absence is grounds termination of employment.

Non-permanent employees (e.g., external interims, intermittent, student help, and college interns) are ineligible for any benefits, including but not limited to leave benefits. All non-permanent employees must notify and receive approval from their supervisor or Department Director in advance for all absences from work. Any non-permanent employee who is absent without proper authorization of leave without pay may be subject to discipline, up to and including termination.

An employee is considered to be on an unauthorized leave of absence if he or she fails to return to work after authorized leave of absence within the time specified. Failure of an employee to return to work upon the termination of an authorized leave of absence is cause for termination.

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## **Section 11. Employee Conduct**

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### **11.1 EMPLOYEE CONDUCT**

The City's goal is to provide responsive and high quality public services in partnership with our citizens celebrating our community's rich history, cultural diversity, and pride in its prosperous future. This requires employees to take pride in their work and to ensure personally that all members of the public, as well as co-workers, receive timely, efficient and courteous responses to their needs. Accordingly, the highest standards of professional conduct are considered essential for all employees. City employees are committed to be POLITE, PROFESSIONAL and PROGRESSIVE.

### **11.2 PERSONAL APPEARANCE**

The City strives to be a quality and well-respected organization that serves the needs of its community in a professional manner. City employees have the opportunity to reinforce this expectation by their appearance, by their actions, and by their accomplishments. The City believes in the intelligence, pride, and good taste of its employees and, as such, chooses not to impose a strict dress code. Employees are expected to demonstrate a demeanor and appearance that is professional, businesslike, neat, and clean as determined by the requirements of the area in which the employee works. Provocative, suggestive, or other inappropriate and/or offensive attire, as determined by the City Manager, is not acceptable. If employees have questions about whether particular attire is appropriate, they should immediately inquire with their supervisor for consideration and determination.

#### **11.2.1 Casual Friday**

To recognize the hard work and dedication of City employees, the City has established Fridays and the Thursdays prior to Regular Days Off (RDOs) as "Casual Dress Days." Employees should exercise good judgment and common sense when

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dressing casually and take into consideration any meetings that might require more professional dress. The City Manager may at her/his sole discretion, start, stop, or otherwise regulate "Casual Friday."

### **11.3 SERVICE OF PROCESS**

No employee, except those specifically designated, should accept service on behalf of the City of any legal documents pertaining to work-related cases. Any such documents received should be immediately turned over to the City Clerk.

### **11.4 OFF-DUTY SOCIAL AND RECREATIONAL ACTIVITIES**

The City may sponsor social or recreational activities for its employees. Employee attendance at these social activities is voluntary and is not work-related. Neither the City nor its insurer will be liable for the payment of worker's compensation benefits for any injury that arises out of an employee's voluntary participation in any off-duty recreational, social, or athletic activity that is not part of the employee's work-related duties.

### **11.5 PUBLIC EMPLOYEES AS DISASTER SERVICE WORKERS**

Government Code Section 3100 et seq. declares public employees as disaster service workers and requires employees to report to work (and if not possible, then to the next closest public employer) following the effects of natural, manmade, or war-caused emergencies. The City shall establish and maintain a method, or methods, of informing employees of their disaster service worker status. Employees who fail, without good cause, to honor their obligations as disaster service workers shall be subject to disciplinary action up to and including termination.

### **11.6 SMOKING**

Smoking is not permitted in any City facility, and only in designated areas outside of a City facility. Smoking and the use of any tobacco products while in or operating

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any City-owned or City-leased vehicle is not permitted in accordance with California State Labor Code 6404.5.

**11.6.1 AB 846 Statewide Smoke-Free Entryway Law**

Employees are prohibited from smoking within 20-feet of main entrances, exits and operable windows of all City buildings.

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## **Section 12. Employee Relations**

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### **12.1 EMPLOYEE RELATIONS PHILOSOPHY**

The City is dedicated to positive employer/employee relations. The City will strive to maintain good working conditions, competitive wages and benefits, open communication, and employee involvement. The City encourages all employees to report any problems, concerns, ideas or suggestions for improvement to her/his supervisor or to the City Manager. The City is very receptive to employee concerns and is always looking for ways to make the City a better place to work.

### **12.2 EMPLOYEE CONCERNS**

The City strives to promote open discussions regarding any problems or concerns that employees may have with their jobs or their working environment.

Employees are required to follow the “chain of command” and any employee who has a concern is to discuss the concern first with her/his supervisor and Department Director/Division Manager. If the supervisor and/or Department Director are unable to resolve the problem to the employee’s satisfaction, the employee should direct her/his concerns to the City Manager, either in person or in writing. The City Manager shall make the final decision regarding all problems and concerns raised by employees.

#### **12.2.1 Procedure**

In almost every circumstance an employee should follow the “chain of command” as outlined in Section 12.2 of this Manual; however, if for good cause an employee feels uncomfortable about reporting a matter of concern to his/her immediate supervisor, Department Director, the Human Resources Division, or City Manager, then the employee should report directly to a member of the City’s “Collective Risk Management Team.” If for good cause the individual feels uncomfortable about reporting the matter to the City’s “Collective Risk Management Team,” then the individual should report through the

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“Employee Reporting Line.” This number is currently 1-800-576-5262 and will be posted in the Employee Break Room. The names of the members of the CRMT will also be posted.

### **12.3 COLLECTIVE RISK MANAGEMENT TEAM (CRMT)**

A team of at least three employees will be appointed by the City Manager to be available to review, investigate, and evaluate any workplace liability risk or wrongdoing, such as employee safety, theft, harassment, discrimination, etc. The CRMT will recommend to the City Manager appropriate corrective courses of action.

#### **12.3.1 CRMT Activities**

The CRMT receives any reports of alleged workplace wrongdoing, and categorizes the complaint into the type or types of wrongdoing, appropriately assigns the complaint to either an internal or external individual for investigation, and receives notification from the investigator that an investigation has been completed and that the investigator has notified the appropriate individuals (typically expected to be the Human Resources Department and the Department Director) as to the results of the investigation. The CRMT is to maintain confidentiality of the allegation(s) of wrongdoing, investigation(s) and investigative report(s). Discussions are to occur with and among only those individuals who have a legitimate business need to know.

The CMRT will follow City procedures for investigations of disciplinary actions, as set forth in this Manual.

### **12.4 EMPLOYEE GRIEVANCE**

A grievance is an alleged violation of a specific provision of this Manual that adversely affects the employee and that contains all of the information required by Informal Resolution Procedure and Formal Grievance Procedure, below. The following procedure applies to all City employees, unless: the employee is covered by a grievance

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procedure in a memorandum of understanding; another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. The following procedure also does not apply to employee evaluations.

Concerns regarding Management Rights as defined herein are not subject to the grievance procedure. Similarly, the grievance resolution procedures do not apply to performance evaluations, performance-based salary determinations, or disciplinary matters.

#### **12.4.1 Reporting Time Limitation**

An employee who wishes to initiate the grievance process must bring the grievance to the attention of her/his Department Director within ten (10) calendar days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will waive the employee's right to pursue the grievance.

#### **12.4.2 Informal Resolution Procedure**

To initiate informal discussion of a grievance, the employee shall provide the Department Director with a written description of the circumstances causing the grievance within the timeframe set forth in Section 12.4.1 and must indicate that in the written description that the matter is being pursued as a grievance as outlined in this Manual. Within ten (10) calendar days after the receipt of the grievance, the Department Director and the employee shall discuss the grievance and attempt to identify a resolution of the perceived problem. Within ten (10) calendar days after the meeting, the supervisor shall provide the grievant with a written memorandum of the meeting, stating the resolution identified, if any. Employees must complete the informal resolution process prior to submitting a formal grievance.



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### **12.4.3 Formal Grievance Procedure**

If the employee and supervisor are unable to resolve the grievance by the informal resolution procedure, the employee may request formal resolution of the grievance.

### **12.4.4 Written Grievance**

A written grievance shall be submitted within ten (10) calendar days of the completion of the informal resolution process to the Human Resources Division, with a copy to the employee's Department Director. The grievance shall contain the following information:

1. A description of the specific grounds of the grievance, including names, dates and places necessary for a complete understanding of the grievance;
2. A listing of the provisions of City Rules, ordinances, policies and/or procedures which are alleged to have been violated;
3. A list of all persons who are witnesses or who are involved;
4. A listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable; and
5. A listing of specific actions requested of the City, which will remedy the grievance.

### **12.4.5 Grievance Meeting**

The City Manager's designee shall meet within ten (10) calendar days with the employee and the Department Director, separately or together, at the discretion of the City Manager's designee, to resolve the subject of the grievance. The City Manager's designee shall issue a written decision concerning the grievance within ten (10) calendar days from the date of the last meeting with either the employee, Department Director, or both.

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#### **12.4.6 Appeal Process**

The employee may submit a written appeal to the City Manager if the City Manager's designee decision does not resolve the grievance to the employee's satisfaction. The employee appeal must be presented within ten (10) calendar days after receipt of the formal grievance decision. The appeal shall include the subject of the grievance and all supporting documents. If the City Manager is the supervisor involved in the informal grievance resolution procedure, she/he shall designate an uninvolved Department Director, or the City Attorney to hear the appeal. If no appeal has been submitted within ten (10) calendar days from the date of receiving the formal decision, the City Manager's designee formal decision shall be considered as final.

#### **12.4.7 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 procedure constitutes a 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.

#### **12.4.8 City Manager Decision**

Upon receipt of an appeal of a formal grievance, the City Manager, or designee, shall discuss the grievance with the employee, the supervisor or Department Director, and any other involved parties, if any. The City Manager, or designee, shall render a formal decision in writing to the employee within ten (10) calendar days after receipt of the appeal. Such a decision shall be considered final.

#### **12.4.9 Representation**

The employee shall be entitled to one representative at the grievance meeting. The employee and the employee's representative may be allowed to use a reasonable

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amount of work time (as determined by the Department Director) for the actual meetings involved in the grievance process (not preparation time).

**12.4.10 Freedom from Reprisal**

The employee shall be assured freedom from reprisal or retaliation for utilizing the grievance procedure.

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## **Section 13. Employee Discipline**

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### **13.1 DISCIPLINARY ACTION**

The City Manager has the authority to take disciplinary action against any employee in accordance with the disciplinary procedures set forth in this Manual. The City Manager also has the authority to delegate this responsibility to her/his designee. The City Manager has the authority to take disciplinary action against any Management employee or any other at-will employee, at any time, with or without cause, and without affording her/him a right to appeal.

### **13.2 CAUSES FOR DISCIPLINARY ACTION**

Disciplinary action may be taken for any just cause. Cause for disciplinary action shall include, but is in no means limited to, any of the following:

Absence without leave

Abuse of sick leave privileges, including, but not limited to use of leave from work in a manner not authorized or provided for under City policies.

Acceptance of any bribe or kickback, when it appears it was given in the hope or expectation of receiving preferential treatment

Any action that brings discredit to the City or is a direct hindrance to the effective performance of City functions

Any violation of the policies and procedures outlined in this Manual, departmental rules and policies, or any other written policies that may be prescribed by the City

Being under the influence of an intoxicating beverage or non-prescription narcotic or drug while on duty or Failure to notify a supervisor, in writing, when the employee is taking prescription medication that can impair judgment or performance

Breach of confidentiality

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Bringing a gun or any other dangerous weapon onto City property, unless such item is specifically required as part of the employee's job duties

Claim of leave under false pretense, or misuse of leave

Conduct unbecoming of an employee of the City

Conviction of any felony or misdemeanor in State or federal court of which is reasonably-related to the individual's position with the City

Discourteous or non-cooperative treatment of the public, City elected officials or employees, City volunteers

Dishonesty or immorality on the job, including making any false representation or statement, or making any omission of a material fact;

Endangering self or others, or failure to follow adopted safety practices, or failure to properly use required personal protective gear or equipment.

Engaging in outside employment without authorization

Engaging in unlawful discrimination or unlawful sexual harassment in violation of the City's policy and/or state and federal law

Excessive absenteeism

Excessive tardiness

Failure to cooperate in an official inquiry or investigation into an alleged violation of these Personnel Rules

Failure to immediately report a vehicle accident

Failure to obtain and maintain a current license or certificate as a condition of employment

Failure to remain on duty or return to duty after a requested leave of absence has been disapproved, revoked or canceled

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Failure to report to work as scheduled or failure to notify supervisor, in accordance with department standards, of one's inability to report to work

Favoritism

Fraud of any kind; falsification of any City application, medical history record, invoice, paperwork, time sheet, investigative questionnaire or any other City document, report or record or misstatement or untruths or omissions of any material fact in the application process or in securing appointment or promotion; or falsification or untruths concerning records, fellow employees, or work performed

Improper or unauthorized use or misuse of City equipment or supplies, or damage to, or negligence in the care and handling of City property

Improper political activity as defined by State law

Inattention, inefficiency, incompetence, carelessness or inexcusable negligence in the performance of duties

Incompetence or inefficiency in the performance of required duties

Inducing or attempting to induce a City employee to commit an unlawful act in violation of any lawful department or official regulation or order

Insubordination or failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment from an authorized supervisor

Less than satisfactory job performance

Misconduct, willful disobedience, or failure to obey any proper direction made and given by a superior officer or supervisor

Misuse or misappropriation of City property or funds; carelessness or negligence with the monies or other property of the City; appropriating to the employee's own use any property of the City, or loaning, selling or giving away such property without legal authorization

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Neglect of job duties

Offensive or obscene language in public, or towards the public, City elected officials, City employees

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

Outside work that creates a conflict of interest with City work, or that detracts from the efficiency of the employee in the employee's City work

Reporting for duty or being on duty under the influence of any intoxicant or absenting oneself from duty or rendering oneself unfit to perform fully one's duties for reasons attributable to or produced by intoxicants

Taking for personal use, from any person, a fee, gift or other valuable thing in connection with official work when such fee, gift or other valuable thing is given in the expectation of receiving favored treatment

Theft

Conversations in the workplace which are disruptive because of their negativity

Working overtime without supervisory authorization

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

Misuse of unauthorized use of any City property, including but not limited to: physical property, electronic resources, supplies, tools, equipment, communication systems, vehicles, or intellectual property.

Any violation of the City's personnel rules or regulations, including those found in this Manual

Any other conduct equal to the reasons enumerated above as determined by the City Manager

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This list is not to be considered all-inclusive and there may be other circumstances which employees may be disciplined for, up to and including termination.

### **13.3 TYPES OF DISCIPLINARY ACTION**

The purpose of disciplinary action is to correct deficiencies in employee performance, to assure improvement to meet appropriate standards, to correct violations of City policies and procedures and, if necessary, to terminate employees whose misconduct is egregious or whose inadequate performance is not corrected. The types of disciplinary action that may be implemented include, but are not limited to:

#### **13.3.1 Counseling**

Counseling can include any informal discussion with the employee, which is designed to assist the employee to develop or improve her/his skills, abilities, or conduct. The supervisor is usually the individual who counsels the employee. The purpose of counseling may be to clarify agency rules, solve a problem, or discuss particular weaknesses. Ideally, counseling will achieve the goal of remedying problems quickly before they require more severe discipline. Counseling is not subject to the disciplinary appeals process. A memo, confirming the counseling provided, will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary.

#### **13.3.2 Oral Reprimand**

The oral reprimand is simply a verbal (i.e., spoken) notification to the employee that her/his performance or behavior must be improved. Oral reprimands are usually given when counseling has failed or when the employee's conduct warrants action that is more serious. The reprimand identifies the areas in which the employee must improve, establishes goals for improving and informs the employee that failure to the oral reprimand. Oral reprimands are not subject to the disciplinary appeals process. A memo, confirming



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the oral reprimand, will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary.

### **13.3.3 Written Reprimand**

Written reprimands are not subject to the disciplinary appeals process. A written reprimand is written direction from a supervisor to discontinue inappropriate conduct or correct a performance issue. The following procedure applies to written reprimands:

1. The supervisor shall provide a copy of the written reprimand to the employee and review the violation and the reason for the written reprimand
2. The employee must be instructed both verbally and in writing that failure to correct the identified deficiencies and improve performance to meet the City's standards as outlined in this Manual, may result in further discipline up to and including termination
3. The employee will sign the file copy (or refusal to sign will be noted on the copy);
4. The written reprimand is placed in the employee's personnel file
5. The employee has the right to respond in writing to the written reprimand; a copy of any response will be attached to the written reprimand in the employee's personnel file. The written reprimand shall contain notice of the employee's right to respond in writing.

### **13.3.4 Reduction-In-Pay**

A reduction-in-pay is the placement of the employee in a lower salary within the employee's current pay range. As a disciplinary action, the City may reduce an employee's pay to a lower rate within the pay range, or may withdraw increments that were granted for merit. Documents related to the reduction-in-pay shall become part of

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the employee's personnel file when the reduction-in-pay is final, and documented in the performance evaluation. Reduction-in-pay is subject to the disciplinary appeals procedures described below.

#### **13.3.5 Disciplinary Demotion**

Demotion is the involuntary reduction of an employee to a lower-paying classification. The City may demote an employee when she/he has demonstrated that she/he does not have the competence or other qualifications to perform at the higher skill level. The City may also demote an employee when she/he has demonstrated a chronic inability to perform properly his/her assigned job tasks. Documents related to the disciplinary demotion shall become part of the employee's personnel file when the reduction-in-pay is final, and documented in the performance evaluation. Disciplinary demotion is subject to the disciplinary appeals procedures described below.

#### **13.3.6 Suspension**

The City Manager may suspend an employee for cause without pay, for up to 30 calendar days per disciplinary occurrence. Suspension is considered unpaid leave; therefore, an employee will not accrue sick leave; vacation leave; insurance benefits; or CalPERS retirement contributions. Documents related to the suspension shall become part of the employee's personnel file when the suspension is final, and documented in the performance evaluation. Suspension is subject to the disciplinary appeals procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.

#### **13.3.7 Termination**

Regular employees shall be terminated for cause after appropriate disciplinary proceedings have been followed, in accordance with state law. If necessary, the employee may be removed from service immediately and placed on paid leave pending the

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completion of an investigation and/or disciplinary determination. The City Manager may terminate the employment of any management employee or any other at-will employee, at any time, with or without cause and without affording the employee a right to appeal. At-will employees are not subject to the disciplinary procedures as outlined in this Manual.

#### **13.4 PROCEDURES FOR TAKING DISCIPLINARY ACTION**

The courts have established minimum procedural protections (due process) which public employers must provide to public employees who are subject to significant disciplinary action. These procedural protections apply to any public employee, who through the state or local agency laws, has acquired a right to be disciplined or terminated only for “good” or “just” cause. The City of Oakley will follow applicable legal requirements when taking disciplinary action.

These procedures apply to regular merit employees who are subject to termination, suspension, disciplinary demotion, or reduction in pay for disciplinary purposes. They do not apply to management employees, probationary, limited term, seasonal or other at-will employees. These employees may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below.

##### **13.4.1 Investigation**

If appropriate, the Department Director of the employee, or another impartial third party, shall conduct an investigation into the misconduct and shall prepare a report of the findings and submit the report to the Human Resources Division. The City Attorney shall be advised of any investigation and shall provide direction to the person who is conducting the investigation.

##### **13.4.2 Notice of Proposed Disciplinary Action**

Written notice of the proposed Disciplinary Action to be imposed shall be served on a regular employee personally or sent to his/her address of record by Certified Mail

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not less than seven (7) working days prior to the date of the proposed action. If served by Certified Mail, such notice shall be effective and constitute receipt by the employee upon deposit in the United States Post Office.

Such formal notice shall include:

1. A statement of the nature of the Disciplinary Action to be taken;
2. A statement of the causes therefore;
3. A statement of the act(s) or omission(s) upon which the causes are based;
4. A copy of the materials upon which the Disciplinary Action is based; and
5. A statement informing the employee of his/her right to respond to the intended discipline within seven (7) days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both.
6. A statement informing the employee of his right to have a representative of his/her choice present at all meetings related to the discipline, including the *Skelly* conference.
7. Notice to the employee that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

#### **13.4.3 Right to Respond - "Skelly" Process**

Any regular employee shall have the right to respond, either orally or in writing, to the authority (most likely the Department Director) imposing Disciplinary Action and have the response considered prior to any final decision being made with respect to the proposed discipline.

Such a response must be made within seven (7) working days after receipt of the written notice of the proposed Disciplinary Action. Failure to respond within such

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period constitutes a waiver of the right to respond. However, failure to respond shall not affect the employee's right to appeal the Disciplinary Action as provided in this Manual.

After reviewing the employee's response, if any, the Department Director imposing discipline shall formally notify within seven (7) working days the employee in writing of his/her decision to dismiss, modify or impose the proposed discipline. If the Department Director determines to impose discipline, a final "Notice of Discipline" shall be served on the employee. The final notice of discipline shall contain the following:

1. The level of discipline, if any, to be imposed and the effective date of the discipline;
2. The specific charges upon which the discipline is based;
3. A summary of the facts that show that the elements of each charge at issue in the intended discipline are met;
4. A copy of all materials upon which discipline is based; and
5. A reference to the employee's appeal right and deadline to appeal.

The specified discipline, if any, may be imposed when the "Notice of Discipline" is received by the employee. The final notice must be sent by a 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 has moved without notifying the City or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery

#### **13.4.4 Right of Appeal**

Any regular employee shall have the right of appeal for any disciplinary action, except for counseling, oral, and written reprimands. Reclassifications, layoffs, demotions as a substitute for layoffs, changes in status due to employee's loss of a required

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license or certificate, pay increases or denial of pay increases are “non-disciplinary” actions, and, as such, are not subject to appeal, but may be addressed through the City’s grievance procedure as outlined in this Manual.

An appeal must be filed in writing with the Human Resources Division within seven (7) working days of the date of service of the “Notice of Discipline”. Failure to file an appeal within such period constitutes a waiver of the right of appeal, and notice that the employee has accepted the recommended discipline. Filing a notice of appeal shall not stay the imposition of discipline.

### **13.5 APPEAL HEARING**

Due process requires that a permanent, for cause employee receive a post-disciplinary evidentiary appeal hearing before a nonbiased hearing officer or body. The City Manager will designate the hearing officer. The City will follow applicable legal requirements when an appeal hearing is requested.

### **13.6 SCHEDULING THE HEARING**

If the employee files a notice of appeal, an evidentiary hearing shall be arranged for by the Human Resources Division and in consultation with the City Attorney. Typically, the hearing officer shall be the Assistant City Manager or a non-affected Department Director. The hearing shall be scheduled on a mutually agreeable date , taking into account the availability of the parties and witnesses. The hearing will commence as expeditiously as it can be arranged, but no later than sixty (60) working days after receipt of the request for appeal.. The parties can mutually agree to waive this timeline.

#### **13.6.1 Conduct of Hearing**

The hearing officer shall, in the hearing officer’s good judgment, determine the procedures under which the hearing will be conducted. Such procedures shall provide “due process” and comply with the provisions of this Manual. Both the City and the

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employee may call witnesses and present evidence that they deem necessary and appropriate. The hearing shall be closed to the public.

**13.6.2 Failure of Employee to Appear at the Hearing**

Failure of the employee to appear at the hearing shall be deemed a withdrawal of her/his appeal and a waiver of the right to appeal.

**13.6.3 Representation**

The employee may represent herself/himself at the hearing, or be represented by counsel or another representative of his/her choice.

**13.6.4 Advisory Findings of the Hearing Officer**

The findings of the hearing officer shall be rendered within twenty (20) working days of the hearing, or within a reasonable time thereafter, and shall be advisory only to the City Manager. Nothing in these procedures shall be construed as to bind the City or the City Manager to any findings of the hearing officer.

**13.6.5 Decision by the City Manager**

The City Manager may hold an additional meeting with the employee to discuss the advisory findings, or may proceed on the record from the hearing. The City Manager shall render a written decision within twenty (20) working days after receiving the advisory findings of the hearing officer. The City Manager's decision shall be final, conclusive, and binding on all parties. A copy of such decision shall be forwarded to the appellant.

**13.6.6 No Retaliation**

Retaliation or penalty against an employee requesting and participating in the appeal process will not be allowed nor will it be tolerated.

**13.6.7 Reimbursement**

If disciplinary action is subsequently revoked or modified by the City Manager, the employee is entitled to reimbursement for loss of pay, if applicable. Reimbursement is

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limited to the period between the date of initial action and the date of final decision after appeal. No reimbursement will be made for any period during which the employee was not ready and able to perform the duties of her/his position



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## **Section 14. Resignation, Layoff, or Separation from City Service**

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### **14.1 TYPES OF SEPARATION**

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

1. Probationary Release;
2. Release of Limited Term Part-Time and Limited Term Seasonal Employees;
3. Resignation;
4. Retirement;
5. Job Abandonment;
6. Layoff;
7. Non-Disciplinary Separation;
8. Disciplinary Separation.

Probationary Release, Release of Limited Part-Time and Limited Term Seasonal Employees; Job Abandonment; and Disciplinary Separation are addressed elsewhere in this Manual.

### **14.2 RESIGNATION FROM CITY SERVICE**

Resignation is a voluntary separation from the City with either verbal or written notice on the part of the employee. Employees are expected to provide at least two weeks' notice of resignation, and provide the effective date of the resignation. Written resignations shall be promptly forwarded to the Human Resources Division. Written resignations shall become effective upon receipt by the City, without the necessity of any acceptance, unless the employee is notified otherwise. If an employee gives verbal notice of resignation, the supervisor or the City Manager will acknowledge and accept the resignation in writing. Employees who have filed a notice of resignation are expected to be physically present and actively at work up through the effective date of resignation.

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Notice of resignation is final and irrevocable when given and may not be rescinded without the approval of the City Manager.

#### **14.2.1 Failure to Notify**

The failure to provide such reasonable notice shall be noted in the personnel file and may be cause for denying future employment by the City. The Department Director will confirm in writing any verbal resignation that the employee is not willing to confirm in writing.

#### **14.2.2 Use of Accrued Leaves**

No use of vacation, sick leave, administrative leave, compensatory time off, holidays, or any other paid time off in lieu of hours worked, may be used to extend an employee's resignation date beyond the employee's last day worked. The City Manager is authorized to waive this rule.

### **14.3 RETIREMENT FROM CITY SERVICE**

Retirement from City service shall be subject to the terms and conditions of the City's contract with the California Public Employees' Retirement System (CalPERS), and consistent with state and federal law.

An employee planning to retire from the City shall provide a written notice to the Department Director, which will be forwarded to the Human Resources Division for processing. Such notice should be provided, whenever possible, at least 60 calendar days prior to the effective date of retirement. Such notice is final and irrevocable when given and may not be rescinded absent approval of the City Manager.

### **14.4 TERMINATION - DISCIPLINARY**

An employee may be terminated based on disciplinary action pursuant to this Manual.

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#### **14.5 RELEASE OF PROBATIONARY AND LIMITED TERM PART-TIME AND LIMITED TERM SEASONAL EMPLOYEES**

Probationary employees and Limited Term Part-Time and Limited Term Seasonal employees will be released pursuant to provisions of this Manual.

#### **14.6 SEPARATION - NON-DISCIPLINARY**

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 for cause employee has the opportunity for a post-separation appeal as described the Disciplinary Procedures in this Manual.

#### **14.7 LAYOFF - REDUCTION IN FORCE**

An employee may be terminated via layoff by the City Manager, consistent with state and federal law, for any of the following reasons: a shortage of work; lack of funds; material change in duties or organization; in the interest of economy; to reduce the staff of any City function or the return of another City employee occupying the same position from a leave of absence.

The City Manager in consultation with the Department Director shall make reasonable efforts to give primary consideration to business necessity, not seniority, whenever reductions in force are necessary. However, Limited Term Part-Time, Limited Term Seasonal, probationary, and regular part-time employees shall be laid off before regular full-time employees. Employees shall normally be given at least thirty (30) calendar days' notice of a proposed reduction in force, except where necessary to protect the public and carry out the City's mission. The decision to lay off an employee(s) is not subject to any right of appeal or right to submit a grievance.

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#### **14.8 RETURN OF CITY PROPERTY**

A separating employee shall return all City-issued property to the appropriate department. City-issued property may include, but is not limited to: cell phones, credit cards, equipment, gas cards, identification cards, keys, key fobs, passwords (computer, voicemail) and any other City-owned property. All city-owned property must be returned prior to departure from employment. Failure to return the City's property may delay payment of the employee's final paycheck.

A separating employee must also complete a Form 700 "Leaving Office" form within 30 days of separation.

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## **Section 15. Workplace Safety and Workplace Violence Prevention Policies**

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### **15.1 WORKPLACE HEALTH AND SAFETY**

It is the City's policy to promote safety on the job. The health and well-being of its employees is foremost among the City's priorities. The City strives to attain the highest possible level of safety and respect for persons in all activities and operations. Safety is a state of mind and requires constant vigilance and common sense. Safety is everyone's responsibility. For this reason, all employees are required to follow common sense safety practices and correct or report any unsafe condition to their supervisor or Department Director.

### **15.2 EMPLOYEE RESPONSIBILITIES**

Each employee is expected to assist in maintaining safe working conditions. To this end, the City must rely upon employees to ensure that work areas are kept safe and free of hazardous conditions. Employees should be conscientious about workplace safety, including proper operating methods and known dangerous conditions or hazards. Employees must report any unsafe conditions or potential hazards to a supervisor or their Department Director immediately, even if the employee believes the problem has been corrected. If an employee suspects a concealed danger is present on City premises, in a product, facility, piece of equipment, process, or business practice for which the City is responsible, the employee must be immediately bring the matter to the attention of a supervisor or Department Director.

### **15.3 SUPERVISOR/MANAGER RESPONSIBILITIES**

Supervisors must arrange for the correction of any unsafe condition or concealed danger immediately and should contact the Department Director as soon as possible after

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notification of an unsafe condition or concealed danger. Supervisors must report all unsafe conditions or safety issues to the City Manager, even if they have been corrected.

#### **15.4 RULES AND GUIDELINES**

Periodically, the City may issue rules and guidelines governing workplace safety and health. All employees should familiarize themselves with these rules and guidelines since strict compliance will be expected. Failure to comply with the rules and guidelines regarding health and safety, or negligent work performance that endangers an employee's or another employee's health and safety will not be tolerated and will subject an employee to disciplinary action, up to and including termination.

#### **15.5 MANDATORY REPORTING OF ACCIDENTS AND INJURIES**

Any workplace injury, accident, or illness must be reported to a supervisor, Department Director or the City Manager as soon as possible, regardless of the severity of the injury or accident.

#### **15.6 REPORTING REQUIREMENTS**

If immediate medical attention is required, the supervisor will assist the employee(s) in obtaining medical care by referring the employee to the City's designated occupational facility, unless the employee has designated a personal doctor.

If the injury is not a medical emergency, the supervisor will have the employee call the RN First Call service for on-the-job injuries before seeking treatment. The telephone number is 1-877-740-5017. The supervisor shall also provide the employee with the State of California Worker's Compensation Form (DWC-1).

The supervisor must complete the Accident Investigation Report and the State of California's Employers Report of Occupational Injury or Illness (Form 5020).

The required accident reporting forms can be found in Appendix D.

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### **15.6.1 Reporting of Job-Related Injury**

An employee injured in the course of employment must report the accident **IMMEDIATELY** to her/his direct supervisor or to the City Manager. The supervisor is responsible for promptly submitting a statement signed by the employee and providing all details of the accident or injury using the City's authorized form, which is attached in Appendix F.

### **15.7 JOB-RELATED INDUSTRIAL INJURY OR DISABILITY (WORKERS' COMPENSATION)**

City employees may be eligible to receive Workers' Compensation benefits pursuant to State law if the employee is injured or disabled in the course of employment. To be eligible for Workers' Compensation benefits, the injury must be a direct result of the job. Employees must report worker's compensation injuries immediately, as set forth above. (Leaves related to job-related injuries are addressed in the leaves section of this Manual.)

### **15.8 WORKPLACE VIOLENCE PREVENTION POLICY**

The City is committed to a workplace free from violence and the threat of violence. Any violent or threatening conduct of any kind, whether it is directed against a coworker, manager or outside party, will not be tolerated. The prohibition against threats and acts of violence applies to all persons involved in City operations, including, but not limited to, City personnel, contract workers, temporary employees, and anyone else in the workplace. The "workplace" includes any location where City business is conducted, including vehicles and parking lots. Violations of this policy, by any individual are considered very serious and will result in disciplinary action up to and including termination. Such violations may also lead to criminal prosecution or other legal action, as appropriate.

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This policy is intended to bring the City into compliance with existing legal provisions requiring employers to provide a safe workplace; it is not intended to create any obligations beyond those required by existing law.

### **15.9 PROHIBITED ACTS**

Acts or threats of physical violence, including intimidation, violence, threats, harassment, and/or coercion, that involve or affect the City, or that occur on City property, or during the conduct of City business off of City property, will not be tolerated. Workplace violence is any intentional conduct that is sufficiently severe, offensive, or intimidating to cause an individual to reasonably fear for her/his personal safety or the safety of her/his family, friends, and/or property such that employment conditions are altered, hostile, abusive, or an intimidating work environment is created for one or several City employees. Workplace violence may involve any threats or acts of violence occurring on City premises, regardless of the relationship between the City and the parties involved in the incident. It also includes threats or acts of violence that affect the business interests of the City or that may lead to an incident of violence on City premises. 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.

Threats or acts of violence occurring off of City premises that involve employees, agents, or individuals acting as a representative of the City, whether as victims of or active participants in the conduct, may also constitute workplace violence. Specific examples of prohibited conduct that may constitute threats or acts of violence under this policy taking into account the tone of voice, body language and other behavior of the employee when the threat was made, include, but are not limited to, the following:

1. Threats or acts of physical or aggressive contact directed toward another individual



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2. Direct threats or acts of physical harm directed toward an individual or her/his family, friends, associates, or property.
  3. The intentional destruction or threat of destruction of City property or another employee's property, or the property of a customer or citizen.
  4. Surveillance, stalking, harassing or threatening phone calls.
  5. Veiled threats of physical harm or similar intimidation
  6. Striking, punching, slapping or assaulting another person.
  7. Fighting or challenging another person to a fight.
  8. Grabbing, pinching or touching another person in an unwanted way (whether sexually or otherwise).
  9. Engaging in dangerous, threatening or unwanted horseplay
  10. Possessing a weapon during work hours or at the worksite (as defined above), including parking lots or other exterior premises, 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.
  11. Any conduct resulting in the conviction under any criminal code provision relating to violence or threats of violence that adversely affects the City's legitimate business interests

Workplace violence does not refer to occasional comments of a socially acceptable nature. These comments may include references to legitimate sporting activities, popular entertainment, or current events. Rather, it refers to behavior that is personally offensive, threatening, or intimidating.

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## **15.10 ENFORCEMENT**

### **15.10.1 Notification by Employees**

No employee should have to tolerate violence or the threat of violence on the job. Anyone who is the victim of any violent, threatening or harassing conduct, or who observes such conduct taking place (*whether or not the perpetrator is a City employee*), shall immediately report the conduct to her/his supervisor, Department Director, or to the City Manager. All complaints will be handled confidentially and will be thoroughly investigated. The supervisor or Department Director will immediately report to the City Manager.

### **15.10.2 Investigation**

The City Manager or designee, will document the incident, including the employee name(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. The City Manager or designee will make the sole determination of whether, and to what extent, threats or acts of violence will be acted upon by the City. In making this determination, The City may undertake a case-by-case analysis and evaluation in order to ascertain whether there is a reasonable basis to believe that workplace violence, or the threat of violence, has occurred or might occur.

### **15.10.3 Steps to Provide Security**

The City Manager will take additional 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 violent person to leave the site; or
3. Immediately contacting an appropriate law enforcement agency.

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Under this policy, decisions may be needed to prevent a threat from being carried out, a violent act from occurring, or a life-threatening situation from developing. No existing policy or procedure of the City should be interpreted in a manner that prevents the making of these necessary decisions.

#### **15.10.4 City Response to Violation of Workplace Violence Policy**

Once a threat has been substantiated, it is the City's policy to put the threat-maker on notice that she/he will be held accountable for her/his actions. The Department Director will then implement a decisive and appropriate response. A judgment will be made by the City as to what actions are appropriate, including possible medical evaluation and/or disciplinary actions, up to and including termination. Where appropriate, the City may seek criminal prosecution or cooperate with law enforcement officials.

#### **15.10.5 Prevention**

Each Department Director has the authority to enforce this Policy by:

1. Training supervisors and subordinates about their responsibilities under this Policy;
2. Assuring that reports of workplace violence are accurately and timely documented and addressed;
3. Notifying the City Manager and/or law enforcement of any incidents;
4. Making all reasonable efforts to maintain a safe and secure workplace; and
5. Maintaining records and follow up actions as to reports of workplace violence.

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## **Section 16. Harassment and Discrimination Prevention Policies**

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The City of Oakley strives to provide a professional work environment where all employees can work together comfortably and productively, free from harassment, discrimination, and retaliation on the basis of one's membership in a protected class. The City is committed to providing a workplace free of sexual harassment. While the legal standards and consequences of harassment, discrimination, and retaliation are still evolving, the City's policy has been and remains more all-encompassing than the law requires. The City's policy rests on the fundamental precept that each individual treat all others with respect, dignity, and professionalism. Deviation from that fundamental precept will not be tolerated. Whether or not the individual means to offend or believed her/his comments or conduct was welcome is not significant. The City's workplace is not limited to the City's facilities, but may also include client and vendor facilities, as well as anywhere a City business-related function is taking place.

The City is responsible for taking all reasonable steps to prevent harassment, discrimination and retaliation. It is also the policy of the City to provide a procedure for investigating alleged harassment, discrimination and/or retaliation in violation of this Policy. Any retaliation against a person for filing a complaint or participating in the complaint investigation or resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate disciplinary action.

Investigation guidelines for the informal and formal process for resolving sexual harassment/discrimination complaints are located in Appendix G of this Manual.

The good faith actions of supervisors intended to provide employee discipline, such as deficiency notices, performance evaluations, oral warnings, reprimands, and other supervisory actions intended to promote positive performance do not constitute harassment.

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## **16.1 COVERED INDIVIDUALS AND SCOPE OF POLICY**

This Policy protects employees regardless of rank or title, elected or appointed officials, applicants, volunteers, and interns (including unpaid interns). Supervisors, co-workers and third-parties are prohibited from engaging in harassment, retaliation, or any other behavior which violates this Policy. Employees have an obligation to comply with this Harassment and Discrimination policy. Failure to do so may result in disciplinary action up to and including termination.

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.

## **16.2 DEFINITIONS**

### **16.2.1 Protected Classification**

This Policy prohibits harassment and discrimination based on an individual's protected classification. "Protected classification" includes: race/color, national origin/ancestry, sex (including gender, gender identity, and gender expression), religious creed (including all aspects of religious belief, observance, and practice, including religious dress and grooming), age, mental or physical disability, veteran status, medical condition, marital status or status as a registered domestic partner, sexual orientation, citizenship status (including a driver's license issued to undocumented persons), pregnancy (including, medical conditions related to pregnancy or childbirth, and breastfeeding, or medical conditions related to breastfeeding), and any other consideration made unlawful by federal, state, or local law.

### **16.2.2 Discrimination**

This Policy prohibits treating covered individuals differently because of the individual's protected classification, actual or perceived; because the individual associates

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with a person who is a member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.

**Harassment** Prohibited harassment includes, but is not limited to, unwelcome conduct undertaken because of a covered individual's actual or perceived protected classification, such as:

Verbal harassment - epithets, derogatory comments, or slurs.

Examples: *Speech such as name calling, belittling, epithets, derogatory comments or slurs, sexually explicit or degrading words to describe an individual, race, ethnicity or sexually-oriented jokes and stories, comments about an employee's anatomy and/or dress, including physical features, gender identification, sexually oriented noises or remarks, questions about a person's sexual practices, use of patronizing terms or remarks, verbal abuse, graphic verbal commentaries about the body.*

Physical harassment - assault, impeding or blocking movement, or any physical interference with normal work or movement, when directed at an individual.

Examples: *Assault, touching, pinching, patting, grabbing, brushing against, or poking another employee's body, hazing, or initiation that involves a sexual component, requiring an employee to wear sexually suggestive clothing, or making explicit or implied job threats or promises in return for submission to physical acts.*

Visual harassment - derogatory posters, cartoons, or drawings.

Examples: *Displaying derogatory pictures, writings, cartoons, emails, drawings, or objects related to a protected classification, obscene letters or invitations, staring at an employee's anatomy, leering, sexually oriented gestures, mooning, unwanted love letters or notes.*

Sexual favors - unwanted sexual advances which condition of an employment benefit upon an exchange of sexual favors.

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Examples: *Continued requests for dates, any threat of demotion, termination, etc. If requested, sexual favors are not given, making or threatening reprisals after a negative response to sexual advances, propositioning an individual.*

While it is impossible to define every action or all words that could be interpreted as harassment, the examples listed above, along with the state definition of harassment, are not meant to be a complete list of objectionable behavior nor do they always constitute harassment. Harassment on the basis of sex need not be motivated by sexual desire in order to constitute unlawful harassment.

### **16.2.3 Quid Pro Quo Harassment**

Under state and federal law, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's appointment
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment

### **16.2.4 Retaliation**

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant

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or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

### **16.3 GUIDELINES FOR IDENTIFYING HARASSMENT**

Harassment includes any conduct which would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:

1. It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
2. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.
3. Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
4. Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).



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## 16.4 COMPLAINT PROCEDURE

### 16.4.1 Report and Investigation of Complaint

If an individual believes that any City employee, vendor, client or other business contact has harassed her/him, then the individual should IMMEDIATELY report the incident to her/his supervisor or Department Director, orally or in writing. If the immediate supervisor or Department Director is involved in the reported conduct or, for some other reason, the individual feels uncomfortable about reporting to that supervisor or Department Director, the individual should then report directly to the City Manager. If the individual feels uncomfortable about reporting to the City Manager, then the individual should report directly to the Human Resources Division. If the individual feels uncomfortable about reporting to the Human Resources Division then the individual should report directly to City Attorney.

Any employee, who sees or learns of conduct that may constitute harassment under this policy, shall immediately advise her/his Department Director of the incident and actions taken. The Department Director shall immediately report the incident and actions taken to the City Manager.

Upon receiving notification of a harassment complaint, the City Manager will complete and/or delegate the following steps. If the City Manager is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
2. Review the factual information gathered through the investigation to determine

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- whether the alleged conduct violates 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.
3. Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
  4. 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.
  5. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

#### **16.4.2 Proactive Approach**

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

#### **16.4.3 No Retaliation**

The City will not retaliate, nor will it tolerate retaliation, against individuals who complain in good faith about harassment in the workplace. The City will investigate any such report and will take whatever corrective action is deemed necessary, including disciplining and dismissing from employment any individual who is found to have violated these prohibitions against harassment and/or retaliation. All employees and supervisors have a duty to cooperate in the City's investigation of alleged harassment and/or alleged retaliation. Failure to cooperate or deliberately providing false information during an investigation shall be grounds for disciplinary action, including termination.

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#### **16.4.4 Option to Report to Outside Administrative Agencies**

An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check posters that are located on City bulletin boards for office locations and telephone numbers.

#### **16.4.5 Confidentiality**

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated 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.

#### **16.4.6 Responsibilities**

Each non-manager or non-supervisor is responsible for:

1. Treating all individuals in the workplace or on worksites with respect and consideration.
2. Modeling behavior that conforms to this Policy.
3. Participating in periodic training.
4. Cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.

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5. Taking no actions to influence any potential witness while the investigation is ongoing.
  6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or City Manager.

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

1. Informing employees of this Policy.
2. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
5. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
6. Assisting, advising, or consulting with employees and the City Manager regarding this Policy.
7. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
8. Implementing appropriate disciplinary and remedial actions.

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9. Reporting potential violations of this Policy of which he or she becomes aware to the City Manager, regardless of whether a complaint has been submitted.
  10. Participating in periodic training and scheduling employees for training.

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## **Section 17. Alcohol and Drug Policy**

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Alcohol and drug abuse ranks as one of the major health problems in the United States. Continuing research and practical experience have proven that even limited quantities of narcotics, abused prescription drugs or alcohol can impair one's reflexes and judgment. This impairment, even when not readily apparent, can have catastrophic results.

Each City employee has a responsibility to deliver services in a safe and conscientious manner. The City will not jeopardize the safety of other City employees, the public, and/or City operations due to an employee's use of alcohol or drugs. For these reasons, The City has adopted a policy that includes the provisions of the federal Drug-Free Workplace Act of 1998 and the California Drug-Free Workplace Act of 1990. The City's Drug-Free Workplace policy can be found in Appendix I of this manual.

The City requires its employees to report to work completely free from the influence of alcohol, drugs, or other controlled substances.

The City's drug free workplace policy is that it is unlawful to manufacture, distribute, dispense, possess, or use a controlled substance, and that such acts are prohibited in the workplace. If any violation of the policy occurs, the employee will be subject to disciplinary action up to and including termination, as provided for in this Manual.

### **17.1 .1 Prohibited Acts**

Since the use of alcohol, illegal drugs, intoxicants, and controlled substances, on or off duty, impairs an employee's ability to work safely and efficiently, the City prohibits the use of these substances at any time to the extent that they affect, or have the potential to affect, the workplace. Accordingly, the City prohibits the following:

1. Possession, use, or being under the influence of alcohol or an illegal drug, intoxicant, or controlled substance during working hours, including breaks and lunchtime.

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2. Operating a vehicle, either City-owned or employee-owned, during work hours or while on City business while under the influence of alcohol or an illegal drug, intoxicant, or controlled substance.
  3. Distribution, sale, manufacture or purchase or the attempted distribution, sale, manufacture or purchase of an illegal drug, intoxicant, or controlled substance during working hours or while on premises owned or occupied by the City, including in City parking lots and in City-owned vehicles.
  4. Misuse or abuse of prescription medication to the extent that it causes a negative impact on the employee's ability of the employee to safely perform her/his job.

#### **17.1.2 Violations of Policy**

Employees who violate this policy will be removed from the workplace immediately, and placed on paid administrative leave pending disciplinary procedures. The City may also bring the matter to the attention of appropriate law enforcement authorities. Any conviction for criminal conduct involving illegal drugs, intoxicants, or controlled substances, whether on or off duty, or any violation of this policy, including a positive drug-test result, will lead to disciplinary action, up to and including termination.

#### **17.1.3 Notification of Impairment**

Any employee who is using prescription or over-the-counter drugs that may impair her/his ability to safely perform their job or may affect the safety or well-being of others should immediately inform her/his Supervisor of his/her limitations on the ability to safely perform his/her job. The employee is not required to inform his/her Supervisor of his/her medical condition, the name or type of drug being taken or any other private, confidential medical information. The employee need only notify the Supervisor that he/she has limitations on his/her ability to safely perform his/her job duties.

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The City will make a reasonable attempt to find a temporary, modified duty assignment for the employee, if needed, to insure that job safety will not be compromised. A physician's statement verifying the needed accommodation may be required and will be kept confidential. The City will follow its Reasonable Accommodation Policy, located in this Manual, where applicable to address this issue for a qualified individual with a disability. Nothing contained in this policy is intended to interfere or violate an individual's rights under federal and state laws which protect the rights of disabled individuals and/or protect the confidentiality of medical information obtained by the City.

#### **17.1.4 Reporting By Employees**

It shall be the responsibility of each employee who observes, or has knowledge of, another employee who is in a condition that impairs the employee's ability to perform her/his job duties, or who presents a hazard to the safety and welfare of others, or is otherwise in violation of this policy, to promptly report their observation to their immediate supervisor.

#### **17.1.5 Reasonable Accommodation**

The City expects employees who believe that they may have an alcohol or drug problem to seek treatment; however, it is the responsibility of the employee to seek and accept assistance before drug and alcohol problems lead to disciplinary action, including termination. The City will follow its Reasonable Accommodation Policy, located in this Manual, for any employee whose condition constitutes a disability under the law.

The City will also attempt to provide a referral to an appropriate professional organization; however, the City's support for treatment and rehabilitation does not obligate the City to retain any person who violates the City's drug and alcohol abuse policy or other City rule, or whose job performance is impaired because of substance abuse.



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Confidentiality of records and information will be maintained in accordance with all local, State, and federal laws.

## **17.2 ALCOHOL AND DRUG TESTING**

The City shall conduct alcohol and drug tests in the following circumstances:

### **17.2.1 Drug and Alcohol Testing for Applicants for Employment**

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

1. Safety-sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, and enforcing drug laws;
2. Jobs that involve the direct influence over children.

Drug and alcohol tests will be required only after the City has made a conditional offer of employment to an applicant that is contingent upon passing a medical exam. Applicants who test positive for drugs will not be hired.

### **17.2.2 Reasonable Suspicion Testing of Current Employees**

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances.

1. "Reasonable suspicion" to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job,

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a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, an accident involving agency property or equipment, or other evidence of recent drug or alcohol use.

2. Document and Analysis: In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the City Manager. Any reasonable suspicion testing must be pre-approved by the City Manager.
3. Testing Protocol: If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the City Manager has approved, the employee will be relieved from duty, transported to the testing facility and to his/her home after the test. The employee will be placed on sick or other paid leave until the test results are received.

### **17.2.3 Positive Test Result**

Positive test results will be confirmed by a licensed laboratory. Any employee who tests positive for drugs or alcohol will be subject to discipline up to and including termination for violating this policy. Continued employment with the City following a positive drug/alcohol test by an employee is completely up to the discretion of the City Manager and will only be allowed if the employee is willing to undergo treatment and periodic testing upon return to work.

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#### **17.2.4 Testing Employees who have a Commercial Drivers License**

Employees that are required to have a commercial driver's license as part of her/his essential duties shall participate in the City's drug testing program in accordance with Department of Transportation regulations.

#### **17.3 INVESTIGATIONS, SEARCHES, NO EXPECTATION OF PRIVACY ON CITY PROPERTY**

Where a manager or supervisor has reasonable suspicion that an employee has violated the drug abuse policy, the supervisor, or designee, may inspect all City property including, but not limited to vehicles, lockers, work areas, desks, computers and other City locations or property without prior notice, in order to ensure a drug free work environment. The employee is hereby notified that locked areas or containers belonging to the City do not prevent a search and understand that there is no expectation of privacy on City premises, City property, and equipment.

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## **Section 18. City Records, Communication Systems, and Requests for Information**

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### **18.1 CITY RECORDS AND REQUESTS FOR INFORMATION**

All official City records and files are considered the property of the City. Some records are considered confidential and will not be released. A request for information that is not part of an employee's routine job responsibilities or duties should be referred to the employee's supervisor or Department Director.

### **18.2 PUBLIC RECORDS ACT REQUESTS**

It is City policy to comply with State laws regarding access to, and disclosure of, public records. All requests for documents under the California Public Records Act should be referred to the City Clerk's Office. Almost all City public records are now accessible on the City's website.

### **18.3 MEDIA REQUESTS**

Employees receiving requests for information by the news media should refer the requests to the City Manager or his/her designee, specifically authorized by the City Manager to handle public information.

### **18.4 LEGAL SERVICE AND REQUESTS FOR INFORMATION**

Employees shall not respond to any subpoenas, requests for deposition or other legal requests for information regarding official City business. All such requests must be reported immediately to the employee's Department Director, or to the City Manager, who will consult with the City Attorney or other City legal representatives. The City Clerk will coordinate all requests for public records and will consult with the City Manager and City Attorney, as needed.

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## **18.5 OUTSIDE INQUIRIES CONCERNING EMPLOYEES**

All inquiries concerning information about employees from outside sources should be directed to the City Manager, or the Human Resources Division. No employee is authorized to provide a job reference for a current or former employee.

## **18.6 PERSONNEL RECORDS**

The Human Resources Division maintains personnel records for all employees. The Human Resources Division shall maintain the records and reports necessary for the proper administration of the personnel system.

### **18.6.1 Personnel Files**

The Personnel file includes records and documents pertinent to each employee's employment status and history. Personnel files are the property of the City and confidential information in a personnel file will not be revealed to outside sources except as required by law or with the consent of the employee and the City Manager. Personnel files are kept for at least six years after separation of employment. The following information is a matter of public record and will be disclosed to anyone who requests it: employee's name, classification title and department, status, salary range, salary, benefits, date of hire and/or separation date from employment. An employee, or representative with written consent from the employee, may inspect the employee's personnel file during normal working hours. Upon request, an employee may receive a copy of any materials in her/his own personnel file.

### **18.6.2 Confidential Medical Records**

The Human Resources Division shall maintain any medical records and reports for each employee in a separate locked file that will not be accessible to any other employee except on an as-needed basis. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for

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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.

### **18.6.3 Employee Access to Personnel Files**

A current employee may inspect his/her own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect his/her personnel records one time per year. A current or former employee and/or his/her representative, who wishes to review his/her personnel file should make a written request to the Human Resources Division. The inspection must occur in the presence of the City Manager or designee and: (1) at a location where the employee works and at a time other than the employee's work time; or (2) at another agreed upon location without loss of compensation to the employee.

A current or former employee is entitled to receive a copy of his/her personnel records within 30 days after the employer receives a written request. (A current or former employee who wishes to receive such a copy should contact the Human Resources Division in writing. The City may charge a fee for the actual cost of copying.)

Representative's Inspection: If the current or former employee wishes to have another person/representative inspect his/her personnel file, he or she must provide the person/representative with written authorization. The Human Resources Division will notify the employee and/or representative of the date, time and place of the inspection in writing.

No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

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

## **18.7 NOTIFICATION OF CHANGES BY EMPLOYEES**

Employees must notify the Human Resources Division promptly of any change of name, address, phone number, number of dependents, or other applicable personal information.

## **18.8 CITY EQUIPMENT AND RESOURCES**

### **18.8.1 Policy and Applicability**

All files and records stored on City computers are the property of the City. City equipment and resources, including computers and telephones, are for City business, not for personal use, except for *de minimis* use as described below. As a result, City equipment and resources are non-public forums.

### **18.8.2 Agency Equipment or Resources**

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

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### **18.8.3 De Minimis Use**

*De minimis* (brief and infrequent) personal use of City equipment and resources is allowed during an employee's own time, including breaks and lunchtime. Any personal use beyond that which is deemed *de minimis* by the employee's Department Director shall be on employee's own time and **only with prior approval** of the employee's department director. Such use shall not interfere with or conflict with City operations or the work performance of any City employees. Such use shall not be abusive, illegal, inappropriate, or prohibited by this Manual or the City-owned Electronic Media Acceptable Use Policy (see Appendix E).

Making personal copies or printouts at work is discouraged, but for *de minimis* use employees shall pay \$.25 per page for any personal printouts or copies.

### **18.8.4 No Expectation of Privacy**

As outlined in the City-owned Electronic Media Acceptable Use Policy (see Appendix E), electronic mail and voice mail messages are for City business and are considered City property. The City maintains the right to access computer files, e-mail, Internet usage, telephones and voice mail at any time without prior notice, and employees should not assume that such usage, including communications and content contained in or transmitted through City networks or electronic resources are either personal or private. The existence of passwords or delete functions does not restrict the City's access. Employees have no expectation of privacy their use of any equipment or resources.

### **18.8.5 Appropriate Use**

Appropriate use of the City's electronic resources are set forth in City-owned Electronic Media Acceptable Use Policy (see Appendix E). However, the following guidelines for appropriate use of all City equipment must be followed.

1. Employees are expected to keep telephone and computer passwords confidential.



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2. The City prohibits the display, transmission or downloading of sexually explicit images, messages, or cartoons, or any transmission or use of voice mail, email, or Internet communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, religion, color, creed, national origin, sex, sexual orientation, marital status, age, or the presence of any sensory, mental or physical disability. Voice mail, email, or Internet systems may not be used to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations.
  3. Employees, other than personnel designated by the City Manager, are not authorized to load any software programs onto City-owned computer equipment without express approval from Information Technology (IT) personnel. Should an employee load a program without first obtaining permission and damage and/or economic harm results, the employee is liable for the cost of repair and/or restoration of any damages to the computer system.

#### **18.8.6 Employee Cell Phone Usage**

Employees are encouraged to utilize their personal cell phones when making or receiving personal phone calls and no personal long-distance calls may be made from the City's telephone system. Personal phone calls should be on the employee's own time, or be of a *de minimis* nature, as described above.

When it is determined that an employee's responsibilities require the use of a cell phone and the City provides either a phone or a stipend to be used for the employee's business use, the employee must pay for any personal use that causes charges beyond what the service plan or stipend covers. It shall be the employees' responsibility to

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review monthly bills to ensure such costs for personal calls are reimbursed to the City in a timely manner.

Employees misusing the City's computers, Internet, e-mail, telephones and voice mail will be subject to disciplinary action, up to and including termination.

#### **18.8.7 Off Duty Use of Non-City Owned Technology Policy**

While the City respects employee rights of free expression, employees are urged to use good judgment when accessing and using blogs, online journals, social networking sites, or other forms of Internet communications through non-city owned technology while off-duty. The Internet is a public place and your Internet activity is neither personal nor private. As such, all employees should be cognizant of how their use of the Internet may affect their personal reputation and, in turn, their commitment to public service. The City encourages employees who maintain profiles on social networking websites (e.g. Facebook, Twitter etc.) or other such Internet publications to take all steps necessary to restrict others from accessing your profile. Employees shall not post messages on social media which purport to be on behalf of the City or made in their official capacity of City employees, unless they have received written permission to do so from the City Manager. Employee usage of social media that has a nexus to the employee's City employment and which brings discredit upon the City may be subject to discipline pursuant to the Discipline Policy in this Manual. This provision is not intended to prohibit employees from engaging in concerted activity permitted by state or federal law. In all circumstances, employees are not permitted to engage in illegal activity, on or off-duty, which adversely affects the City

#### **18.9 ELECTRONIC PUBLIC RECORDS**

Email is a business tool that shall be used in a professional manner for business purposes only, except *de minimis* use as described above. The email system will be

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used in accordance with generally accepted business practices and current law reflected in the California Public Records Act to provide an efficient and effective means of intra-City communications. When the City becomes the target of litigation, all records maintained by the City are subject to subpoena and review by the other party, including email. Therefore, email is neither personal nor private. Marking a message as “private” or “confidential” does not exempt information from being disclosed. As such, email addressed to, generated by, or received on City computers or servers is the property of the City. Further, employees must send all City communications that are sent via email to and from their official City email address. Employees are prohibited from using their private email address (such as Gmail, Yahoo, MSN/Hotmail, etc.) when communicating City business via email. Should an email related to City business be sent to an employee’s personal email account, the email should immediately be forwarded to the employee’s City email account and responded to accordingly.

As with voice mail, although employees and elected officials have passwords that restrict access to their computers, the City may access any files or email messages stored on or deleted from the computer system. The City reserves the right to access such information for any purpose at any time. The City’s Email Retention Policy can be found in Appendix J of this Manual.

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## **Section 19. Employee Conflict of Interest**

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### **19.1 PURPOSE**

The purpose of this policy is to establish guidelines for ethical standards of conduct, which shall govern City employees in the performance of City business and the duties of their respective jobs. This policy is intended to provide positive direction to City employees in order to prevent potential conflicts of interest. This policy is not all encompassing in its definition of conflict of interest. The “prudent person” theory can and will be applied: action deemed inappropriate by a reasonable person, whether specifically cited in this policy or not, will be subject to inquiry and may be grounds for disciplinary action. This policy is in addition to the City’s Conflict of Interest Code (Title 2, Chapter 9 of the Oakley Municipal Code) and Government Code Sections 87300 et seq.

### **19.2 CONFLICTS OF INTEREST AND GIFTS**

No City employee shall engage in any act, which is in conflict, or creates an appearance of unfairness or conflict with the performance of his/her official duties. This includes, but is not limited to, any conflicts of interest as defined in Government Code section 1090 et seq. and the Political Reform Act, Government Code sections 87100 et seq. and Title 2, California Code of Regulations, sections 18700 et seq.

The City Manager or designee is permitted to accept a gift, gratuity, or favor on behalf of the City and may distribute such gift, gratuity, and favor as she/he deems appropriate to City employees and elected officials in accordance with Fair Political Practices Commission regulations (i.e., holiday gifts and goodies, sporting events tickets, cultural events tickets)

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### **19.2.1 Conflicts of Interest Under Government Code Section 1090**

City Councilmembers, employees, or City consultants shall not be financially interested in any contract made by the City. This includes the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids related to the contract. If a Councilmember or employee has such a financial interest, the City is barred from entering into the contract.

A Councilmember or employee is not deemed financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5. One such noninterest is when Councilmember's members spouse/registered domestic partner has been a City employee for at least one year prior to the Board member's election or appointment.

A Councilmember or employee shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 and if the remote interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract.

### **19.2.2 Conflicts of Interest Under the Political Reform Act (Government Code section 87100 et seq.)**

All City officials and employees must comply with the Political Reform Act.

A Councilmember or certain designated employee shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the Councilmember or designated employee's "economic interests," unless the effect is indistinguishable from

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the effect on the public generally or the Board member's or designated employee's participation is legally required.

A Councilmember or designated employee makes a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the City to any course of action, or enters into any contractual agreement on behalf of the City.

A Councilmember who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Council shall abstain from voting on the matter. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that matter. A Councilmember with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue.

A "designated employee" is one whose position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

#### **19.2.2 Gifts and Gratuities**

Councilmembers and designated employees may accept gifts only under the conditions and limitations specified in Government Code section 89503. Examples of acceptable courtesies include a meal or social event; exchanges of floral offerings or gifts of food to commemorate events such as illness, death, birth, holidays, promotions; a sample promotional gift of nominal value (less than fifty dollars (\$50)).

Except for courtesies as provided above, no employee shall, directly or indirectly, give or receive, or agree to receive any compensation; gift, reward, commission, or gratuity from any source except the City for any matter directly connected with or related to his official services as such employee with this City.

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### **19.2.3 Statement of Economic Interest**

Designated employees must file a Statement of Economic Interest/Form 700 in accordance with particular disclosure categories. (Government Code §§ 87302, 87500.)

### **19.2.4 Incompatible Activities**

No employee may engage in, accepts employment from, or renders services for private interest for any compensation or consideration having monetary value when such employment or service is incompatible with the employee's official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above. An employee should not make a unilateral decision, if there is any doubt about her/his private employment. He/she should consult with the City Manager.

### **19.3 USE OF PUBLIC PROPERTY**

No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for unauthorized personal convenience, for profit, for personal or private use, or as part of secondary employment. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.

### **19.4 POLITICAL ACTIVITIES**

No employee may use City time or property in any manner to promote any political issue or candidate, or to solicit funds for any political purpose or to influence the outcome of any election. Further, no City employee or official shall participate in political activities of any kind while in City uniform or other City-issued clothing.

No employee shall be eligible for appointment or election to any public office (including appointment to a Board, Commission or Committee in the City of Oakley or in a city or unincorporated community within 5 miles of Oakley) when the holding of

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such office or position would be incompatible or would substantially interfere with the employee's official duties, at the discretion of the City Manager.

## **19.5 OUTSIDE BUSINESS OR EMPLOYMENT**

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with his/her City duties, functions, responsibilities, or that of the department in which he or she is employed at the City. All employees holding or considering second jobs must obtain advance approval from her/his Department Director and the City Manager no later than ten (10) working days prior to beginning the employment. Advance approval is required to ensure that the job will not create a conflict of interest or interfere with the proper performance of the any employees' duties. The City Manager will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the City.

The request for approval for outside employment is initiated by the employee submitting the Request for Outside Employment Form, attached in Appendix F. If the City Manger denies an employee's outside employment request, the employee may submit a written notice of appeal to the City Manager within ten (10) days after the date of the denial. The decision on appeal will be in writing, provided within ten (10) days after receipt of the appeal, and shall be final.

### **19.5.1 Annual Approval Required**

An employee must submit a request for employment or outside business (Appendix F) on an annual basis.

### **19.5.2 Changes in Outside Employment Status**

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



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### **19.5.3 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 policy:

1. The employee's work performance declines; or
2. 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.

### **19.5.4 Violations Subject to Discipline**

Unapproved outside employment is grounds for discipline, up to and including termination. Approved outside employment are also grounds for discipline up to termination if any of the following occur:

1. Outside employment involves the employee's use for private gain or advantage the City's owned/controlled facilities, equipment, information, records, supplies, and/or uniforms;
2. Outside employment involves the employee's use of work time compensated for by the City;
3. Outside employment involves the employee's receipt of money, or other consideration for performance of work which the employee would normally be required to perform in their regular course of work for the City;
4. Outside employment requires the employee to do work which may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by any other employee or officer of that same department;
5. Outside employment would require such demands on the employee's time that their ability to perform their City work is adversely impacted;
6. Any employee who engages in outside employment while on sick leave.

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## **Section 20. Miscellaneous**

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### **20.1 POLICY REGARDING VEHICLE USE**

#### **20.1.1 Use of City Vehicles**

The following requirements must be met prior to authorization for official City travel in a vehicle owned, leased, or hired by the City of Oakley:

1. Each employee or volunteer of the City of Oakley who in the course and scope of employment uses a vehicle owned, leased, or hired by the City of Oakley shall have in effect a current, valid California Driver License.
2. Each employee or volunteer shall provide his/her Department Director with a copy of their current, valid California Driver License.
3. Each Department Director shall keep a record and update it regularly to ensure that employees and volunteers who use vehicles owned, leased, or hired by the City in the course and scope of their employment maintain a current, valid California Driver License.
4. With permission from the City Manager, autos leased or hired for use by or on behalf of the City and used only for City business are provided coverage through the Municipal Pooling Authority, subject to the conditions and exclusions in the MPA Liability Memorandum of Coverage.
5. It is the responsibility of the employee or volunteer to immediately report any collision, theft, or damage to the Department Director and the City Manager's Office.

#### **20.1.2 Use of Personal Vehicles**

The following insurance coverage requirements must be met prior to authorization for official City travel in a personally owned vehicle:

- 
1. Each employee or volunteer of the City of Oakley who in the course and scope of employment uses a personally owned vehicle for City business shall have in effect a personal automobile policy from a commercial insurance company with liability limits no less than currently required by the California Compulsory Financial Responsibility Law (Vehicle Code §§1656.2, as amended from time to time by the State Legislature): \$15,000 per occurrence, \$30,000 per accident, and \$5,000 property damage coverage.
  2. Each employee or volunteer who in the course and scope of employment uses a personally owned vehicle for City business shall provide his/her Department Director with a copy of the employee's or volunteer's current, valid California Driver License and Proof of Auto insurance card.
  3. Each Department Director shall keep record and update it regularly to ensure that employees and volunteers who use personal vehicles in the course and scope of their employment maintain current, valid driver licenses and auto insurance.
  4. Employees or volunteers providing proof of auto insurance coverage are required to immediately notify their Department Head in the event of cancellation, nonrenewal, or change of insurance carrier.
  5. The City of Oakley will not be responsible for the replacement or repair of any personal vehicle damaged or destroyed during the course of use. Should the employee not wish to use their personal vehicle, upon request a City car can be made available.
  6. Any automobile liability coverage provided by the Municipal Pooling Authority shall be in excess of the employee's or volunteer's personal auto policy coverage.

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## 20.2 UNIFORMS AND SAFETY SHOES

When required to be worn by employees, uniforms shall be provided to the employee at the expense of the City of Oakley and shall be required to be worn during working hours. Work uniforms shall be appropriate for the typical function performed and consistent with good safety practices. The department/division heads shall determine the color, style and lettering on the uniform to be worn by staff, subject in each case to the approval of the City Manager.

Employees are to report to work in uniforms that are neat, clean, stain-free, and in good repair. The employee shall be responsible for properly laundering and mending their work uniforms at their expense. Where appropriate, *(or more specifically: Employees whose duties routinely require interface with the public and do not involve in physical labor)* uniform shirts will be pressed.

Prior to March 1<sup>st</sup> of each year, department/division heads requiring uniforms shall present uniform needs to the Human Resources Division. Upon approval of the City Manager, uniforms will be provided to employees. Throughout the year, uniform items will be provided upon initial hire and annually on the employee's anniversary date. In the event an employee's uniform is damaged or worn out, the employee shall turn in said work uniform in to his/her Department Head and shall be issued replacement work uniforms.

The City shall retain the right to establish minimum safety and quality standards for safety equipment, clothing, and steel-toed safety shoes to be used while performing assigned tasks. If an employee is at work without the required clothing or safety equipment, that employee will not be allowed to work until she/he is at the worksite with the required clothing and safety equipment.

Employees required to wear safety shoes/boots will be reimbursed for the cost of the footwear on an annual basis up to an amount approved on an annual basis by the

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City Manager (in 2015 the amount is \$215). Limited Term/ Seasonal employees that are required to wear safety shoes/boots will be reimbursed for 50% of the total cost of the safety shoe/boot which shall not exceed \$107.50. Limited Term/Seasonal employees will become eligible for this reimbursement after the employee completes 160 days of employment. The employee shall make the selection of an appropriate type of footwear, subject to the advance approval of the department/division head and provide a formal receipt of purchase. Employees receiving reimbursement under this provision shall be required to wear the approved footwear at all times while on duty.

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## **Section 21. Reasonable Accommodation and Interactive Process**

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

1. Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; and
2. 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; and
3. Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
4. Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

### **21.1.1 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.

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### **21.1.2 Medical Certification Indicating the Need for Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions**

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

### **12.1.3 When to Initiate the Interactive Process**

The City Manager, or designee, will initiate the interactive process when:

1. An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s);
2. The City otherwise becomes aware of the need for accommodation through a third party (e.g., doctor's note requesting accommodation) or by observation of the employee's work;
3. The City becomes aware of the possible need for an accommodation because the employee with a disability has exhausted worker's compensation leave, FMLA/CFRA leave, or other rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation;
4. An employee disabled by pregnancy, childbirth, or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider;

- 
5. An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave;
  6. An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his/her safety at work;
  7. An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
  8. An employer is aware of the need for reasonable accommodation for an employee's or applicant's religious beliefs, observance or practice.

#### **21.1.4 Interactive Communication**

After the occurrence of any of the circumstances requiring initiation of the interactive process, the City Manager or designee will promptly arrange for an interactive process meeting. The interactive process meeting will consist of a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his/her designated representative (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The City Manager or designee will document these communications in writing.

#### **21.1.5 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 his/her 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 has the right to select and implement any reasonable accommodation that it deems effective. The range of potential reasonable accommodations includes, but is not limited to:



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1. 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;
  2. Job restructuring;
  3. Part-time or modified work schedules;
  4. Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;
  5. Preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system;
  6. Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or
  7. Reassignment to a temporary position, if the individual agrees.

#### **21.1.6 Potential Accommodations for Applicants or Employees with Disabilities**

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

1. Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
2. Change in or restructuring of work duties, such as modifying lifting requirements;
3. Providing more frequent breaks;
4. Providing seating;

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

**21.1.7 Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking**

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

1. Transfer, reassignment, modified schedule;
2. Change in work telephone number;
3. Change in location of work station;
4. Installation of locks;
5. Assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
6. The implementation of a safety procedure(s);
7. Adjustment to job structure, workplace facility, or work requirement; and
8. referral to a victim assistance organization.

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### **21.1.8 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 has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

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

### **21.1.9 Determination**

After the interactive process communications, the City Manager will review the information received, and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming him or herself or others; and if the accommodations would pose an undue hardship on City finances or operations. The City Manager will inform the applicant or employee of his/her determination in writing.

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The City Manager will use his/her discretion based upon the particular facts of each case.

## Appendices

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Appendix A	Performance Evaluation Form
Appendix B	Travel Policy
Appendix C	Compensation Policy
Appendix D	Accident Reporting Forms
Appendix E	City-owned Electronic Media Acceptable Use Policy
Appendix F	Request for Outside Employment
Appendix G	Sexual Harassment Discrimination Complaints
Appendix H	Family Medical Leave Act/CRFA
Appendix I	Drug Free Workplace
Appendix J	Email Retention Policy



**PERFORMANCE EVALUATION FORM**  
(TO BE COMPLETED BY THE SUPERVISOR)

<b>Employee's Name:</b>	
<b>Title:</b>	
<b>Department:</b>	
<b>Supervisor's Name:</b>	
<b>Date of Hire:</b>	
<b>Last Appraisal:</b>	

**EVALUATION CRITERIA:** Please evaluate the employee's performance objectively and honestly, and in accordance with the following performance standards:

**5 = Outstanding Performance (EXCELLENT)**

Consistently performs above the expectations and the employee's contribution to the City is unique and of unusually high quality. Employees at this performance level demonstrate job mastery and achieve the highest standard of performance.

**4 = Exceeds Performance Standards (ABOVE AVERAGE)**

Consistently meets and frequently exceeds expected levels of performance. Individuals rated at this level make contributions above what is deemed "satisfactory" performance.

**3 = Meets Performance Standards (AVERAGE)**

Employee meets the minimum expectations. Performance is acceptable, but does not demonstrate performance beyond "satisfactory." This rating represents adequate, but not the hoped for results.

**2 = Does Not Meet Performance Standards (BELOW AVERAGE)**

Generally does not meet expectations. Employee's performance needs improvement to achieve a level of competency expected.

**1 = Significant and Immediate Improvement is Needed (POOR)**

Generally fails to meet expectations. Employee needs immediate improvement to maintain employment.

**N/A = Not Applicable**

Performance in this area is unknown, unobserved, or does not apply to job duties. This person may need the opportunity to demonstrate ability.

**SECTION I:** With input from the employee's self evaluation, please describe up to six projects/tasks (new or ongoing), specific duties, or accomplishments for the employee over the past year, including a detailed description of the work performed, output, and skills the employee used to complete the work and a subsequent rating of 1 to 5 for each item. Please be sure to refer back to and include those set in SECTION 3 of last year's Performance Evaluation.

**PERFORMANCE EVALUATION FORM**  
 (TO BE COMPLETED BY THE SUPERVISOR)

---

Goal/Project/Assignment	WORK PERFORMED	SCORE 1-5
1.		
2.		
3.		
4.		
5.		
6.		
Comments:		

**SECTION 2: Please synthesize performance feedback from others, if applicable, the self-appraisal, and your own insights to rate the employee on his/her skills over the past year in the following areas:**

- Customer Service
- Professional Standards/Technical Knowledge
- Problem Solving
- Productivity/Quality of Work
- Teamwork/Communication
- Leadership / Development (for supervisors only)

*Additional sheets may be attached to elaborate on specific performance objectives. Supervisors are required to provide comments for all performance objectives with a rating of 3 or less.*

**PERFORMANCE OBJECTIVES**

**1=Poor Performance - 5= Excellent Performance**

A. CUSTOMER SERVICE	Rating 1-5
1. How well does the employee serve the public in a polite, friendly, efficient, responsive manner?	1 2 3 4 5
2. How well does employee recognize, respect, and satisfy, internal customer needs in a prompt manner (i.e, co-workers)?	1 2 3 4 5
3. How do you rate the employee's commitment to community input and a proactive approach to solving community issues?	1 2 3 4 5

**PERFORMANCE EVALUATION FORM**  
 (TO BE COMPLETED BY THE SUPERVISOR)

COMMENTS:

**B. PROFESSIONAL STANDARDS/TECHNICAL KNOWLEDGE**

**Rating 1-5**

1. Does the employee apply technical, professional and business knowledge for his/her job tasks?

1 2 3 4 5

2. Does the employee keep current in their profession/area of work?

1 2 3 4 5

3. Does the employee keep commitments and perform well under pressure/deadlines?

1 2 3 4 5

4. Rate the employee's attendance, punctuality, and use of time-off?

1 2 3 4 5

5. Rate the employee's commitment to honesty and integrity.

1 2 3 4 5

6. Rate the employee's understanding of fiscal constraints and commitment to fiscal responsibility of public funds.

1 2 3 4 5

7. Does the employee embrace unanticipated, new and different projects?

1 2 3 4 5

8. Does the employee actively pursue learning and self-development to enhance professional growth?

1 2 3 4 5

9. Does the employee project professionalism through attitude and attire?

1 2 3 4 5

COMMENTS:

**C. PROBLEM SOLVING**

**Rating 1-5**

1. Is the employee a self-starter? Does the employee perform new/assigned tasks in a self-directed manner?

1 2 3 4 5

2. Does the employee use reasonable, sound judgment when making a decision?

1 2 3 4 5

3. Does the employee find resourceful, innovative, and creative ways to accomplish a task?

1 2 3 4 5



**PERFORMANCE EVALUATION FORM**  
 (TO BE COMPLETED BY THE SUPERVISOR)

COMMENTS:

**D. PRODUCTIVITY / QUALITY OF WORK / COMMUNICATION**

**Rating 1-5**

1. Does the employee manage work and resources efficiently?	1	2	3	4	5
2. Rate the employee's ability to plan, prepare and/or deliver oral presentations which are clear, concise and understandable.	1	2	3	4	5
3. Rate the employee's ability to plan and prepare written communications which are clear, concise and understandable.	1	2	3	4	5
4. Rate the employee's speed and technical quality of output, time, utilization, and results.	1	2	3	4	5

COMMENTS:

**E. TEAMWORK**

**Rating 1-5**

1. Does the employee demonstrate a sound team orientation by working cooperatively with fellow employees?	1	2	3	4	5
2. Does the employee effectively address conflict and deal directly with conflict/problem situations in a timely and tactful manner?	1	2	3	4	5
3. Does the employee effectively share information with you and other Team members, as appropriate?	1	2	3	4	5
4. Does the employee assist and support co-workers? Or seek help from others when this is the most effective solution?	1	2	3	4	5
5. Does the employee listen objectively to others and express his/her own ideas clearly and honestly?	1	2	3	4	5
6. How do you rate the employee's commitment to a positive and encouraging work environment?	1	2	3	4	5

**PERFORMANCE EVALUATION FORM**  
 (TO BE COMPLETED BY THE SUPERVISOR)

COMMENTS:

F. LEADERSHIP/DEVELOPMENT (if a supervisor)	Rating 1-5
1. Does the employee create and communicate the City's mission and vision?	1 2 3 4 5
2. Does the employee motivate fellow employees by example, involvement and high customer service standards?	1 2 3 4 5
3. Does the employee keep supervised staff involved and informed of City information?	1 2 3 4 5
4. Is the employee accessible and responsive to needs of supervised staff?	1 2 3 4 5
5. Does the employee delegate effectively and when appropriate?	1 2 3 4 5
6. Does the employee provide coaching, mentoring, and resources needed to develop supervised staff?	1 2 3 4 5
7. Does the employee proactively address supervised staff issues/concerns?	1 2 3 4 5
8. Does the employee provide frequent, honest, and specific feedback to supervised staff?	1 2 3 4 5

COMMENTS:

**TOTAL POINTS POSSIBLE:**

**SCORE:**

**AVERAGE:**

**SECTION 3:** Based upon the employee's strengths and development needs identified through the performance objectives, identify at least three major goals, projects, and/or assignments that employee will work on over the next year.

Identify the specific goal, identify steps to achieve this goal and anticipated date of completion (if applicable). *Remember: goals should be specific, measurable, realistic and include a deadline.*



**PERFORMANCE EVALUATION FORM**  
(TO BE COMPLETED BY THE SUPERVISOR)

Goal/Project/Assignment	Steps to Achieve Goal	Anticipated Completion Date
1.		
2.		
3.		
4.		
5.		

**SECTION 4: Additional Comments:**

**SECTION 5: Signatures:**

CITY MANAGER'S SIGNATURE	DATE
DIVISION/DEPARTMENT HEAD SIGNATURE	DATE
EMPLOYEE SIGNATURE	DATE

~ PLEASE ATTACH THE SALARY/WAGE ADJUSTMENT FORM ~



## SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

<b>Employee Name:</b>	
<b>Title:</b>	
<b>Department:</b>	
<b>Supervisor Name:</b>	
<b>Date of Hire:</b>	
<b>Last Appraisal:</b>	

**EVALUATION CRITERIA:** Please evaluate your performance objectively and honestly, and in accordance with the following performance standards:

**5 = Outstanding Performance (EXCELLENT)**

Consistently performs above the expectations and the employee’s contribution to the City is unique and of unusually high quality. Employees at this performance level demonstrate job mastery and achieve the highest standard of performance.

**4 = Exceeds Performance Standards (ABOVE AVERAGE)**

Consistently meets and frequently exceeds expected levels of performance. Individuals rated at this level make contributions above what is deemed “satisfactory” performance.

**3 = Meets Performance Standards (AVERAGE)**

Employee meets the minimum expectations. Performance is acceptable, but does not demonstrate performance beyond “satisfactory.” This rating represents adequate, but not the hoped for results.

**2 = Does Not Meet Performance Standards (BELOW AVERAGE)**

Generally does not meet expectations. Employee’s performance needs improvement to achieve a level of competency expected.

**1 = Significant and Immediate Improvement is Needed (POOR)**

Generally fails to meet expectations. Employee needs immediate improvement to maintain employment.

**N/A= Not Applicable**

Performance in this area is unknown, unobserved, or does not apply to job duties. This person may need the opportunity to demonstrate ability.

In checking this box, I am indicating that I have chosen not to complete the Self-Evaluation

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

Date: \_\_\_\_\_

## SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

**SECTION 1:** Describe up to six projects/tasks (new or ongoing), specific duties/tasks, or accomplishments of yours over the past year. Please be sure to refer back to and include those set in SECTION 3 of last year’s Performance Evaluation. Include a short, but detailed description of the work performed, output, and skills you used to complete the work. Please provide a subsequent rating of 1-5 for each item (see rating guide on page 1). Please keep in mind that your performance is also rated according to the ‘performance objectives’ listed in Section 2.

Goal/Project/Assignment	WORK PERFORMED	SCORE 1-5
1.		
2.		
3.		
4.		
5.		
6.		
Comments:		

**SECTION 2:** Please review your skills and performance relative to the following performance objectives in the areas of:

- Customer Service
- Professional Standards/Technical Knowledge
- Problem Solving
- Productivity/Quality of Work/Communication
- Teamwork
- Leadership / Development (for supervisors only)

*To complete this section, use the scale to the right to indicate your level of performance over the past year for each objective. Refer to the guide on Page 1. Use the comment box to elaborate on specific performance objectives, or share examples. Feel free to attach additional pages as necessary.*

### PERFORMANCE OBJECTIVES

**1=Poor Performance - 5= Excellent Performance**

A. CUSTOMER SERVICE	Rating 1-5
1. How well do you serve the public in a polite, friendly, efficient, responsive manner?	1   2   3   4   5
2. How well do you recognize, respect, and satisfy, internal customer needs in a	1   2   3   4   5

**SELF-EVALUATION FORM**

(TO BE COMPLETED BY EMPLOYEE)

prompt manner (i.e, co-workers)?	
3. How do you rate your commitment to community input and a proactive approach to solving community issues?	1 2 3 4 5
COMMENTS:	
<b>B. PROFESSIONAL STANDARDS/TECHNICAL KNOWLEDGE</b>	<b>Rating 1-5</b>
1. How well do you understand and apply technical, professional, and business knowledge to your job tasks?	1 2 3 4 5
2. How well do you keep current in your profession/area of work?	1 2 3 4 5
3. How would you rate your ability to keep commitments and perform well under pressure/deadlines?	1 2 3 4 5
4. Rate your attendance, punctuality, and use of time-off.	1 2 3 4 5
5. Rate your attendance commitment to honesty and integrity.	1 2 3 4 5
6. Rate your understanding of fiscal constraints and commitment to fiscal responsibility of public funds.	1 2 3 4 5
7. How would you rate your embrace of unanticipated, new and different projects?	1 2 3 4 5
8. Rate your pursuit of learning and self-development opportunities that enhance your professional growth.	1 2 3 4 5
9. How well do you project professionalism through attitude and attire?	1 2 3 4 5
COMMENTS:	
<b>C. PROBLEM SOLVING</b>	<b>Rating 1-5</b>
1. Do you consider yourself a self-starter? Do you perform new/assigned tasks in a self-directed manner?	1 2 3 4 5

**SELF-EVALUATION FORM**

(TO BE COMPLETED BY EMPLOYEE)

2. How well do you use reasonable, sound judgment when making a decision?	1 2 3 4 5
3. How would you rate your ability to find resourceful, innovative, and creative ways to accomplish a task?	1 2 3 4 5
COMMENTS:	
<b>D. PRODUCTIVITY / QUALITY OF WORK / COMMUNICATION</b>	<b>Rating 1-5</b>
1. How well do you manage work and resources efficiently?	1 2 3 4 5
2. Rate your ability to plan, prepare and/or deliver oral presentations which are clear, concise and understandable.	1 2 3 4 5
3. Rate your ability to plan and prepare written communications which are clear, concise and understandable.	1 2 3 4 5
4. Rate the speed and technical quality of your outputs, time, utilization, and results.	1 2 3 4 5
COMMENTS:	
<b>E. TEAMWORK</b>	<b>Rating 1-5</b>
1. Do you demonstrate a sound team orientation by working cooperatively with fellow employees?	1 2 3 4 5
2. How well do you effectively address conflict and deal directly with conflict/problem situations in a timely and tactful manner?	1 2 3 4 5
3. How well do you effectively share information with co-workers, as appropriate?	1 2 3 4 5
4. How well do you assist and support co-workers? Or seek help from others when this is the most effective solution?	1 2 3 4 5
5. Rate your ability to listen objectively to others and express your own	1 2 3 4 5

## SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

ideas clearly and honestly.	
6. How do you rate your commitment to a positive and encouraging work environment?	1   2   3   4   5
COMMENTS:	
<b>F. LEADERSHIP/DEVELOPMENT (supervisor only)</b>	<b>Rating 1-5</b>
1. As a supervisor, do you create and communicate the City's mission and vision?	1   2   3   4   5
2. As a supervisor, do you motivate fellow employees by example, involvement and high customer service standards?	1   2   3   4   5
3. As a supervisor, do you keep supervised staff involved and informed of City information?	1   2   3   4   5
4. As a supervisor, are you accessible and responsive to needs of supervised staff?	1   2   3   4   5
5. As a supervisor, do you delegate effectively and when appropriate?	1   2   3   4   5
6. As a supervisor, do you provide coaching, mentoring, and resources needed to develop supervised staff?	1   2   3   4   5
7. As a supervisor, do you proactively address supervised staff issues/concerns?	1   2   3   4   5
8. As a supervisor, do you provide frequent, honest, and specific feedback to supervised staff?	1   2   3   4   5
COMMENTS:	

**SECTION 3:** Based on your strengths and development needs identified through the performance objectives, identify at least three major goals, projects, and/or assignments that you want to work on over the next year.





## SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

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Identify the specific goal, identify steps to achieve this goal and anticipated date of completion (if applicable). *Remember: goals should be specific, measurable, realistic and include a deadline.*

Goal/Project/Assignment	Steps to Achieve Goal	Anticipated Completion Date
1.		
2.		
3.		
4.		
5.		

### SECTION 4: Additional Comments:

### SECTION 5:

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EMPLOYEE SIGNATURE

---

DATE

RESOLUTION NO. 65-06

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF OAKLEY

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**ESTABLISHING A POLICY REGARDING OFFICIAL TRAVEL AND OTHER  
BUSINESS AND REIMBURSEMENT OF EXPENSES ASSOCIATED THEREWITH**

**WHEREAS**, members of the City's legislative bodies and city employees perform official duties that require travel; and

**WHEREAS**, the official duties that involve travel include trainings, conferences, meetings with legislators and regulators, and meetings with staff and officials of surrounding communities regarding matters of mutual importance; and

**WHEREAS**, the performance of such official duties facilitates the efficient and satisfactory completion of City business and promotes a good relationship between the City and surrounding communities, the state government, and the federal government; and

**WHEREAS**, members of legislative bodies and city employees incur expenses related to the performance of official duties, which may take place both within and outside of the City of Oakley; and

**WHEREAS**, the California Government Code permits the City to reimburse employees and members of the City Council for expenses incurred in the performance of official duties; and

**WHEREAS**, the City Council has adopted an ordinance authorizing reimbursement for the members of the Planning Commission and Youth Advisory Committee for expenses incurred in the performance of official duties; and

**WHEREAS**, Assembly Bill 1234 (2005) requires the City Council to, prior to providing reimbursement to members of City legislative bodies, adopt a policy regarding the reimbursement for expenses incurred by members of legislative bodies in the performance of official duties; and

**WHEREAS**, this Resolution is intended (a) to satisfy the pertinent requirements of AB 1234 relating to reimbursement of expenses of members of legislative bodies; (b) to set forth a reimbursement policy applicable to employees; and (c) to establish other requirements related to travel expenses paid by the City.

**NOW, THEREFORE, The City Council of the City of Oakley does hereby RESOLVE as follows:**

*Purpose:*. The purpose of this policy is to ensure that the reimbursement of members of legislative bodies and city employees for expenses incurred in the performance of official duties complies with the California Government Code, including the recently enacted Assembly Bill 1234, which adds Sections 53232.2 et seq. to the Government Code, to establish a reimbursement policy applicable to City officials and employees, and to establish other requirements related to travel expenses paid by the City.

1. **Policy.** Members of a legislative body and city employees may be reimbursed for reasonable expenses incurred in the performance of official duties only as provided in this Policy pursuant to the provisions of this policy.
2. **Definitions.** The following definition shall apply to this Policy:
  - a.) "Legislative body" means the City Council, Planning Commission, Youth Advisory Committee, or any other advisory body formally appointed by the City Council.
3. **Types of Occurrences that Qualify for Reimbursement.** Members of a legislative body and city employees may be reimbursed for reasonable expenses incurred in the performance of official duties pursuant to the provisions of this Policy, including: (a) attending conferences, (b) attending organized educational activities, (c) meeting with local, state, and federal legislators and officials regarding official City business, (d) meeting with staff and officials of surrounding communities regarding matters of mutual concern, (e) attending City events, (f) participating in regional, state, and national organizations whose activities affect the City's interests, and (g) implementing a City-approved strategy for attracting and retaining businesses to the City, which will typically involve at least one staff member.
4. **Government Rates.** Airlines, hotels, and rental car companies often make special rates available to state, federal, and local governments. These rates are presumed to be the most economical and reasonable rates for the purposes of this Policy. Those booking travel should consult available resources, such as [www.catravelmart.com](http://www.catravelmart.com), to determine the applicable government rates.
5. **Travel Authorization and Reconciliation:** Members of the legislative body and all city employees must submit a travel authorization form at least 10 days prior to the proposed travel date(s). Within 10 working days of returning from travel a member of the legislative body and all city employees must complete a travel reconciliation form. If arrangements cannot be made due to lack of advance

warning or other extenuating circumstances as approved by the City Manager or his or her designee, the above timeframe may be reduced.

**6. Transportation.**

- a. **Cost Comparison to Determine Mode of Transportation.** When contemplating travel arrangements, members of a legislative body and city employees should choose the least expensive mode of travel. For example, in some cases, it may be less expensive for the city to reimburse members of a legislative body or an employee for mileage associated with vehicle transportation than to pay for air travel. Prior to making travel arrangements, the employee or member of the legislative body shall compare the cost of traveling by the various modes of travel available and determine the most cost-effective mode given the official or employee's scheduling needs. Members of legislative bodies and City employees shall also consider cost-saving strategies such as car-pooling in the cost comparison.
- b. **Air Travel.** When possible, members of a legislative body and city employees should arrange for air travel to be directly paid for by the City with a City credit card. The designated individual in each City Department responsible for making travel arrangements, pursuant to City of Oakley Administrative Policy, shall book the most economical and reasonable mode and class of transportation available that is consistent with the official or employee's scheduling needs.

If advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as approved by the City Manager or his or her designee before the expenses are incurred, members of a legislative body and city employees may be reimbursed for the expense of a roundtrip airplane ticket, so long as the claimant obtained three quotations for airfare, including government and group rates when available, reasonable and practical, and the amount of reimbursement sought does not exceed the least expensive airfare that is consistent with the official or employee's scheduling needs.

- c. **Personal Vehicle Travel:** Members of a legislative body and city employees may be reimbursed expenses incurred in traveling by personal vehicle on official business at the Internal Revenue Service Mileage Rate as it may be amended from time to time. Members of a legislative body and city employees requesting such reimbursement shall file a Mileage Reimbursement Request form, which shall satisfy the documentation requirements of this Policy.

- d. **Car Rental Reimbursement:** Prior to requesting a rental car, officials and employees traveling on business shall consider whether a rental car is the least expensive means of transportation at the destination. When possible, members of a legislative body and city employees should arrange for car rentals paid for in advance by City credit card and by the designated individual in each Department responsible for travel arrangements. The City will book the most economical and reasonable rental rate that is available.

If advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as approved by the City Manager or his or her designee before the expenses are incurred, members of a legislative body and city employees may be reimbursed for the expense of car rental, so long as claimant obtained three quotations for car rental rates, including government and group rates when available, and the amount of reimbursement sought does not exceed the least expensive car rental rate that is available.

7. **Meals:** Compensation for meals consumed by members of the legislative body and city employees in conjunction with travel on official business consistent with Section 3 of this policy will be based on "per diem" rates published annually by the U.S. General Services Administration (USGSA) for the location(s) of travel. When a member of the legislative body or city employee submits a travel authorization form identifying the location and purpose of travel, the "per diem" meal rate pursuant to the USGSA published rates will be determined and provided to the member of the legislative body or city employee traveling. If a member of the legislative body or city employee is concerned that the published USGSA "per diem" rate will not be sufficient, the City Manager may increase the "per diem" rate for a specific travel occurrence.

If a meal is provided by a conference or organized educational activity, or otherwise included in the registration fee, members of legislative bodies and city employees may not be reimbursed for a meal purchased in lieu of, or in addition to, the provided meal. If a member of a legislative body or a city employee is not traveling for the entire day, the per diem allowance will be prorated for the meals actually required.

- a. **Reimbursement for Other Meals.** Where authorized by Section 4 of this Policy, members of a legislative body and city employees may be reimbursed for their meals associated with the performance of duties at rates not to exceed the amounts set forth in this Policy. Meals for spouses, members, and other third parties shall not be reimbursed.

8. **Lodging.**

- a. The City will pay for or reimburse for lodging expenses when travel on official city business reasonably requires an overnight stay.
  - b. When possible, members of a legislative body and city employees should arrange for lodging expenses to be paid by City credit card, pursuant to City of Oakley Administrative Policy relating to credit card usage. The designated individual in each Department responsible for making travel arrangements, shall book lodging at the most economical and reasonable rates for lodging that is in a location that is reasonable and convenient in relation to the official or employee's scheduling and official business needs. For lodging in connection with a conference or organized educational activity, such lodging costs shall generally not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of a legislative body or city employee at the time of booking.
  - c. If such advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as approved by the City Manager or his or her designee before the expenses are incurred, a member of the legislative body or city employee may be reimbursed for lodging expenses, so long as the amount of the reimbursement does not exceed the government or group rates offered by a provider of lodging in a location that is reasonable and convenient in relation to the official or employee's official business needs or the maximum group rate published by the event or activity sponsor, whichever is higher.
9. ***Miscellaneous Expense Reimbursement.*** Members of a legislative body and city employees may be reimbursed for actual and necessary incidental expenses incurred in connection with a conference, organized educational activity, or other performance of official duties. Incidental expenses include reasonable gratuities for hotel and airline employees (but not for meals), parking fees, cab fares, public transportation costs, tolls, telephone calls relating to the performance of official duties, and other business-related, miscellaneous expenses.
10. ***Conference Registration Fee Reimbursement.*** When possible, members of a legislative body and city employees should arrange for conference and organized educational activity registration fees to be paid in advance of the conference by City credit card, pursuant to City of Oakley Administrative Policy relating to credit card usage. If such advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as determined by the City Manager or his or her designee, members of a legislative body and City employees may be reimbursed for the expense of a conference or organized educational activity registration fee.

11. ***Expenses to Accommodate Disabilities.*** This policy shall not be construed to limit the City's ability to reimburse members of a legislative body and city employees for necessary expenses in excess of that which is otherwise permitted under this policy where such additional expenses are necessary to accommodate for a disability.
12. ***Other Expenses.*** All other reasonable expenses incurred in the performance of official duties that are not described in this Reimbursement Policy shall not be reimbursed unless approved before the expense is incurred by the City Manager.
13. ***Prohibited Expense Reimbursements.*** Members of a City legislative body and City employees shall not be reimbursed for expenses such as alcoholic beverages, spouse or family meals, entertainment expenses such as movie rental fees, theater tickets or sporting event fees, and fines for parking citations.
14. ***Brief Report to Legislative Body.*** Members of City legislative bodies shall provide brief written reports on meetings attended at the expense of the City at the next regular meeting of the legislative body immediately following the event for which reimbursement is sought. If more than one member of a legislative body attends the event, a report from one of the members that mentions the other's presence is sufficient.
15. ***Effect of Violation.*** A violation of this Reimbursement Policy may result in the following penalties, including, but not limited to: 1) loss of reimbursement privileges; 2) restitution to the City; 3) civil penalties for the misuse of public resources pursuant to Section 424 of the California Penal Code; 4) prosecution for misuse of public resources pursuant to Section 424 of the California Penal Code; 5) for City employees, disciplinary action, up to and including termination.
  - b. ***Development of and periodic revisions to City Credit Card Policy.*** The City Manager will develop an Administrative Policy on City Credit Card Usage and will periodically update the policy conform to the limits on expenditures for transportation, lodging, meals, and other expenses set forth in this Policy.
  - c. ***Effective Date.*** This Resolution shall take effect immediately.
  - d. ***Severability Clause.*** The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the ordinance or their applicability to other persons or circumstances.

**PASSED, APPROVED, AND ADOPTED** this 24th day of April, 2006, by the following vote:

AYES:                    Connellley, Nix, Rios, Romick

NOES:                   None

ABSENT:                Anderson

ABSTENTIONS:       None

APPROVED:



\_\_\_\_\_  
MAYOR

ATTEST:



\_\_\_\_\_  
CITY CLERK





## COMPENSATION POLICY

*A compensation policy states the City Council's policy regarding compensation of City employees and provides consistent guidelines in the setting of salary ranges and the movement of employees through the salary ranges.*

### COMPENSATION POLICY

Compensation for City employees is based upon a philosophy of recruiting a small, highly qualified staff, providing competitive compensation, and expecting a high level of work performance.

It is the intent of the City Council to establish a compensation policy, which will support and recognize innovation and exceptional performance. It is the City Council's policy that compensation is based on performance, therefore, individual compensation adjustments are not "automatic", step-oriented, or solely based on cost-of-living adjustments.

It is the City's goal to establish and maintain a compensation program reflective of its mission, vision, and values. The total compensation program offered includes wage/salary, incentive pay opportunities as applicable, and a wide range of benefits.

The City of Oakley Salary structure and ranges will be reviewed as necessary and will be based on the following criteria: (1) an evaluation of the City's ability to pay; (2) competitive market place survey data; (3) the relative value of each position; (4) individual performance; and (5) qualifications and experience.

The compensation program is designed to enable the City of Oakley to successfully attract, develop, retain, and reward employees for their knowledge and contributions.

The City also wishes to foster a team concept within the organization, recognizing the importance of a satisfied, productive, and cohesive workforce. In implementing this program, the following guidelines will be considered based upon the financial resources of the City.

## **1. Considerations in Establishing Compensation Package**

### **A. Competitive Position – Establishment of Ranges**

Employment classifications will be grouped into salary ranges. The salary ranges will include management and non-management employees. New or any modifications to salary ranges will be recommended by the City Manager and adopted by the City Council.

For each individual classification, the City will establish a salary range with a minimum and maximum salary. It is the City's objective to establish ranges that closely match the salary ranges of surveyed classifications at the mean (average) of the survey agencies. After reaching the maximum point, an employee has the opportunity to earn a lump sum merit award based on exceptional performance, but may not be considered for base salary increases unless his or her salary range is adjusted. Salary ranges for part-time employees will be set by the City Manager.

The City will analyze each individual classification as it best matches the classifications of the survey agencies. The salary ranges for classifications that are not closely matched will be set based on internal relationships or a relationship to a similarly surveyed classification.

### **B. Labor Market – Comparative Cities**

The City has established the following comparative cities for salary setting purposes:

- Antioch
- Brentwood
- Hercules
- Pittsburg
- Benecia
- Pleasant Hill

**C. Measurement of Competitive Position**

In considering the City's competitive position, total cash compensation will be considered which includes base salary and any cash related additions to base salary. Benefits will be considered, but will not be a part of the direct compensation comparison.

**D. Frequency of Salary Survey**

At least every two years, the City's individual job classifications will be surveyed to assess the City's position relative to the comparative cities as described above. Benchmark classifications will be included in the survey along with other positions that may be common among the survey agencies. Salary ranges will be adjusted at the discretion of the City Council, if necessary to maintain the City's competitive position in the market, taking into consideration the City's financial situation.

**2. Individual Employee Compensation**

**A. Employee Salary Adjustments**

Individual compensation adjustments within the salary ranges will not be "automatic," step-oriented or based solely on cost-of-living adjustments, but will be based on 1) fiscal prudence, 2) objectives achieved, and 3) exceptional individual performance.

The City Manager sets the actual salaries for each employee to be hired within each City-Council approved salary range between the minimum point and the maximum point. On rare occasion, the City Manager may set a salary above the salary range maximum point. The City Manager has the ability to administratively move an individual within the salary range. (The City Council sets the actual salary of the City Manager). Periodically, the City Council will adopt revised salary ranges that take into consideration the competitive market place and the cost of living. When the City Council approves a new or adjusted salary range, the City Manager shall consider said adjustment as each affected employee is evaluated for a merit increase.

**NOTE:** The approved adjustment to a salary range does NOT automatically move the employee within the range, but grants the authority to the City Manager to consider such an increase based on merit, cost of living, and

competitiveness along with any other merit increase range approved by the City Council.

At the time employees are evaluated, the level of performance for each employee will be determined. The range for the percentage of any merit increase (x % - x %) will be determined by the City Council before July 1<sup>st</sup> of each year depending upon the City's competitive position in the market and taking into consideration the City's financial situation. Performance evaluations for all employees will then be conducted and any merit increase considered by the City Manager to be effective the first full pay period of August. (The City Manager will consider, when determining any merit increase, if an employee began employment near the first full pay period of August).

**B. Recognition of On-going Innovation and Exceptional Performance (Annual Merit Award)**

Employees who exhibit innovation and exceptional performance during the previous year may be eligible to receive a lump sum merit award as deemed appropriate by the City Manager. The award will not exceed 10%. Any award above this amount requires approval of the City Council.

**3. Non-Salary Benefits**

At least every two years, the City will review the benefits and related costs provided by the City's survey agencies, to assure the City remains competitive on the basis of total compensation and benefits. Any change in benefits will be approved by the City Council with consideration of the City's competitive position in the market and taking into consideration the City's financial situation.

*Approved June 24, 2008*



Employee's Name:

Incident Date:

**INSTRUCTIONS TO THE SUPERVISOR – INVESTIGATION PROCEDURE**

- ⇒ **Complete this report with full detail. Fax a completed copy to MPA at (925) 946-4183.**
- ⇒ Return the original completed report to your Human Resources Department within 72 Hours of the day you first became aware of the injury or illness.
- ⇒ Conduct a walk through of the accident location as needed to gain an understanding of how the incident occurred.
- ⇒ Interview and get signed statements from the injured employee and witnesses at the scene, if appropriate. Use the attached EMPLOYEE/WITNESS ACCOUNT OF ACCIDENT form.
- ⇒ Take photographs or make a sketch of the accident scene as needed, and attach to report.
- ⇒ Ensure hazardous conditions are corrected immediately. Isolate and restrict access to accident-related equipment, areas, etc, as needed.
- ⇒ **Develop appropriate corrective measures to prevent this incident from recurring, and list on this report.**

**SUPERVISOR TO COMPLETE:**

1. Employee's usual shift:            to            (use 24 hour format, i.e. 6:00pm = 18:00)
2. Time employee started work on day of injury:
3. Time of accident/injury:
4. Extended shift/overtime on day of injury?     Yes     No
5. **ROOT CAUSE ANALYSIS: Which of the following may have caused or were underlying factors that resulted in the incident? (Check all that apply)**

<b>PEOPLE Factors</b>		
<input type="checkbox"/> Employee Training / Instruction	<input type="checkbox"/> Operating without authority	<input type="checkbox"/> Correct tool not used
<input type="checkbox"/> Distraction, inattention	<input type="checkbox"/> Operating at unsafe speeds	<input type="checkbox"/> Improper Motivation
<input type="checkbox"/> Fatigue / Condition of Individuals	<input type="checkbox"/> Incorrect lifting, carrying	<input type="checkbox"/> Bypassing safety devices
<input type="checkbox"/> PPE not utilized	<input type="checkbox"/> Taking unsafe position / posture	<input type="checkbox"/> Combative Person / Actions of Others
<input type="checkbox"/> Staffing shortage	<input type="checkbox"/> Tool used improperly	<input type="checkbox"/> Other (list)

<b>EQUIPMENT, MATERIALS or ENVIRONMENT</b>		
<input type="checkbox"/> Lighting too much / too little	<input type="checkbox"/> Proper tool not available	<input type="checkbox"/> HVAC / ventilation maintenance
<input type="checkbox"/> Guard / safety device missing	<input type="checkbox"/> Tools / equipment malfunction	<input type="checkbox"/> Motor Vehicle maintenance
<input type="checkbox"/> Unstable load/ Storage/ Congestion	<input type="checkbox"/> Inadequate work space	<input type="checkbox"/> Walking surface unsafe
<input type="checkbox"/> PPE unavailable	<input type="checkbox"/> Chemical Used (attach MSDS)	<input type="checkbox"/> Other (list)

<b>PROCESSES &amp; PROCEDURES</b>		
<input type="checkbox"/> No warning system	<input type="checkbox"/> S.O.P. not followed	<input type="checkbox"/> Inadequate Traffic Control
<input type="checkbox"/> No warning provided / posted	<input type="checkbox"/> S.O.P. contributed	<input type="checkbox"/> Operational tactics
<input type="checkbox"/> Spills, debris, housekeeping inadequate	<input type="checkbox"/> No procedure in place	<input type="checkbox"/> Other (list)

6. Do you agree with the Triage Description and Employee/Witness statements?  Yes  No

⇒ If not, please describe your understanding of the events that resulted in injury or occupational illness, including tasks assigned.

7. Were other employees also injured?  Yes  No

⇒ If YES, list names:

**Corrective Action**

What action will be taken to prevent recurrences of this incident? (Check as many as necessary):

<input type="checkbox"/> Request ergonomic evaluation	<input type="checkbox"/> Install, replace, adjust guards	<input type="checkbox"/> Provide/monitor protective equip
<input type="checkbox"/> Train Staff	<input type="checkbox"/> Modify, replace tools, equipment	<input type="checkbox"/> Repair (explain below)
<input type="checkbox"/> Improve emergency system	<input type="checkbox"/> Provide inspections, observations	<input type="checkbox"/> Revise equipment, layout
<input type="checkbox"/> Improve housekeeping	<input type="checkbox"/> Personal Safety Coaching	<input type="checkbox"/> Review at roll call / staff mtg.
<input type="checkbox"/> Improve job orientation	<input type="checkbox"/> Develop, revise operating procedure	<input type="checkbox"/> No action taken/Other (explain below)

**Follow Up on Corrective Action**

1. Specific Action taken:

a. Work or Purchase Order to correct condition?  Yes – Order #:  No

b. Operating procedure change?  Yes  No

⇒ If YES, description:

2. Other Comments – explain:

3. PHOTOGRAPHS OR SKETCH ATTACHED?  Yes  No

4. Employee/Witness statement(s) attached?  Yes  No

5. No Action Taken – explain:

Supervisor's Name:

Supervisor's Signature:

Date:

Management Review – I have reviewed this report and its findings.

Division / Department Head:

Date:



**EMPLOYEE/WITNESS ACCOUNT OF ACCIDENT**

Note: PRINT this form, have completed and forward along with the Accident Investigation Report.

Use one form per person – CHECK below as noted:

---

Injured Employee       Witness (City/Town Employee?     Yes    No

---

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Today's Date: \_\_\_\_\_

Date/Time of Accident: \_\_\_\_\_ / \_\_\_\_\_

Location of Accident: \_\_\_\_\_

**Accident Description** (explain in detail what you were doing immediately prior to the accident and then how you believe the accident happened):

\_\_\_\_\_  
Signature

Name(s) of Other Witness(s) to Accident:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

**ATTACH TO THE ACCIDENT INVESTIGATION REPORT**

Fax a copy of the completed report to Municipal Pooling Authority 925-946-4183.

# Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility

## Formulario de Reclamo de Compensación de Trabajadores (DWC 1) y Notificación de Posible Elegibilidad



If you are injured or become ill, either physically or mentally, because of your job, including injuries resulting from a workplace crime, you may be entitled to workers' compensation benefits. Attached is the form for filing a workers' compensation claim with your employer. **You should read all of the information below.** Keep this sheet and all other papers for your records. You may be eligible for some or all of the benefits listed depending on the nature of your claim. If required you will be notified by the claims administrator, who is responsible for handling your claim, about your eligibility for benefits.

To file a claim, complete the "Employee" section of the form, keep one copy and give the rest to your employer. Your employer will then complete the "Employer" section, give you a dated copy, keep one copy and send one to the claims administrator. Benefits can't start until the claims administrator knows of the injury, so complete the form as soon as possible.

**Medical Care:** Your claims administrator will pay all reasonable and necessary medical care for your work injury or illness. Medical benefits may include treatment by a doctor, hospital services, physical therapy, lab tests, x-rays, and medicines. Your claims administrator will pay the costs directly so you should never see a bill. There is a limit on some medical services.

**The Primary Treating Physician (PTP)** is the doctor with the overall responsibility for treatment of your injury or illness. Generally your employer selects the PTP you will see for the first 30 days, however, in specified conditions, you may be treated by your predesignated doctor or medical group. If a doctor says you still need treatment after 30 days, you may be able to switch to the doctor of your choice. Different rules apply if your employer is using a Health Care Organization (HCO) or a Medical Provider Network (MPN). A MPN is a selected network of health care providers to provide treatment to workers injured on the job. You should receive information from your employer if you are covered by an HCO or a MPN. Contact your employer for more information. If your employer has not put up a poster describing your rights to workers' compensation, you may choose your own doctor immediately.

Within one working day after you file a claim form, your employer shall authorize the provision of all treatment, consistent with the applicable treating guidelines, for the alleged injury and shall continue to be liable for up to \$10,000 in treatment until the claim is accepted or rejected.

**Disclosure of Medical Records:** After you make a claim for workers' compensation benefits, your medical records will not have the same level of privacy that you usually expect. If you don't agree to voluntarily release medical records, a workers' compensation judge may decide what records will be released. If you request privacy, the judge may "seal" (keep private) certain medical records.

**Payment for Temporary Disability (Lost Wages):** If you can't work while you are recovering from a job injury or illness, for most injuries you will receive temporary disability payments for a limited period of time. These payments may change or stop when your doctor says you are able to return to work. These benefits are tax-free. Temporary disability payments are two-thirds of your average weekly pay, within minimums and maximums set by state law. Payments are not made for the first three days you are off the job unless you are hospitalized overnight or cannot work for more than 14 days.

**Return to Work:** To help you to return to work as soon as possible, you should actively communicate with your treating doctor, claims administrator, and employer about the kinds of work you can do while recovering. They may coordinate efforts to return you to modified duty or other work that is medically appropriate. This modified or other duty may

Si Ud. se lesiona o se enferma, ya sea físicamente o mentalmente, debido a su trabajo, incluyendo lesiones que resulten de un crimen en el lugar de trabajo, es posible que Ud. tenga derecho a beneficios de compensación de trabajadores. Se adjunta el formulario para presentar un reclamo de compensación de trabajadores con su empleador. **Ud. debe leer toda la información a continuación.** Guarde esta hoja y todos los demás documentos para sus archivos. Es posible que usted reúna los requisitos para todos los beneficios, o parte de éstos, que se enumeran, dependiendo de la índole de su reclamo. Si se requiere, el administrador de reclamos, quien es responsable por el manejo de su reclamo, le notificará sobre su elegibilidad para beneficios.

Para presentar un reclamo, llene la sección del formulario designada para el "Empleado," guarde una copia, y déle el resto a su empleador. Entonces, su empleador completará la sección designada para el "Empleador," le dará a Ud. una copia fechada, guardará una copia, y enviará una al administrador de reclamos. Los beneficios no pueden comenzar hasta, que el administrador de reclamos se entere de la lesión, así que complete el formulario lo antes posible.

**Atención Médica:** Su administrador de reclamos pagará toda la atención médica razonable y necesaria, para su lesión o enfermedad relacionada con el trabajo. Es posible que los beneficios médicos incluyan el tratamiento por parte de un médico, los servicios de hospital, la terapia física, los análisis de laboratorio y las medicinas. Su administrador de reclamos pagará directamente los costos, de manera que usted nunca verá un cobro. Hay un límite para ciertos servicios médicos.

**El Médico Primario que le Atiende-Primary Treating Physician PTP** es el médico con la responsabilidad total para tratar su lesión o enfermedad. Generalmente, su empleador selecciona al PTP que Ud. verá durante los primeros 30 días. Sin embargo, en condiciones específicas, es posible que usted pueda ser tratado por su médico o grupo médico previamente designado. Si el doctor dice que usted aún necesita tratamiento después de 30 días, es posible que Ud. pueda cambiar al médico de su preferencia. Hay reglas diferentes que se aplican cuando su empleador usa una Organización de Cuidado Médico (HCO) o una Red de Proveedores Médicos (MPN). Una MPN es una red de proveedores de asistencia médica seleccionados para dar tratamiento a los trabajadores lesionados en el trabajo. Usted debe recibir información de su empleador si su tratamiento es cubierto por una HCO o una MPN. Hable con su empleador para más información. Si su empleador no ha colocado un cartel describiendo sus derechos para la compensación de trabajadores, Ud. puede seleccionar a su propio médico inmediatamente.

Dentro de un día después de que Ud. presente un formulario de reclamo, su empleador autorizará todo tratamiento médico de acuerdo con las pautas de tratamiento aplicables a la presunta lesión y será responsable por \$10,000 en tratamiento hasta que el reclamo sea aceptado o rechazado.

**Divulgación de Expedientes Médicos:** Después de que Ud. presente un reclamo para beneficios de compensación de trabajadores, sus expedientes médicos no tendrán el mismo nivel de privacidad que usted normalmente espera. Si Ud. no está de acuerdo en divulgar voluntariamente los expedientes médicos, un juez de compensación de trabajadores posiblemente decida qué expedientes se revelarán. Si Ud. solicita privacidad, es posible que el juez "selle" (mantenga privados) ciertos expedientes médicos.

**Pago por Incapacidad Temporal (Sueldos Perdidos):** Si Ud. no puede trabajar, mientras se está recuperando de una lesión o enfermedad relacionada con el trabajo, Ud. recibirá pagos por incapacidad temporal para la mayoría de las lesiones por un periodo limitado. Es posible que estos pagos cambien o paren, cuando su médico diga que Ud. está en condiciones de regresar a trabajar. Estos beneficios son libres de impuestos. Los pagos



# Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility

## Formulario de Reclamo de Compensación de Trabajadores (DWC 1) y Notificación de Posible Elegibilidad



be temporary or may be extended depending on the nature of your injury or illness.

**Payment for Permanent Disability:** If a doctor says your injury or illness results in a permanent disability, you may receive additional payments. The amount will depend on the type of injury, your age, occupation, and date of injury.

**Supplemental Job Displacement Benefit (SJDB):** If you were injured after 1/1/04 and you have a permanent disability that prevents you from returning to work within 60 days after your temporary disability ends, and your employer does not offer modified or alternative work, you may qualify for a nontransferable voucher payable to a school for retraining and/or skill enhancement. If you qualify, the claims administrator will pay the costs up to the maximum set by state law based on your percentage of permanent disability.

**Death Benefits:** If the injury or illness causes death, payments may be made to relatives or household members who were financially dependent on the deceased worker.

**It is illegal for your employer** to punish or fire you for having a job injury or illness, for filing a claim, or testifying in another person's workers' compensation case (Labor Code 132a). If proven, you may receive lost wages, job reinstatement, increased benefits, and costs and expenses up to limits set by the state.

You have the right to disagree with decisions affecting your claim. If you have a disagreement, contact your claims administrator first to see if you can resolve it. If you are not receiving benefits, you may be able to get State Disability Insurance (SDI) benefits. Call State Employment Development Department at (800) 480-3287.

You can obtain free information from an information and assistance officer of the State Division of Workers' Compensation (DWC), or you can hear recorded information and a list of local offices by calling (800) 736-7401. You may also go to the DWC website at [www.dwc.ca.gov](http://www.dwc.ca.gov).

**You can consult with an attorney.** Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California at (415) 538-2120 or go to their web site at [www.californiaspecialist.org](http://www.californiaspecialist.org).

por incapacidad temporal son dos tercios de su pago semanal promedio, con cantidades mínimas y máximas establecidas por las leyes estatales. Los pagos no se hacen durante los primeros tres días en que Ud. no trabaje, a menos que Ud. sea hospitalizado una noche o no pueda trabajar durante más de 14 días.

**Regreso al Trabajo:** Para ayudarle a regresar a trabajar lo antes posible, Ud. debe comunicarse de manera activa con el médico que le atiende, el administrador de reclamos y el empleador, con respecto a las clases de trabajo que Ud. puede hacer mientras se recupera. Es posible que ellos coordinen esfuerzos para regresarle a un trabajo modificado, o a otro trabajo, que sea apropiado desde el punto de vista médico. Este trabajo modificado u otro trabajo podría ser temporal o podría extenderse dependiendo de la índole de su lesión o enfermedad.

**Pago por Incapacidad Permanente:** Si el doctor dice que su lesión o enfermedad resulta en una incapacidad permanente, es posible que Ud. reciba pagos adicionales. La cantidad dependerá de la clase de lesión, su edad, su ocupación y la fecha de la lesión.

**Beneficio Suplementario por Desplazamiento de Trabajo:** Si Ud. Se lesionó después del 1/1/04 y tiene una incapacidad permanente que le impide regresar al trabajo dentro de 60 días después de que los pagos por incapacidad temporal terminen, y su empleador no ofrece un trabajo modificado o alternativo, es posible que usted reúna los requisitos para recibir un vale no-transferible pagadero a una escuela para recibir un nuevo entrenamiento y/o mejorar su habilidad. Si Ud. reúne los requisitos, el administrador de reclamos pagará los gastos hasta un máximo establecido por las leyes estatales basado en su porcentaje de incapacidad permanente.

**Beneficios por Muerte:** Si la lesión o enfermedad causa la muerte, es posible que los pagos se hagan a los parientes o a las personas que viven en el hogar y que dependían económicamente del trabajador difunto.

**Es ilegal que su empleador** le castigue o despida, por sufrir una lesión o enfermedad en el trabajo, por presentar un reclamo o por testificar en el caso de compensación de trabajadores de otra persona. (El Código Laboral sección 132a.) De ser probado, usted puede recibir pagos por pérdida de sueldos, reposición del trabajo, aumento de beneficios y gastos hasta los límites establecidos por el estado.

Ud. tiene derecho a no estar de acuerdo con las decisiones que afecten su reclamo. Si Ud. tiene un desacuerdo, primero comuníquese con su administrador de reclamos para ver si usted puede resolverlo. Si usted no está recibiendo beneficios, es posible que Ud. pueda obtener beneficios del Seguro Estatal de Incapacidad (SDI). Llame al Departamento Estatal del Desarrollo del Empleo (EDD) al (800) 480-3287.

Ud. puede obtener información gratis, de un oficial de información y asistencia, de la División Estatal de Compensación de Trabajadores (*Division of Workers' Compensation - DWC*) o puede escuchar información grabada, así como una lista de oficinas locales llamando al (800) 736-7401. Ud. también puede consultar con la página Web de la DWC en [www.dwc.ca.gov](http://www.dwc.ca.gov).

**Ud. puede consultar con un abogado.** La mayoría de los abogados ofrecen una consulta gratis. Si Ud. decide contratar a un abogado, los honorarios serán tomados de algunos de sus beneficios. Para obtener nombres de abogados de compensación de trabajadores, llame a la Asociación Estatal de Abogados de California (*State Bar*) al (415) 538-2120, ó consulte con la página Web en [www.californiaspecialist.org](http://www.californiaspecialist.org).



**WORKERS' COMPENSATION CLAIM FORM (DWC 1)**

**PETITION DEL EMPLEADO PARA DE COMPENSACIÓN DEL TRABAJADOR (DWC 1)**

**Employee:** Complete the "Employee" section and give the form to your employer. Keep a copy and mark it "Employee's Temporary Receipt" until you receive the signed and dated copy from your employer. You may call the Division of Workers' Compensation and hear recorded information at (800) 736-7401. An explanation of workers' compensation benefits is included as the cover sheet of this form.

You should also have received a pamphlet from your employer describing workers' compensation benefits and the procedures to obtain them.

**Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony.**

**Empleado:** Complete la sección "Empleado" y entregue la forma a su empleador. Quédese con la copia designada "Recibo Temporal del Empleado" hasta que Ud. reciba la copia firmada y fechada de su empleador. Ud. puede llamar a la División de Compensación al Trabajador al (800) 736-7401 para oír información gravada. En la hoja cubierta de esta forma esta la explicación de los beneficios de compensación al trabajador.

Ud. también debería haber recibido de su empleador un folleto describiendo los beneficios de compensación al trabajador lesionado y los procedimientos para obtenerlos.

**Toda aquella persona que a propósito haga o cause que se produzca cualquier declaración o representación material falsa o fraudulenta con el fin de obtener o negar beneficios o pagos de compensación a trabajadores lesionados es culpable de un crimen mayor "felonia".**

**Employee—complete this section and see note above      Empleado—complete esta sección y note la notación arriba.**

1. Name. *Nombre.* \_\_\_\_\_ Today's Date. *Fecha de Hoy.* \_\_\_\_\_
2. Home Address. *Dirección Residencial.* \_\_\_\_\_
3. City. *Ciudad.* \_\_\_\_\_ State. *Estado.* \_\_\_\_\_ Zip. *Código Postal.* \_\_\_\_\_
4. Date of Injury. *Fecha de la lesión (accidente).* \_\_\_\_\_ Time of Injury. *Hora en que ocurrió.* \_\_\_\_\_ a.m. \_\_\_\_\_ p.m.
5. Address and description of where injury happened. *Dirección/lugar dónde ocurrió el accidente.* \_\_\_\_\_  
\_\_\_\_\_
6. Describe injury and part of body affected. *Describe la lesión y parte del cuerpo afectada.* \_\_\_\_\_  
\_\_\_\_\_
7. Social Security Number. *Número de Seguro Social del Empleado.* \_\_\_\_\_
8. Signature of employee. *Firma del empleado.* \_\_\_\_\_

**Employer—complete this section and see note below.      Empleador—complete esta sección y note la notación abajo.**

9. Name of employer. *Nombre del empleador.* \_\_\_\_\_
10. Address. *Dirección.* \_\_\_\_\_
11. Date employer first knew of injury. *Fecha en que el empleador supo por primera vez de la lesión o accidente.* \_\_\_\_\_
12. Date claim form was provided to employee. *Fecha en que se le entregó al empleado la petición.* \_\_\_\_\_
13. Date employer received claim form. *Fecha en que el empleado devolvió la petición al empleador.* \_\_\_\_\_
14. Name and address of insurance carrier or adjusting agency. *Nombre y dirección de la compañía de seguros o agencia administradora de seguros.* \_\_\_\_\_  
\_\_\_\_\_
15. Insurance Policy Number. *El número de la póliza de Seguro.* \_\_\_\_\_
16. Signature of employer representative. *Firma del representante del empleador.* \_\_\_\_\_
17. Title. *Título.* \_\_\_\_\_ 18. Telephone. *Teléfono.* \_\_\_\_\_

**Employer:** You are required to date this form and provide copies to your insurer or claims administrator and to the employee, dependent or representative who filed the claim within **one working day** of receipt of the form from the employee.

SIGNING THIS FORM IS NOT AN ADMISSION OF LIABILITY

Employer copy/Copia del Empleador       Employee copy/ Copia del Empleado

**Empleador:** Se requiere que Ud. feche esta forma y que provéa copias a su compañía de seguros, administrador de reclamos, o dependiente/representante de reclamos y al empleado que hayan presentado esta petición dentro del plazo de **un día hábil** desde el momento de haber sido recibida la forma del empleado.

EL FIRMAR ESTA FORMA NO SIGNIFICA ADMISION DE RESPONSABILIDAD

Claims Administrator/Administrador de Reclamos       Temporary Receipt/Recibo del Empleado

State of California <b>EMPLOYER'S REPORT OF OCCUPATIONAL INJURY OR ILLNESS</b>		Please complete in triplicate (type if possible) Mail two copies to:		OSHA CASE NO.		
				FATALITY <input type="checkbox"/>		
Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers compensation benefits or payments is guilty of a felony.		California law requires employers to report within <b>five days</b> of knowledge every occupational injury or illness which results in lost time beyond the date of the incident <b>OR</b> requires medical treatment beyond first aid. If an employee subsequently dies as a result of a previously reported injury or illness, the employer must file within <b>five days</b> of knowledge an amended report indicating death. In addition, every serious injury, illness, or death must be <b>reported immediately</b> by telephone or telegraph to the nearest office of the California Division of Occupational Safety and Health.				
EMPLOYER	1. FIRM NAME		1a. Policy Number		Please do not use this column	
	2. MAILING ADDRESS: (Number, Street, City, Zip)		2a. Phone Number			CASE NUMBER
	3. LOCATION if different from Mailing Address (Number, Street, City and Zip)		3a. Location Code		OWNERSHIP	
	4. NATURE OF BUSINESS; e.g.. Painting contractor, wholesale grocer, sawmill, hotel, etc.		5. State unemployment insurance acct.no			
	6. TYPE OF EMPLOYER: Private                      State                      County                      City                      School District <input type="checkbox"/> Other Gov't, Specify: _____				INDUSTRY	
	7. DATE OF INJURY / ONSET OF ILLNESS (mm/dd/yy)		8. TIME INJURY/ILLNESS OCCURRED _____ AM _____ PM		9. TIME EMPLOYEE BEGAN WORK _____ AM _____ PM	
10. IF EMPLOYEE DIED, DATE OF DEATH (mm/dd/yy)		11. UNABLE TO WORK FOR AT LEAST ONE FULL DAY AFTER DATE OF INJURY? Yes                      No		12. DATE LAST WORKED (mm/dd/yy)		
13. DATE RETURNED TO WORK (mm/dd/yy)		14. IF STILL OFF WORK, CHECK THIS BOX:		15. PAID FULL DAYS WAGES FOR DATE OF INJURY OR LAST DAY WORKED? Yes                      No		
16. SALARY BEING CONTINUED? Yes                      No		17. DATE OF EMPLOYER'S KNOWLEDGE /NOTICE OF INJURY/ILLNESS (mm/dd/yy)		18. DATE EMPLOYEE WAS PROVIDED CLAIM FORM FORM (mm/dd/yy)		
19. SPECIFIC INJURY/ILLNESS AND PART OF BODY AFFECTED, MEDICAL DIAGNOSIS if available, e.g.. Second degree burns on right arm, tendonitis on left elbow, lead poisoning				AGE		
INJURY	20. LOCATION WHERE EVENT OR EXPOSURE OCCURRED (Number, Street, City, Zip)		20a. COUNTY		21. ON EMPLOYER'S PREMISES? Yes                      No	
	22. DEPARTMENT WHERE EVENT OR EXPOSURE OCCURRED, e.g.. Shipping department, machine shop.		23. Other Workers injured or ill in this event? Yes                      No		DAILY HOURS	
OR	24. EQUIPMENT, MATERIALS AND CHEMICALS THE EMPLOYEE WAS USING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Acetylene, welding torch, farm tractor, scaffold				DAYS PER WEEK	
	25. SPECIFIC ACTIVITY THE EMPLOYEE WAS PERFORMING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Welding seams of metal forms, loading boxes onto truck.				WEEKLY HOURS	
ILLNESSES	26. HOW INJURY/ILLNESS OCCURRED. DESCRIBE SEQUENCE OF EVENTS. SPECIFY OBJECT OR EXPOSURE WHICH DIRECTLY PRODUCED THE INJURY/ILLNESS, e.g.. Worker stepped back to inspect work and slipped on scrap material. As he fell, he brushed against fresh weld, and burned right hand. USE SEPARATE SHEET IF NECESSARY				WEEKLY WAGE	
					COUNTY	
				NATURE OF INJURY		
				PART OF BODY		
ATTENTION This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. See CCR Title 8 14300.29 (b)(6)-(10) & 14300.35(b)(2)(E)2. Note: Shaded boxes indicate confidential employee information as listed in CCR Title 8 14300.35(b)(2)(E)2*.				SOURCE		
				EVENT		
				SECONDARY SOURCE		
EMPLOYEE	35. OCCUPATION (Regular job title, NO initials, abbreviations or numbers)					
	37. EMPLOYEE USUALLY WORKS _____ hours per day, _____ days per week, _____ total weekly hours		37a. EMPLOYMENT STATUS regular, full-time                      part-time temporary                      seasonal		37b. UNDER WHAT CLASS CODE OF YOUR POLICY WHERE WAGES ASSIGNED	
38. GROSS WAGES/SALARY \$ _____ per _____		39. OTHER PAYMENTS NOT REPORTED AS WAGES/SALARY (e.g. tips, meals, overtime, bonuses, etc.)? Yes                      No		EXTENT OF INJURY		
Completed By (type or print)		Signature & Title		Date (mm/dd/yy)		
* Confidential information may be disclosed only to the employee, former employee, or their personal representative (CCR Title 8 14300.35), to others for the purpose of processing a workers' compensation or other insurance claim; and under certain circumstances to a public health or law enforcement agency or to a consultant hired by the employer (CCR Title 8 14300.30). CCR Title 8 14300.40 requires provision upon request to certain state and federal workplace safety agencies.						

## Appendix E. City-Owned Electronic Media Acceptable Use Policy

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Computers, software, computer files, electronic handheld devices, telephone systems, Internet services and other technological resources furnished to employees by the City is intended for use by employees in connection with the performance of their job duties. All of the foregoing is the exclusive property of the City. The City has an interest in ensuring that City Technology is used in an appropriate, responsible, and productive manner. As a result, employees should not have the expectation of privacy in connection with their access or use of City Technology. To ensure compliance with this policy the City may monitor employee use of City Technology, including City owned computers used at an employee's home. Additionally, the City may monitor an employee's personal computers used during work hours or connected to the City's network on an ongoing or intermittent basis.

The following guidelines have been established to help ensure appropriate, responsible and productive use of City Technology, as well as employee owned computers or other electronic devices used during work hours or on City property (collectively "Electronic Media"):

- The use of Electronic Media must conform to the policies, rules and regulations already established by the City's employment handbook and related City policies
- Electronic Media shall not be used to compose, transmit, access, or receive content that could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to any employee or other person.

Unacceptable content includes, but is not limited to sexual comments or, or any other comments or images that could reasonably offend someone on the basis or race, age, sex, religion, national origin, disability, sexual orientation, or any other characteristic protected by law.

- The use of Electronic Media to engage in gambling is strictly prohibited.
- Employees shall not use Electronic Media to engage in unauthorized solicitation, including but not limited to, the solicitation of personal business ventures.
- Electronic Media shall not be used in violation of copyright and trademark laws, including but not limited to, the unauthorized copying, pirating, or downloading of software or files.
- Confidential employee information shall be transmitted via Electronic Media without appropriate consent.

These guidelines are neither exclusive nor exhaustive. Other use of Electronic Media that threatens or impedes security, personal safety, employee welfare, the City's process or the City's operations is also prohibited.

Employees who observe or have knowledge of another's violation of this policy are responsible for reporting such facts to their immediate supervisor.

#### **OFF DUTY USE OF NON-CITY OWNED TECHNOLOGY POLICY**

While the City respects employee rights of free expression, employees are urged to use good judgment when accessing and using blogs, online journals, social networking sites or other forms of Internet communications through non-city owned technology while off-duty. The Internet is a public place and your Internet activity may be seen by coworkers and the public. As such, all employees should be cognizant of how their

use of the Internet may effect their professional reputation and, in turn your commitment to public service. Thus, the City encourages employees who maintain profiles on social networking websites (*e.g., Facebook, Twitter, LinkedIn, etc.*) or other such Internet publications to take all steps necessary to restrict access to your profiles. In all circumstances, employees are not permitted to engage in illegal activity, on or off duty, which adversely affects the City.

## Appendix F. Request for Outside Employment

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Employee Name:

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Title:

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Department:

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Proposed Outside Employment:

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Name of Company or Business:

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Address:

---

Telephone Number(s):

---

Website Address:

---

Nature of Business:

---

Proposed Work Days:

---

Proposed Work Hours:

---

Responsibilities:

---

Workers Compensation and Liability

Insurance Carrier(s):

---

Policy Number(s):

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**I understand and agree that the proposed outside employment does not and will not:**

- Interfere with the efficient performance of my duties with the City and will not occur during regular or assigned work hours, unless I receive pre-approved annual or compensatory leave to cover the absence.
- Be with any business, organization or agency that is subject to the regulation of, or is doing business with the City, except as may be expressly permitted by State law.

- Require me to disclose or use information gained by my City position unless the information is available to the general public.
- Be with another government entity unless approved by the City Manager.
- Involve the performance of any work which should be performed as of my regular duties with the City or be for personal gain while on duty with the City.
- Be obtained through personal solicitation during my work hours with the City.
- Use the City name, logo or trademark or any portion thereof, in order to solicit customers.
- Reflect unfavorably to the City.
- Cause a conflict of interest under City Code or Policy and any State law

I will notify the City of changes in my outside employment or when my outside employment has discontinued. The City shall have the right to rescind the approval of this request for outside employment, at any time, upon written notice. If I violate any of the above provisions, including the City of Oakley's Personnel Manual regarding outside employment, I will be subject to disciplinary action, up to and including termination of employment.

**I DECLARE THAT THE ABOVE STATED INFORMATION IS TRUE AND CORRECT.**

**Signed:**

**Date:**

\_\_\_\_\_  
**Department Director Review:**

**Approved**

**Disapproved**

Signed:

Date:

\_\_\_\_\_  
**City Manager Review:**

**Approved**

**Disapproved**

Signed:

Date:



## Appendix G. Investigation Guidelines for Sexual Harassment and Discrimination Complaints

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**Investigation Procedure:** Any investigation of sexual harassment or discrimination allegations shall be conducted in accordance with the City of Oakley's Sexual Harassment/ Discrimination Prevention Policy.

**Treat All Complaints Seriously/Act Promptly:** Even if a complaining employee insists that he/she wants nothing done about the complaint, the City has an obligation to promptly and thoroughly investigate any allegation of sexual harassment or discrimination. All necessary steps must be taken to ensure that if the conduct has occurred, it does not continue. For example: Separate the employees by changing shifts or assignments; order the accused to have no contact with the complaining party; and/or depending on the seriousness of the allegations, place the accused employee on paid administrative leave pending the outcome of the investigation.

**Informal Process:** In certain specific circumstances an Informal Process may be used to resolve the complaint, but only if it has been determined (in accordance with the City's Sexual Harassment/Discrimination Prevention Policy) that such a process will most likely eliminate the problem so that the conduct never occurs again. In such cases the Informal Process Guidelines should be used in conjunction with these Guidelines.

**Neutral Investigator:** All investigations need to be objective, fair and thorough. It is important that the individual chosen to do the investigation is unbiased when conducting the investigation.

**Conduct of Investigator:** All complaints of sexual harassment and discrimination will be treated seriously and promptly investigated. The investigator will assure the employee that the complaint is being taken very seriously.

**Confidentiality Of Investigation:** The complaining party should be told that the investigation will be handled as confidentially as possible. The complaining employee and all other individuals who are subsequently interviewed, including the accused employee, must be advised that they are not to discuss the matter with anyone else and that failure to maintain the confidentiality of the investigation may lead to disciplinary action. The complaining employee should also be advised that the accused party will be confronted and given an opportunity to respond, but will be warned that any acts of retaliation are strictly prohibited and may subject him/her to disciplinary action up to and including termination. The complaining employee should be instructed to immediately inform the investigator, his/her supervisor, or the Personnel Officer if any further acts of sexual harassment or discrimination continue.

**Offer Employee Assistance:** All persons who claim to be the subject of sexual harassment should be offered employee assistance counseling, regardless of whether the employee appears in need of counseling and regardless of any initial opinion(s) regarding the veracity of the allegations complained of by the employee.

**Detailed Interview With Complainant:** The first step in any investigation is an interview with the complaining employee. The complaining employee should be asked specific questions in order to obtain detailed information about the allegations. The employee should be asked to explain any vague or ambiguous statements. Very specific facts should be elicited and documented in writing by the investigator. The interview(s) should be documented in detail and/or tape-recorded.

**Interview the Accused Employee:** The investigator should interview the accused employee, all witnesses or names of individuals the accused person provides to disprove the allegation, and investigate and gather any additional evidence that the accused employee either raises or that comes to light as a result of the interview. All interviews should be documented in detail and/or tape-recorded.

**Analysis of Investigation:** In analyzing the evidence from the investigation, the investigator should keep in mind that the objective is to determine whether there has been a policy violation

**When the Employee Denies the Allegations of Misconduct/Evidence of Misconduct is**

**Inconclusive:** If the accused employee denies the allegations of misconduct and there is no evidence to substantiate the complaint one way or the other, The City of Oakley should do the following:

Advise the accused employee that if the alleged conduct had occurred, it would be a violation of City policy and would subject him/her to serious discipline, up to and including termination.

Advise the accused employee that any retaliation against the complaining party is strictly prohibited and may result in disciplinary action, up to and including, termination.

Even if the charges cannot be sustained, the Department should take whatever action it can to reduce the chance of the alleged misconduct from occurring again (for example, changing shifts, assignments, supervisors, etc.)

Advise the complaining party that the Department was unable to conclusively determine that the allegations occurred, however, the Personnel Officer will keep a copy of the complaint and the disposition and management will be alert to the problem. The

complaining party should be told of any corrective action The City of Oakley will take to reduce the chance of the incident happening again. The employee should be told to immediately report any further incidents of sexual harassment or retaliation.

Advise both the complaining employee and the accused employee that the entire matter/investigation should be kept confidential and should not be discussed with other employees.

**If Evidence of Harassment/Discrimination Is Found:** If the accused employee admits to the misconduct, and/or if other evidence in the investigation reveals that the Sexual Harassment/ Discrimination Policy was violated, the City y should do the following:

If the accused employee admits to the misconduct, advise him or her that the conduct must stop immediately and take whatever corrective action is needed to ensure that it is discontinued.

Implement appropriate disciplinary action, taking into consideration that The City of Oakley's policy indicates that all forms of sexual harassment and prohibited discrimination are considered serious misconduct.

Inform the complaining employee of the results of the investigation and any corrective action. The employee should be informed that all steps are being taken to prevent any further incidences from occurring. However, any disciplinary action taken against the accused employee is confidential and cannot be revealed.

The complaining employee should be instructed to report any further incidences of sexual harassment, discrimination or retaliation immediately.

If the accused employee is not terminated, he/she needs to be informed that any further incidents or acts of retaliation will be grounds for termination

**Documentation Of Sexual Harassment:** Since personnel files can be purged, the Personnel Officer shall keep a separate file on all sexual harassment and discrimination complaints that are filed or raised by or against any individual. Such complaints would be available for purposes of corroboration or to find potential patterns of misconduct that would tend to verify the veracity of any future complaints.

## Appendix H. Family Medical Leave Act/California Family Rights Act Forms

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To be completed by employee requesting leave:

Employee Name Application Date	
Reason for leave:	
Birth/adoption of child Medical - immediate family Medical - self	
Expected date that leave begins:	
Probable duration of leave:	
Expected date that leave ends:	

Leave Will Be Intermittent:	Leave Will Be Continuous:
If requesting intermittent leave, please explain:	

During my leave, I can be reached at:

Address
City State Zip
Phone Number

I understand that any remaining sick and/or vacation leave will be used during the leave and that accrual of these leaves will stop during any unpaid portion of my absence.

I also understand that I am required to provide timely medical certification for my leave, and notify the City of Oakley and provide additional medical certification should it be necessary to extend the leave.

Please refer to the Family Leave Policy in the City of Oakley's Personnel Manual for more information.

**Signed:**

**Date:**

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**Human Resource Division Review:**

Signed:

**Date:**

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**Department Director Review:**

Signed:

**Date:**

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**City Manager Review:**

Signed:

**Date:**

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## Appendix I. Drug Free Workplace Policy

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1. **Purpose:** The purpose of this policy is to furnish disciplinary and rehabilitative guidelines for handling first-time violators of the illegal drug prohibitions set forth in Section 2 of this policy.
2. **Coverage:** This policy covers only regular employees who are first-time violators of any one of the following prohibitions:
  - a. Use, possession, offer for sale, or being under the influence of illegal drugs during working hours, including lunch and break periods.
  - b. Use, possession, offer for sale, or being under the influence of illegal drugs on City of Oakley property at any time.

For purposes of this policy, engaging in any of the activities above shall be considered as a violation of the City policy.

3. **Alternatives to Discharge:** The guidelines in the policy are alternatives to immediate discharge. The refusal of an employee covered by this policy to comply with the specified guidelines shall result in the immediate discharge of that employee.
4. **Rehabilitation:** An employee covered by this policy shall enroll in and complete an approved rehabilitation treatment program as determined by an outside treatment professional approved by the City. The employee shall bear the costs of the rehabilitation program and shall be entitled to utilize whatever available vacation, sick, and/or medical leave benefits necessary for program participation. An employee's refusal to enroll in and complete such rehabilitation program shall be grounds for discharge.
5. **After-care:** An employee covered by this policy shall enroll in and complete an approved after-care program as determined by an outside treatment professional approved by the City. The recommended after-care program must also be approved by the City. The employee shall bear the cost of the after-care program and shall be entitled to utilize whatever available vacation, sick, and/or medical



leave benefits are necessary for program participation. An employee's failure to complete the after-care program shall be grounds for discharge.

6. **Exemption from Rehabilitation and After-care:** At the discretion of the City, based upon the recommendation of an outside treatment professional, an employee covered by this policy may be exempt from the rehabilitation and after-care provisions of this policy. Such employee, however, may be required to enroll in a substance abuse education or similar program approved by the City.
7. **Outside Treatment Professionals:** The outside treatment professional referred to in Sections 4, 5, and 6 above shall be selected from an established list of treatment professionals maintained by the City.

## Appendix H. City of Oakley Email Retention Policy

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This policy governs retention of e-mail, or electronic communication, that is created, sent, received, forwarded, edited, stored, or otherwise used by means of City electronic information resources of any kind, including, but not limited to, computers, computer networks, software, telephones, voicemail, personal data assistants, and any other electronic data systems or equipment ("City E-mail"). This policy applies to City E-mail of City officials, officers, employees, volunteers and contractors. City E-mail may consist of correspondence and other documentation which may constitute City records subject to the requirements of the California Public Records Act ("CPRA"), the City's Records Retention Schedule and the laws and regulations governing it, and other laws and regulations that apply to public agency information.

City E-mail and City E-mail systems are intended to be a medium of communication. City E-mail and City E-mail systems are not intended to be and may not be used for the electronic storage or maintenance of permanent City records.

Persons subject to this policy are responsible for determining whether City E-mails created, received, or used by them should be retained as permanent City records. Typically, City E-mails that contain substantive information concerning City policies, decision-making, proceedings, projects, or contractors, or that may later be important or useful for carrying out City business should be retained as permanent City records in accordance with this policy. Such records must be retained in accordance with this policy and the City's Records Retention Schedule.

Persons subject to this policy are responsible for determining whether City E-mails that should be retained as permanent City records should be stored in hard copy or electronic form. Permanent City electronic records are subject to disclosure in electronic form in accordance with the CPRA. Typically, only City E-mails intended for later editing, incorporation in other documents or electronic transmission should be stored electronically. Such City E-Mails must be transferred to the permanent e-mail archive which will be downloaded to the Record's Management System and then deleted from the responsible party's e-mail. All other City E-mails that should be retained as permanent City records should be printed and filed in the appropriate City file and deleted. The City Clerk and City Attorney are available to assist persons subject to this policy in determining

which City E-mails should be retained as permanent City records and how, and to address other questions concerning the application of this policy.

Persons subject to this policy should generally determine whether City E-mails created, received or used by them should be retained as permanent City records within ten working days of creation, receipt or use of the City E-mail. Because City E-mails and e-mail systems may not be used for permanent storage of City records, City E-mails are generally deemed pursuant to this policy to constitute preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the City in the ordinary course of business. However, such e-mails are subject to disclosure to the public, prior to destruction because the public interest in withholding the e-mail does not clearly outweigh the public interest in disclosure, unless the e-mail is protected by at least one of the exemptions contained in the Public Records Act.

When the City receives a request for disclosure of City records that applies to City E-mail, the person responsible for the covered records must, using his/her best efforts and by any lawful means available, preserve any City E-mail covered by the request until it is determined whether the City E-mail is subject to retention and/or disclosure. The City Clerk and/or City Attorney must be contacted concerning any request for disclosure of City records that applies to City E-mail in the possession of persons subject to this policy.

Persons subject to this policy are responsible for managing City E-mail and City E-mail systems used by them in accordance with this policy. Persons subject to this policy should regularly review their mailboxes or folders that contain City E-mails and delete City E-mails that are not required to be kept by law or this policy, or that are unnecessary or inconvenient for the discharge of official City duties or the conduct of City business, or that are otherwise no longer needed in accordance with this policy.

Persons subject to this policy should bear in mind the following design features of the City electronic information systems that relate to City E-mails:

1. The systems administrator performs an electronic back up of the City E-mail system each evening. The back up is a "snap shot" of the data contained in the City E-mail server at the end of each business day. The back up is not a copy of all City E-mail activity that occurred on the City E-mail server that day.
2. The systems administrator maintains back ups for no longer than two weeks before they are overwritten. Back ups are not permanent City records. The sole purpose

of back ups is to provide a means of complete server recovery in case of a system failure.

3. The systems administrator has established a City E-mail management system that automatically removes City E-mails that are more than thirty days old and that are contained in Deleted Items or Sent Items folders.