

PERSONNEL RULES



ADOPTED 02/28/2023



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1 PURPOSE

To establish a uniform procedure for dealing with personnel matters, the personnel system set forth in these Rules and Regulations (hereinafter “Rules”) is hereby adopted. These Rules supersede any prior rules and regulations and may be changed only upon approval of the City Council.

Where an applicable memorandum of understanding between the City and a recognized employee organization contains provisions that are inconsistent with any of these Rules, the language contained in the Memorandum of Understanding shall govern.

The City Council authorizes the City Manager to implement administrative policies in accordance with the Administrative Regulation Policy, adopted by resolution, which shall be supplemental to these Rules.

These Rules may be amended from time to time. However, to be effective, the amendment must be in writing and approved by resolution of the City Council. Whenever such amendments affect the wages, hours or other terms or conditions of employment, they shall be subject to the meet and confer process as required by law.

In the event of an emergency, any part or all of these Rules may be suspended by order of the City Manager and such suspension shall remain in effect until the City Manager’s order is withdrawn.

1.1 Mission, Vision, and Values

Mission

The City of Oakey will create a resilient future that fosters and attracts a vibrant and evolving community that welcomes and values all people.

Vision

The City of Oakley celebrates our unique Delta lifestyle and small-town feel where we Live in a safe dynamic community, Work together to build the future, and Play in our own backyard.

Core Values

Our values guide us on a PATH to where we want to Live, Work, and Play in the heart of the Delta.

Promote fair and equitable stewardship for the welfare of our diverse individuals that comprise our inclusive community.

Advocate a professional and family-friendly environment where Council, Staff, and the Public can envision and realize the City's future together with a recognition of our shared commitments and opportunities.

Transparency is how we will create accountable partnerships to cultivate communication and collaboration to engage our thriving community.

Honesty and integrity are the foundation for building trust and fostering teamwork to live our mission and vision.

1.2 Personnel Policy

In accepting employment with the City each employee agrees to be governed by and to comply with ordinances, these Rules, the Administrative Policies, the rules, regulations, and directives of the department in which employed, and the memorandum of understanding in effect between the City and the appropriate employee organization, should one exist. Each employee is required to sign a statement of receipt acknowledging that they have received a copy or has been provided access to these Rules and understands that they are responsible for reading and becoming familiar with the contents and any revision of these Rules.

1.3 Equal Employment Opportunity

It is the policy of the City of Oakley to provide equal opportunity in employment for all persons to prohibit discrimination. This policy of equal employment opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of employees to the extent permitted by law.

- This Equal Employment Opportunity policy applies to all applicants, officers, volunteers, and employees without exception.
- The City shall not discriminate against qualified employees or applicants for employment on the basis of actual or perceived race (including traits historically associated with race, e.g. hair texture and protective hairstyles), color, religion, gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, reproductive health decisions, or any other basis protected by law, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics.
- The City shall afford equal employment opportunity to all qualified applicants or employees with respect to compensation and all

terms and conditions of employment, including hiring, training, promotion, transfer, discipline, and termination.

- Employees who believe they have experienced denial of equal employment opportunity or discrimination are encouraged to report this experience immediately to their supervisor or the Human Resources Director. The City shall promptly investigate the report in accordance with Section 28 Harassment and Discrimination Prevention.

1.4 Powers of the City Manager

The City Manager is the chief administrative officer and the head of the administrative branch of the City Government. Whenever the term "City Manager" is used in these Rules, it shall include the City Manager, or any person designated by the City Manager to carry out any function required by these Rules. When any officer or employee other than the City Manager is assigned a duty or responsibility under these Rules, such assignment is subject to the direction and control of the City Manager, and the City Manager shall have the right to perform such duty or responsibility or to assign it to any other officer or employee.

Subject to Section 2.2.114 of the Oakley Municipal Code, the City Manager has the power and authority to:

- Establish, when not in conflict with these Rules, such other policies, procedures, rules, and regulations necessary for the control and supervision of the affairs of the City.
- Appoint and remove all Department Directors, officers, and employees of the City, except those officers appointed by the Council.
- Transfer, promote, demote, reemploy, reinstate, discipline, layoff, reduce in salary, suspend, or dismiss City employees, except for those officers appointed by the City Council.

The City Manager shall interpret, apply, administer, and enforce the provisions of these Rules, any ordinances or resolutions relating to personnel matters, the employer-employee relations resolution, the memoranda of understanding, and any other pertinent regulations, directives and policies which relate to the City's personnel system.

The City Manager may delegate to the Human Resources Director any of the powers and duties conferred under these or other City rules, regulations, resolutions, or ordinances. The Human Resources Director, or designee, shall be responsible for the administration of these Personnel Rules.

1.5 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 the various aspects including, but not limited to:

- The right to direct the work force.
- To plan, direct and control all 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 Rules.
- To change or eliminate existing methods, equipment, or facilities to maintain or increase the efficiency of governmental operations.
- To exercise complete control and discretion over its organization and the technology of performing its work.

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

- To determine the mission of its departments, commissions, and boards and to determine issues of policy.
- To set standards of service to be offered to the public.
- To exercise control and discretion over its own organization and operations.
- To determine methods of financing.
- 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.
- 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.
- To administer the City's personnel system; to reclassify positions; to amend the compensation plan and to add or delete positions or classes.
- To issue reasonable employee performance standards and to require compliance therewith.
- To maintain order, efficiency and safety in its facilities and operations.

Nothing herein shall be deemed a waiver or surrender of any management prerogative.

1.6 Department Rules and Regulations

Department Directors may develop, implement, and revise as necessary any departmental policies, procedures, rules, and regulations pertaining to unique operational requirements and their effect upon departmental personnel as needed for the full performance of duties and responsibilities and which are not contrary to these Rules.

All departmental policies, procedures, rules, or regulations must be approved by the City Manager.

1.7 Application of Personnel Rules

The provisions of these Rules shall apply to all officers, positions, and employees within the City, except the following positions and except as otherwise indicated within a specific provision of these Rules:

- Elected officials.
- Members of appointed boards, commissions, and committees.
- Persons engaged under contract to render professional, scientific, technical, or expert services for a definite period.
- Volunteer personnel who receive no regular compensation from the City.
- Where a particular rule or article expressly states it does not apply to certain employees and/or positions or applies only to certain employees and/or positions.

1.8 Adoption of Personnel Rules

The Personnel Rules shall be established by resolution adopted by the City Council.

1.9 Amendment and Revision of Personnel Rules

Proposed amendments to, or revisions of the Personnel Rules shall be submitted to the City Council in writing by the Human Resources Director after approval of the City Manager.

1.10 Conflict of Personnel Rules

If one or more provisions of these Rules contradict provisions included in a memorandum of understanding currently in effect between the City and a formally recognized employee organization, the terms of the memorandum

of understanding shall prevail. If there is a conflict between these Rules and a federal or state law, that law prevails. If there is a conflict between these Rules and an administrative regulation, these Rules prevail.

1.11 Rights of Management

The adoption of these Rules shall not be deemed a waiver or surrender of any management prerogative in relation to the organization or the necessity of any department or position.

1.12 Violation of Personnel Rules

Each employee is responsible for knowledge of and compliance with these Rules and any amendments hereto. Violation of the provisions of these Rules shall be grounds for disciplinary action, up to and including dismissal.

2 DEFINITION OF TERMS

All words and terms used in these Rules and in any other resolution, ordinance, or administrative procedures dealing with personnel policies or procedures shall be defined as they are normally and generally defined in the field of personnel administration. For convenience, however, the words and terms most commonly used are defined as follows:

2.1 Actual hours worked

All hours in which the employee actually performed work and does not include any paid or unpaid leave time, such as, but not limited to vacation and sick leave.

2.2 Advancement

A pay increase of one or more steps within the limits of the pay range established for a class.

2.3 Allocation

The official assignment of an individual position to its appropriate class in accordance with the duties performed and the authority and responsibilities exercised.

2.4 Applicant

Any person who has completed an application for a position.

2.5 Appointing Authority

The City Manager is designated as having the power to make appointments to any position to be filled.

2.6 Appointment

Employment of a person in a position.

- 2.7 At-will**
The employee serves at the pleasure of the City Manager, who retains the authority to terminate any such employee at any time with or without cause. An “at-will” employee has no right of appeal of discipline or termination.
- 2.8 Base Pay**
The pay range and step established in the Compensation Plan, exclusive of any overtime, shift-differential, incentive or other excludable pay an employee may receive.
- 2.9 Candidate**
Any person who has been accepted for participation in an examination.
- 2.10 Certification**
The submittal to an appointing authority of a list consisting of candidates that have received and passed an initial interview for an appropriate recruitment effort.
- 2.11 City**
The City of Oakley, California. Also includes the Successor Agency to the Oakley Redevelopment Agency, 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.
- 2.12 Class or Classification**
A group of positions sufficiently and substantially similar in duties, authority, responsibilities, and minimum qualifications for employment to permit combining them under a single title and the application of common standards of selection and compensation.
- 2.13 Classification Plan**
The designation by resolution of the City Council of a title for each classification together with the specifications for each classification as prepared and maintained by the Human Resources Director.
- 2.14 Compensation**
The salary or wage allowances, and all other forms of valuable consideration earned by or paid to any employee by reason of said service in any position excluding any allowances authorized and incurred as incidents to employment.
- 2.15 Compensatory time off**
Paid time off from work in lieu of overtime pay.
- 2.16 Competitive Examination**
One or more selection procedures used to assess the relative qualifications of a group of applicants or candidates.
- 2.17 Continuous Service**
Employment without interruption, including approved leaves of absence to serve in the armed forces of the United States, as provided by Section 395 of the Military and Veterans Code, as amended.
- 2.18 Days**
Calendar days unless otherwise noted.

- 2.19 Demotion**
The voluntary or involuntary movement of an employee from one class to another class having a lower maximum rate of pay, for disciplinary or other reasons.
- 2.20 Department**
An organizational unit with responsibility for carrying out a function under the supervision of a Department Director.
- 2.21 Department Director**
The director of an established office or department having supervision of such department and office. Department Directors or other management employees that report directly to the City Manager serve “at-will.”
- 2.22 Dismissal**
The involuntary separation of an employee from City service.
- 2.23 Domestic Partner**
“Domestic partner” as defined in the California Family Code.
- 2.24 Elected Official**
A person who is elected by the citizens to collectively decide on policy issues for the agency. This includes anyone appointed to fill a vacancy in a City elected office.
- 2.25 Eligible Candidate**
A person who has earned a place on an employment list established by competitive examination.
- 2.26 Employment Date**
For retirement, sick leave and other benefit purposes, the effective date of an employee’s initial appointment to a full-time or part-time position.
- 2.27 Employment List**
A list of names of persons who may be considered for employment with the City under specific conditions. Such lists may be designated as either a re-employment, reinstatement, promotion, or open employment list.
- 2.28 Employment Status**
The type of an employee’s appointment, such as regular, probationary, or limited service.
- 2.29 Examination**
The selection procedures used to measure the knowledge, skills and abilities of the persons applying for a position.
- 2.30 Executive Management**
The group of employees comprised of the City Manager, City Attorney, Assistant City Manager, and all Department Directors.
- 2.31 FLSA**
The Fair Labor Standards Act.
- 2.32 FLSA Exempt**
All employees who meet one or more of the duties test exemptions from overtime under the FLSA (e.g., executive, administrative, professional) and who are paid on a salary basis. FLSA exempt employees are not eligible for overtime compensation.

2.33 FLSA Non-Exempt

Employees who are eligible for FLSA overtime compensation.

2.34 Full-Time Employees

Generally, a full-time employee works a 40-hour workweek (1.0 FTE). Should a full-time employee work an extended schedule of less than 40 hours per week, the employees leave accruals and City contributions towards benefits are pro-rated so as to be proportional with the percentage of full-time hours that they perform.

2.35 Layoff

The termination of an employee from City service for reasons of economy, efficiency, reorganization, or other non-disciplinary reason.

2.36 Leave

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

2.37 Limited Service

Those types of positions which do not provide full-time employment throughout a fiscal year. The kinds of positions assigned to the Limited Service include temporary, part-time, student, and seasonal positions. Appointment to such positions is noncompetitive and incumbents do not acquire status in the class to which assigned by virtue of such employment. Limited-service positions are “at-will” and may be terminated with or without cause and without right of appeal.

2.38 Overtime Work

All actual hours worked by a non-exempt employee in excess of forty (40) hours in the employee’s designated workweek, except as otherwise designated by an applicable memorandum of understanding, as otherwise designated for employees on an approved flexible work schedule, or as designated under the FLSA.

2.39 Part-Time Employee

Employees that work an average of 20 hours per week or less. Part-time employees accrue sick leave consistent with statutory requirements but are otherwise ineligible for City benefits, unless otherwise specified in these Rules. Part-time employees may include those employees working more or less than 1,000 hours per year as well as seasonal or limited-service appointments. Part-time employees are considered at-will and may be terminated at any time with or without cause and without right of appeal.

2.40 Pay Range

A series of base salary steps to which a class may be assigned.

2.41 Permanent Appointment or Permanent Status

The type of status granted an employee who has successfully completed an official probationary period for a particular class and in a regular position.

2.42 Position

A combination of duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis. A position may be occupied or vacant.

2.43 Probationary Appointment

The initial appointment of an employee into a position that begins a probationary period.

2.44 Probationary Period

The final stage of the recruitment, examination, and selection process where a new or promoted employee is required to demonstrate a meets standards or better performance of the position's duties. During this period, the employee is at-will and may be dismissed from the probationary appointment at any time without cause and without right of appeal or hearing.

2.45 Promotional Appointment

The advancement of an employee from a position in one classification to a position in another classification having a higher maximum salary range.

2.46 Reclassification

The permanent reassignment of a position to another classification due to the material change of the job duties of a position.

2.47 Re-employment

The reappointment of a former employee (from a layoff re-employment list) who had a permanent appointment with the City at the time of layoff.

2.48 Regular Day Off (RDO)

The scheduled day off (the first and third Fridays) following eight nine-hour days and one eight-hour day in a two-week period, stemming from the modified 9/80 work schedule.

2.49 Rehire

The reappointment of a former employee who does not have re-employment or reinstatement rights at the time of returning to the payroll.

2.50 Reinstatement

The probationary appointment of an employee after the employee who resigned in good standing from a permanent regular position or the return of an employee from a non-disciplinary demotion to a position which the employee held not more than one year previously. In either case reinstatement must occur not more than one (1) year from the date of separation. Such reinstatement may be done without further competitive examination.

2.51 Resignation

The voluntary separation of an employee from City employment. Notice of resignation shall be final and may only be rescinded with approval of the City Manager.

2.52 Retirement

The voluntary separation and concurrent retirement of a full-time employee after becoming eligible for retirement benefits.

2.53 Seasonal Employees

Employees that work less than nine months in a given year whose job is temporary and only necessary for a short-term period. Seasonal employees accrue sick leave consistent with statutory requirements but are otherwise ineligible for City benefits. Seasonal employees are at-will and may be terminated at any time with or without cause and without right of appeal.

2.54 Selection Procedure

The process by which employment decisions are made, including but not limited to application screening, written tests, oral interviews, performance tests, background investigations, assessments of physical or mental condition, and probation periods.

2.55 Separation

The voluntary or involuntary termination of employment from City service. Separation may include death, dismissal, layoff, resignation, retirement, or work completion.

2.56 Step Advancement

The merit-based increase of an employee's salary to a higher salary level within the established salary step range for the employee's classification.

2.57 Suspension

The temporary separation without pay imposed for disciplinary purposes.

2.58 Termination

Involuntary separation of an employee from City service.

2.59 Transfer

The reassignment of an employee from one position to another position in the same classification or another classification having the same maximum salary range, involving the performance of essentially similar duties, and requiring substantially the same minimum qualifications.

2.60 Vacancy

A duly created position for which budget has been allocated, but which is not occupied.

2.61 Y-Rated

Employee's current salary exceeds the top step of the salary range for their position and is frozen without increases until the Y-rated salary falls within the salary range for the position classification.

3 POSITION CLASSIFICATION

3.1 Classification Plan

The City Council, upon recommendation of the City Manager, shall create and adjust classes of positions in the City service. These classes shall be known as the "Classification Plan."

Implementation of the Classification Plan

The Human Resources Director, in consultation with the City Manager and Department Directors, shall recommend a Classification Plan for all classifications which includes but is not limited to the following for each classification:

- The classification titles.
- A description of typical duties and responsibilities.
- A statement of the desirable training, experience, and other qualifications of applicants for the classification.
- Whether the classification or any of its duties are safety sensitive.
- Whether the classification is FLSA exempt.

The Human Resources Director shall ensure that all positions within the same classification are substantially similar with respect to duties, authority, decision-making, character of work, and schedules of compensation.

Interpretation of Class Specifications

The class specifications are descriptive and explanatory and not restrictive. They are intended to indicate the kinds of positions allocated to the various classes and should not be construed as limiting the assignment of duties and responsibilities to any position. The use of a particular expression or an illustration as to duties should not be interpreted to exclude others not mentioned that are of similar kind of level of responsibility. The specification for each class should be considered in its entirety and in relation to other classes in the Classification Plan. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications desired, and relation to other positions, as affording together a picture of the kind of employment the class is designed to embrace.

Periodic Updates

From time to time the Human Resources Director shall review the Classification Plan to ensure that it is accurate and make amendments to reclassify, add positions or classifications, or make other changes as necessary or appropriate.

Adoption by City Council

The Classification Plan shall become effective only upon adoption by resolution of the City Council. Upon adoption, the Classification Plan shall take immediate effect unless otherwise specified.

Amendments

The classification or position descriptions may be removed or amended from time to time by City Council action when deemed in the best interest of City services. In addition, new classification or position descriptions may be added to the City's Classification Plan. If new positions are added to City services, such positions shall be allocated to an appropriate class by the Human Resources Director.

3.2 Positions

In accordance with these Rules, any position may be assigned, reallocated, or transferred to a different class by the City Manager and affected Department Director, whenever there is a need of such action because of change in duties or responsibilities of the position. All positions shall be included in the same class if:

- They are sufficiently similar in respect to duties and responsibilities so that the same descriptive title may be used.
- Substantially the same requirements as to education, experience, knowledge, and ability are required of incumbents.
- Substantially the same tests of capacities and fitness may be used in choosing qualified appointees.
- The same pay range or salary rate applies.

3.3 Emergency or Temporary Positions

Whenever, in the judgment of the Human Resources Director in consultation with the City Manager, it is necessary for a department to employ a person or persons on an emergency or temporary basis in a type of position for which there is no classification provided in the Classification Plan, then the Human Resources Director, in consultation with the Department Director and City Manager, may authorize such positions and shall fix the amount of compensation, and may determine the minimum qualifications for such additional employees.

If budget is not allocated for the emergency or temporary position, the position must be taken to City Council for the allocation of funds.

3.4 Classification Review

Review of the classification of a position may occur in the following circumstances:

- One or more new positions are under consideration for possible establishment.
- Due to a change in organization or methods, a major change of the duties or responsibilities of an existing position is made which may require the reallocation of such position.
- A new class is created to which a position may more appropriately be allocated.
- Due to the removal of a position or combination of an existing position or class, an amendment to the Classification Plan is required.

Whenever a position is reclassified or reallocated, the existing position is to be deleted and a new position created in the class to which the position is to be assigned.

4 COMPENSATION PLAN

4.1 Compensation Plan Establishment

The City of Oakley is committed to maintaining fiscal integrity and high standards of accountability to the public in the expenditure of funds provided by taxpayers. The City establishes its compensation system in accordance with the principles of public accountability.

The Human Resources Director shall prepare a Compensation Plan that includes the following:

- The salary ranges for all, showing each steps' rate of pay.
- A designation of the position as full-time, part time or seasonal.
- A designation of the position as paid on an hourly or salary basis.

These rules do not preclude the creation of separate management pay plans that, if adopted by the City Council, must be administered in accordance with the procedures adopted for such plan(s) by the City Council.

On a periodic basis, the Human Resources Director may survey benchmark classifications. Survey results shall be considered as one of the pieces of information used as a guideline in establishing or modifying compensation for a particular position or classification.

The Human Resources Director shall also determine whether any modifications are necessary due to recruitment and retention issues, changes to positions or classifications, including changes to exempt or non-exempt status, resulting from a periodic review of the Classification Plan.

The Human Resources Director shall submit any modifications of the Compensation Plan to the City Manager for recommendation to City Council for adoption.

The City has established the following comparative cities for the purpose of establishing a market median:

Antioch, Brentwood, Martinez, Pittsburg, Pleasant Hill, San Ramon and Tracy

4.2 Compensation Plan Administration

The authorized pay ranges for the respective classes of positions with such amendments as may be adopted by the City Council from time to time by resolution shall be applied as follows:

Increases Within the Pay Range

Normally, and as a general rule, upon progress and productivity, employees shall be considered for a step advancement according to the following general plan:

- **Steps:** The letters A, B, C, D, E, etc. respectively, denote the various salary steps in the pay range.
- **Step A:** Step “A” shall typically be paid upon initial employment into a five (5) step pay range. Appointments at any step greater than A requires an explanation and support as to why the higher step is recommended and requires authorization from the City Manager.
- **Step Advances:** At the completion of the applicable probationary period of employment, employees appointed at Step A are eligible for a step increase. All step advances will be effective on the first pay period following the first twelve (12) months of employment, unless probation is extended for any reason. Additional step advances will be on an annual basis thereafter until the attainment of the final Step.
 - All step advances shall be based on a meets standards performance as shown from the evaluation by the

employee's Supervisor. Denial of step increases shall be based on documented performance evaluations.

- In rare circumstances, increases of more than one step for superior performance may be provided upon recommendation by the Department Director and approval of the City Manager.
- **Step at Promotion:** When employees are promoted, they shall normally receive the first step in the salary range for their new position. However, if such step results in a salary increase of less than five percent (5%), they shall receive a minimum five percent (5%) increase, provided that in no event shall the new salary exceed the final step in the promoted class. The City Manager may authorize an appointment to a position at any higher salary step in the pay range should the circumstance of the promotion warrant it.

Special Salary Adjustments: Notwithstanding anything in these Rules to the contrary, in order to correct gross inequities or to reward outstanding achievement and performance, the City Manager may, upon recommendation of the Department Director and the Human Resources Director, adjust the salary step of an incumbent of a particular position to any step within the pay range for the class to which the position is allocated.

- At the discretion of the City Manager, employees who exhibit innovation and exceptional performance, going above and beyond normal job expectations, may be awarded a one-time lump sum merit award at any time. This award is not to exceed 10% of the employee's annual base pay. Award requests will be submitted with written qualifications as to the significance of the award along with details of how this award meets the requirements. Any award recommended that exceeds 10% must be approved by the City Council.

Step Advancement Dates: Step advancement dates shall be established as of the effective date of the most recent step advancement, promotion or reinstatement into City service, or the effective date of a special salary adjustment as provided in Section 4.2 of these Rules. All step advances shall be effective the first day of the pay period following the step advancement date.

Applicable Salary Rates Following Pay Range Increases and Decreases

- **Same Relative Step:** Where a pay range for a given class is revised upward, the incumbents of positions in classes affected

shall have their existing salary adjusted to the same relative step in the new pay range (Step B to Step B, Step C to Step C, etc.) and their next step advancement date shall not be changed.

- **Retention of Salary and “Y” Rates:** When a pay range is adjusted downward, incumbents may, on approval of the City Manager, be assigned a Y-rate designation to hold the employee at the current salary rate, without increases, until such time as the salary range for the new classification is the same or exceeds the amount of the Y-rating. Any such Y-rate shall be indicated by a “Y” following the salary each time it appears on personnel records or transactions. Said Y-rate shall be canceled on vacancy of the position.
- **Pay Range Change on Step Advancement Date:** In the event that a pay range change becomes effective on an employee’s step advancement date, the employee shall first receive any within-range adjustment to which entitled and then receive the corresponding step adjustment.
- **Pay Range Change on Date of Promotion:** In the event that a pay range change becomes effective on the date an employee is promoted to a higher class, the employee shall first receive any corresponding step adjustment to which entitled in the lower class, and then the next higher step promotional adjustment as provided in Section 10.6 of these Rules.

4.3 Paycheck

Paychecks will be distributed on a bi-weekly basis on the normally scheduled pay date unless otherwise notified. Direct Deposit is preferred and pay stubs will be made available electronically utilizing the payroll software. For anyone not utilizing direct deposit, paychecks will be available for pick up in the Finance department on payday. If payday falls on a day that Finance is closed, it will be the employee’s responsibility to arrange pickup on the following business day.

4.4 Errors in Compensation

Each employee shall review each paycheck to ensure the employee was paid correctly. If the employee believes an error or irregularity has occurred, the employee must immediately call it to the attention of the employee’s supervisor who shall in turn notify the Finance Director. The City shall document all errors in compensation and the affected employees shall sign an acknowledgement for any corrections made.

In the event of any underpayment of which the City becomes aware, the employee shall receive any amount due as soon as possible, but no later than the next regular paycheck.

In the event an employee receives an overpayment by the City, the employee shall reimburse the City for the total overpayment and the City may obtain reimbursement by payroll deduction(s). Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred but may be extended with approval of the City Manager. All repayments must be discussed and agreed upon by the employee and the Human Resources Director.

5 BENEFITS

All benefits are paid in accordance with the most current compensation and benefits resolution.

6 RECRUITMENT, APPLICATIONS AND APPLICANTS

It is the policy of the City of Oakley to recruit and select the most qualified individuals for positions within the City. Recruitment and selection shall be conducted in a manner that will ensure open competition, provide equal employment opportunity, and prohibit discrimination or favoritism because of race (including traits historically associated with race, e.g. hair texture and protective hairstyles), color, religion, gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, reproductive health decisions, or any other basis protected by law, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics.

In the process of recruitment, selection, and retention, the City may consider various employment incentives. At the discretion of the City Manager, up to two (2) weeks of vacation and sick leave may be provided upon appointment to new employees who enter the City with prior local government experience. In no case, however, shall the city offer or authorize loans for real property to potential or existing City employees.

6.1 Recruitment

Positions to be filled shall be publicized by distributing announcements to those City divisions, surrounding government entities or other publications or advertising sources as deemed advisable and appropriate within the discretion of the Human Resources Director and in consultation with the

affected Department Director(s). The Human Resources Department shall prepare an official bulletin announcing any proposed examination. The notice shall be posted on the City's webpage for job opportunities. The notice shall be posted for at least ten (10) days prior to the closing date for receipt of applications. The notice may be posted for less time for a promotional only recruitment. The examination announcement shall contain all information of importance for consideration by potential applicants, including whether the examination is to be promotional only, open, both promotional and open, or continuously open.

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 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 and were deemed suitable candidates during the competitive process. The eligibility list will expire after twelve (12) months.

6.2 Applications

Official application forms shall be available on the City's Human Resources webpage for job opportunities. Applications shall be made using the City's online platform. All applications must be submitted on or before the filing deadline stated in the job announcement.

When necessary to meet continued requirements for filling positions due to nonavailability of applicants for a classification or position or due to an increased vacancy rate or due to increased City needs, the closing date for any selection process may be indefinite and applicants may be tested continuously in such manner and at such times and places as may be provided by the City.

6.3 Disqualification of Applicants

The Human Resources Director may disqualify any applicant either before or after examination for any of the following causes:

- The applicant did not properly complete the application.
- The application indicates on its face that the applicant does not possess the minimum qualifications for the position.
- The applicant is unable to perform the essential functions of the position sought, with or without reasonable accommodations.
- The applicant is currently using illegal drugs.

- The applicant has been convicted of a crime that may have an adverse impact on the applicant's ability to perform the job for which the applicant is applying.
- The applicant is not legally permitted to work within the United States.
- The applicant has made false statement of any material fact or practiced or attempted to practice deception or fraud in making application for employment.
- For any material cause which in the judgment of the Human Resources Director would render the applicant unsuitable for the position, including a prior resignation from City service, termination from City service, or significant disciplinary action.

6.4 Notice of Rejection

The Human Resources Department shall email a notice of any rejection to the email address provided by the applicant on the application.

6.5 Incomplete or Late Applications

Applications received after the announced final date for filing may be accepted by the Human Resources Director. Acceptance in this case will be based on a reasonable explanation being given by the applicant which is satisfactory to the Human Resources Director. Such acceptance is expected to be rare and must take place prior to any scheduled examination for the class in question.

7 EXAMINATIONS

7.1 Responsibility

The Human Resources Director, in consultation with the Department Director, will determine the manner and methods, and by whom examinations shall be given. All examinations and background checks will be job-related and consistent with a business necessity.

Examinations shall be competitive and may consist of written tests, oral tests, performance tests, evaluations of prior training and performance, experience and education, interviews, style assessments, file review, or any combination thereof. The Human Resources Director shall be responsible for the selection of material and types of exams to be provided.

7.2 Need for Examinations

The Human Resources Director shall schedule examinations as necessary. If there is a vacancy or one is anticipated, or if a provisional appointment is made, an examination will be conducted as soon as practicable to establish or supplement an employment list.

The content of any test or examinations will be kept confidential prior to the administration of the exam.

7.3 Rating

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

7.4 Notification of Examination Results

Every applicant taking part in the examination process shall be given written notice of the results via the email provided on the application. Any claim of error in rating or grading, must be submitted to the Human Resources Director no later than ten (10) days after the effective date of the eligibility list, to be considered for correction. Applicants shall be provided timely access to all information reasonably necessary to determine if an error in rating or grading has occurred.

However, applicants may be prohibited from inspecting examination papers if review of such materials is prohibited by the consulting agency that prepared the examination. Applicants cannot have access to the rating sheets of the individual raters, but upon request may have access to a composite description of the rating sheets. Corrections of errors in grading shall be made within the discretion of the Human Resources Director. Applicants have no further right of appeal of examination results.

8 ESTABLISHMENT AND THE USE OF EMPLOYMENT LISTS

8.1 Types of Lists

The following types of employment lists shall be established by examinations with the type of employment list to be established determined by the Human Resources Director.

Promotional Employment List

If there are less than three (3) applicants on a promotional eligibility list, the Human Resources Director, in consultation with the Department Director, may declare the list invalid and announce a new recruitment and examination period. In the alternative, the Human Resources Director may make a temporary appointment until eligible candidates can be certified after appropriate examination.

Open Employment List

If less than five (5) names of qualified applicants are available for a new appointment, the Human Resources Director may declare the list invalid and announce a new recruitment and examination period.

8.2 Use of Employment Lists

Employment lists shall be valid and in effect for a period of one (1) year. An eligibility list may be extended upon the recommendation of the Human Resources Director and by action of the City Manager for additional six-month periods, but in no event shall a list remain in effect for more than two (2) years.

8.3 Eligibility for Promotional Examinations

All candidates for promotion must currently be employed in a full-time or part-time position with the City and must possess the minimum qualifications as set forth in the specifications of the class to which the promotion is sought.

8.4 Availability of Candidates

It shall be the responsibility of candidates to notify the Human Resources Department of any change of address or other change affecting availability for appointment. The Human Resources Department may circulate employment lists or use other methods to determine the availability of candidates and may indicate the conditions under which appointment may be offered. Candidates who decline to be considered or indicate unwillingness to accept employment under the offered conditions will be deemed to not be further considered for that position.

8.5 Removal of Names from Employment, Reinstatement or Re-employment Lists

The Human Resources Director may remove the name of any eligible candidate from an employment list for any of the following reasons:

- The candidate requests the removal in writing.
- The candidate fails to respond to a written offer of employment within five (5) business days of electronic notification.
- A subsequent report of a character investigation is unsatisfactory.
- Removal from a promotional list is automatic upon separation from the City. If the separated employee is on an open list, approval from the City Manager must be sought to remain on the open list.

8.6 Flexible Staffing

The City reserves the right to conduct an open or internal recruitment to fill a vacancy or to fill a vacancy by promotion or transfer of an employee with the approval of the City Manager.

9 APPOINTMENTS

The City Manager or designee shall make an appointment by extending a conditional offer of appointment to an applicant. If the applicant accepts the offer of appointment, the appointment shall be deemed completed, subject to successful completion of any required pre-employment medical examination(s) or assessments. If the applicant does not accept the offer of appointment within the time period designated by the City Manager or designee, the offer shall expire and the offer of appointment shall be deemed declined by the applicant. However, an offer of an appointment to a City position and acceptance of that appointment does not create a contract of employment between the City and appointee. City employment is not held by contract, but rather is governed by these Rules and Council resolutions.

9.1 General Requirements for Appointment

Pre-Employment Screenings

As part of the pre-employment procedure, applicants may be required to supply references and submit to a thorough background investigation, including LiveScan fingerprinting. Safety employees shall be subject to investigation in accordance with Department of Justice and Police Officer Standards and Training requirements. In the case of employees handling money or other valuables in the course of their duties, a credit check may be done in accordance with applicable law.

All offers of employment shall be contingent upon the appointee passing appropriate medical and psychological examination and testing to determine whether the candidate can perform the essential functions of the job, with or without reasonable accommodation. Such pre-employment

screenings may also include screening for illegal drug use. If the examination reveals that the candidate cannot perform the essential functions of the job, with or without reasonable accommodation, or that the person uses illegal drugs, the person may be disqualified from consideration for employment.

If a candidate is disqualified from appointment to a position for failing to meet the medical and psychological standards for the job class, the candidate may file a written request to review the disqualification. Such request must be submitted to the Human Resources Director no later than five (5) working days after the date of the notification or disqualification. The candidate may submit medical evidence supporting a claim that they should not have been disqualified. Submittals shall be accepted for a period of fifteen (15) days, commencing with the date of notification of disqualification. In case of a genuine dispute, the City may require the candidate to be examined by a physician or medical evaluator of the City's choice. Any such examination shall be paid for by the City. The City shall make the final determination based on this examination. If the disqualification is upheld, the candidate has no further right of appeal of the City's determination.

9.2 Applicable Pay Upon Employment

Those appointed to a position shall be paid the designated rate of pay or salary for that class as provided on the approved salary schedule.

10 TYPES OF APPOINTMENTS

10.1 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 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.

10.2 Probationary Employees

Probationary employees are those persons who, through the examination or promotional process, have been appointed to an authorized position but who have not completed their required probationary period. Except as noted below, probationary employees are considered "at-will" and can be released from employment during the probationary period with or without cause and without the right of appeal.

An employee who is in a probationary period solely because of a promotion, is subject to the provisions relating to “Status of Employee Following Promotion” in Section 10.6 below.

10.3 Regular Employees

Regular employees are those persons who have been appointed to an authorized full-time position and who have successfully completed their probationary period. An employee appointed to a regular full-time position shall earn regular status in a classification only if the employee successfully completes the applicable probationary period. Regular employees include those working forty (40) hours per week on a consistent basis. In rare instances, regular employees may also include an employee working a reduced or modified schedule for a set period of time and only when approved by the City Manager.

10.4 Part-Time Employees

Part-time employees are those persons who have been appointed to a position working less than forty (40) hours per week. Part-time employees are considered “at-will” employees and may be terminated with or without cause and without the right of appeal. Part-time employees are not subject to receive benefits unless otherwise stated within these Rules.

Part-Time employees will not be eligible for a salary adjustment except as provided in a Council approved compensation resolution.

However, Department Directors may make recommendation to the City Manager for salary adjustments at an earlier date if circumstances warrant such adjustment.

10.5 Limited Service, Seasonal Appointments

Limited-Service and Seasonal employees are those persons who have been appointed to a limited-service position as defined in these Rules. Limited-Service positions include but are not limited to temporary, limited term part-time, intermittent, student, intern, emergency and seasonal. Limited-service and seasonal are considered “at-will” employees and may be terminated with or without cause and without the right of appeal and have no property interest in their employment with the City.

Limited-service employees will not be eligible for a salary adjustment except as provided in a Council approved compensation resolution.

However, Department Directors may make recommendation to the City Manager for salary adjustments at an earlier date if circumstances warrant such adjustment.

10.6 Promotion

The appointment of any employee to a position in a class which has a higher maximum salary than the employee's present position constitutes a promotion. Such an appointment will be made at the recommendation of the Department Director and the approval of the City Manager. If this promotion will create an expenditure, not allocated for in the department budget, the request along with the budget adjustment will be brought before the City Council.

Promotions will typically be made after an internal or external recruitment process or filled off an established recruitment listing. With approval of the City Manager, in some cases, a promotion of an employee may be done without the recruitment process if it is deemed the City has a highly qualified candidate on staff and filling the position immediately is in the best interest of the City.

Applicable Pay Following Promotion

In the case of the promotion of any employee, such employee shall be entitled to receive the rate of compensation in the entrance step of the pay range for the class to which the employee has been promoted. In cases of promotion where the pay range overlaps, the employee shall be placed at such step in the pay range of the higher class as to provide at least five percent (5%) more basic salary than the employee receives in the lower class. Provided, however, that the application of this provision does not exceed the highest salary step in the authorized pay range for the higher class. The City Manager may authorize an appointment to a position at any higher salary step in the pay range upon the recommendation by the Department Director, as outlined in Section 9.2.

Effective on the date of the promotion, a new salary evaluation date shall be established for purposes of eligibility for consideration for future salary step advances within the pay range of the higher class. In the event the promotion occurs on the employee's salary evaluation date, such employee shall first receive any within-range increase to which the employee is otherwise entitled in the lower class, and then the promotional salary adjustment as provided above.

Status of Employee Following Promotion

When a promoted employee (excluding at-will employees) successfully completes the probationary period for a class the employee gains permanent status in the new class and gives up permanent status in the former class.

Any employee who does not successfully complete the probationary period in the promoted class, may return to the position and status held prior to promotion providing there is a vacancy, unless the reason for rejecting the employee during the probationary period from a position to which promoted would have been sufficient to cause dismissal from the former position as well. If no vacancy exists, the employee will be placed number one on the re-employment list.

10.7 Transfer

A Department Director may, in consultation with the Human Resource Director and the City Manager, at any time and for any reason, transfer an employee from one position to another position in the same or comparable classification with the same or comparable qualifications and without loss of compensation.

If such transfer involves a change from one department to another, both Department Directors should be consulted before the action shall be considered effective.

Whenever possible, an employee being considered for a transfer shall be notified within a reasonable period in advance of the effective date of such contemplated transfer and the wishes with respect to this action shall be considered to whatever extent practicable, consistent with the interest of efficient operations of the departments concerned.

Applicable Pay Rates Following Transfer

In the case of the transfer of any employee from one position to another in the same class or to another class to which the same pay range is applicable, the employee shall remain at the same salary step and shall retain the salary same evaluation date. If the salary range is slightly different the employee will be placed in the step closest to their current salary without lowering their current salary.

Status of Employee Following Transfer

A transfer of a permanent employee from a position in one class to another class having related duties and responsibilities and the same maximum salary shall be made only upon written approval of the Human

Resources Director that the employee possesses the qualifications for employment in the new class.

In such case, no further competitive examination is required, and the employee shall assume permanent status in the class to which assigned. However, an employee currently serving a probationary period shall not be transferred to a position in another class for which an employment list exists, unless directed by the Human Resources Director. In such case, the employee shall start a new probationary period effective on the date of the transfer.

10.8 Voluntary Transfers

Employees who desire a transfer may submit a request for voluntary transfer to their Department Director for consideration. Collectively, the Department Director, Human Resources Director and City Manager may deny the transfer request at their sole discretion. If an employee voluntarily transfers to another position in the same or comparable classification and is not successful, the employee may, at the collective discretion of the Department Director, Human Resources Director and City Manager, return to a former position if that position is vacant. The employee's salary evaluation date shall remain the same as it was before the transfer and the salary range will go back to the range of the previous position, even if that means lowering the salary.

10.9 Qualified Disabled Employees

The City may initiate a transfer of a qualified disabled employee to another position as a reasonable accommodation for the employee's disability. Such transfers may have priority over any candidates on an existing eligibility list.

10.10 Demotion

An employee may be demoted at their request, as a result of reduction in force, for disciplinary reasons, or for other cause. In all cases, the Department Directors concerned, in consultation with the Human Resources Director and City Manager, shall approve or deny the demotion and notify the employee in writing.

A demoted employee shall be required to serve a probationary period in the lower classification unless the lower classification is in the same class series, or the employee previously completed probation in the lower classification. In the event the demoted employee does not pass probation, the employee shall be terminated from employment without the

right of appeal. The effective date of a demotion shall establish a new salary evaluation date.

An employee may request a voluntary demotion to a lower classification in which the employee meets the minimum qualifications. The request shall be in writing and submitted to the City Manager for consideration. The City Manager may approve or deny the demotion request at their sole discretion. If approved, the employee shall sign an acknowledgement of voluntary demotion and reduction of salary and benefits.

If an employee voluntarily demotes to another position in the same or comparable classification, the employee's salary evaluation date shall remain the same as it was prior to the demotion.

Applicable Pay Following Demotion

An employee who is demoted to a class in the City service with a lower maximum salary shall be assigned to a salary step in the lower pay range according to the following rules:

Disciplinary Demotion

If a disciplinary demotion, any designated step in the lower pay range which is at least one (1) step less than the dollar amount received in the pay range for the class from which demoted. A new salary evaluation date shall be established as of the effective date of demotion.

Non-Disciplinary Demotion

If a non-disciplinary demotion, pay should be the salary step in the pay range for the lower class which the employee would have received had the employee's service in the class from which demoted been continuous in said lower class. The employee's previous salary evaluation date shall be retained.

Status of Employee Following Demotion

If the demotion involves an employee with permanent status, then the demoted employee shall assume permanent status in the class to which demoted and give up permanent status in the class from which demoted only if the findings of the Human Resources Director are that the employee meets the qualifications of the class to which demoted, and (if required under the provisions above), upon completion of a new probationary period. If the employee does not have permanent status in the higher class, the employee shall serve a new probationary period in the demoted position.

10.11 Reclassification

An employee may be reclassified without competitive exam if the Human Resources Director determines the employee has met the minimum qualifications of the new classification and has performed the duties of the reclassified position for a considerable length of time. Reclassification shall not be used for the purpose of avoiding competitive selection processes.

The employee's salary evaluation date shall not change as a result of the reclassification. When a position is reclassified from one existing class to another existing or new class under Section 3.4. of these Rules, the following shall apply to the incumbent:

Applicable Pay Following Reclassification

If a position is reclassified to a class having the same maximum salary, the salary and the salary evaluation date of the incumbent shall not change. If a position is reclassified to a class which has a higher maximum salary, the salary shall be adjusted in accordance with Sections 4.2 and 10.6 of these Rules. If a position is reclassified to a class with a lower pay range, the salary of the incumbent shall not change.

Status of Incumbents in Reclassified Positions

Whenever reclassification occurs, an employee occupying the position may be retained in the position after it has been reclassified without further competitive examination, provided that the Human Resources Director in consultation with the Department Director, finds that:

- The reclassification results from an official recognition of a change in duties and responsibilities which has already occurred.
- The addition of duties and responsibilities (justifying allocation to a different classification) was not the result of planned management action.
- The performance of the duties and responsibilities of the incumbent has been satisfactory.
- The incumbent possesses the knowledge, skills, and abilities of the qualifications of the different class.
- The incumbent has permanent status in the class to which the position was formerly allocated.

10.12 Acting or 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 position or at least a five percent (5 %) temporary pay increase, whichever is greater, when it is expected the employee will serve in the higher-level position in excess of twenty (20) workdays. If the interim appointment is initially not expected to exceed twenty (20) workdays but does in fact exceed twenty (20) workdays, the employee will be paid retroactively back to the first day in the higher position. For the purpose of these Rules, 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 Manager must approve these requests and may only approve such request upon certification that the assigned employee meets the minimum training and experience guidelines for the position. Employees assigned to an acting or interim role, will be expected to perform the full scope of duties as outlined in the job description of the higher-level position.

10.13 Emergency Appointments

To meet the immediate requirements of an emergency condition, such as major fire, flood, earthquake, or other public calamity that threatens public life or property, the City Manager may employ such persons as may be needed for the duration of the emergency without regard to the personnel ordinance, these Rules, or other rules and regulations affecting appointments. Such employees serve at the will of the City Manager and may be dismissed with or without cause and without any right of appeal.

11 PROBATIONARY PERIOD

11.1 Probationary Status

Any full-time employee shall be placed on probation for a period of twelve (12) months unless otherwise specified in a Memoranda of Understanding or other Council approved resolution. This section excludes at-will employees which includes those who report directly to the City Manager, part-time employees, and seasonal employees.

The probationary period for all promoted employees shall be six (6) months.

The probationary period shall be considered a part of the recruitment, examination and selection process and shall not include the time served under any limited service or provisional appointment but shall date from the time of appointment to a regular position after certification. This continuation of the testing process is intended to allow the City to determine if the employee can successfully perform the job duties and is a good fit for the organization.

Leaves of absence or assignment out of the class totaling more than thirty (30) calendar days, for any reason, shall not be counted toward completion of the probationary period.

An employee will remain on probation until the City takes formal, written action to remove the probationary employee from the probationary status. This will include a completed performance evaluation as well as a written memo informing the employee of the successful completion of probation.

11.2 Extension of Probation

With the approval of the City Manager and upon written notice to the probationer, the probationary period may be extended up to six (6) months for any new appointment or promotion should it be deemed necessary to further evaluate performance before making a regular appointment to the position.

11.3 Rejection from Probation

During the probation period, the employee may be rejected by the Department Director in consultation with the Human Resources Director and City Manager, at any time with or without cause and without right of appeal, hearing, or grievance procedure. No justification or cause need be provided to a probationary employee rejected from probation.

Any promoted full time employee, who is rejected during the probationary period, may be reinstated to a position in the classification from which promoted if a vacancy in such classification exists, unless there is just cause for the release from probation.

12 OUTSIDE EMPLOYMENT AND USE OF CITY PROPERTY

12.1 Prohibited Activity

Full-time employees are expected to devote full time to assigned duties as a City employee. An employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with City job duties, functions, or responsibilities, nor shall an employee engage in any outside activity which will directly or indirectly contribute to the lessening of the effectiveness as a City employee. No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly provided in these Rules, Memorandum of Understanding, or by law.

12.2 Outside Employment

Employees may not engage in any employment or activities that create a conflict of interest, is unethical, or otherwise interferes with their City employment.

A City employee shall not perform any work, service, or consultation for compensation outside of City employment where any part of the efforts will be subject to approval by any officer, employee, board, or commission of the City of Oakley, unless approved in the manner prescribed by these Rules.

All employees occupying positions, who hold or wish to hold jobs outside their normal City employment must make a request to engage in outside employment and submit the request to the City Manager or designee. Outside employment shall not be permitted if it conflicts in any manner with the employee's duties and responsibilities with the City or is prohibited by law.

In deciding as to whether an activity creates a conflict or ethical question, the City Manager or designee shall consider, among other pertinent factors, whether the activity involves:

- Receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act that the employee would be required or expected to render in the regular course of City employment.
- The performance of an act or work which may later be directly or indirectly subject to the control, inspection, review, audit or enforcement by such employee or other City employees.
- Conditions or factors which might, directly or indirectly, lessen the efficiency of the employee in regular City employment or conditions in which there is a substantial danger of injury or illness to the employee.
- The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment, or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons.
- The solicitation of future employment with a business or individual doing business with the City over which the employee has some control or influence in the course of performing official duties.

12.3 Authorization of Outside Employment

Notice of authorization of outside employment shall be in writing, utilizing the Request for Outside Employment Form (see Human Resources), with a copy placed in the employee's personnel file. Denial of authorization of outside employment determination may be subject to the Grievance Procedure as set forth in Section 17 of these Rules.

12.4 Violations and Penalties

Any violation of these provisions regarding outside employment shall constitute grounds for disciplinary action up to and including termination.

12.5 Annual Approval Required

An employee must submit the Request for Outside Employment form annually to the City Manager for approval.

12.6 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.

- Outside employment ends.
- Any changes to work hours, locations, or types of duties.

12.7 Revocation or Suspension of Outside Employment Authorization

Any outside employment authorization may be revoked or suspended during the year under the following circumstances:

- The employee's work performance declines.
- 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.

13 PERFORMANCE EVALUATIONS

Performance evaluations are communication tools used to provide constructive feedback on work performance, professional relationships, goals, and expectations. Evaluation periods are also times for employees to notify their supervisors of any problems, concerns or suggestion that would help improve the

City, the work environment, or the employee's job performance. Any immediate concerns should be addressed as they arise and not wait for the annual evaluation.

Evaluations should be completed for all full time and part-time employees regardless of the number of hours worked. Seasonal employees are excluded from performance evaluations.

13.1 Frequency

Department Directors or their designees shall make a report of performance of each employee after completion of a probationary period and annually thereafter.

Unless changed in accordance with these Rules, these evaluation dates shall constitute the employee's salary evaluation date for purposes of eligibility for a salary step increase.

Salary step increases will occur in the pay period following the employee's hire or promotion date. The employee shall continue to receive performance evaluations on said date even after the employee has reached the top of the applicable salary range. In addition, a performance evaluation may be prepared at any other time at the discretion of the employee's supervisor.

Employees hired before July 1, 2021, will receive their annual evaluation in June of each year and will be eligible for a salary step increase the first pay period in July of each year.

The employee shall receive a copy of the performance evaluation and shall have an opportunity to discuss said evaluation with the employee's supervisor. The employee may also submit written comments or rebuttal to the evaluation which shall be part of the complete document to be placed in the employee's personnel file.

14 EMPLOYEE CONDUCT

In order to accomplish the City's mission, vision and core values as defined in Section 1.1 of these Rules, employees must take pride in their work, personally ensure all members of the public are being served efficiently and courteously and present themselves in such a way to make the City proud. Accordingly, the highest standards of professional conduct are considered essential for all employees of the City. City employees must be committed to the core values of the City at all times.

14.1 Appearance Standards

These dress code appearance standards are designed to promote the City's legitimate and non-discriminatory goals to promote workplace safety and serve the community with a professional image.

Personal Appearance

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

- All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed.
- Typical dress is business like professional attire (e.g., no jeans or sweats, no sweatshirts, shorts or tank tops, no flip flops, etc.).
- Prescribed uniforms and safety equipment must be worn.
- Good personal hygiene is required.
- Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work (e.g., appropriate length, not too loose, too tight, etc.).
- Clothing should have minimal or incidental graphics, branding, or logos. Any graphics, branding, or logos displayed prominently on the pants, chest, sleeves, face covering or back is prohibited, unless it is a City-provided garment with a City logo.

For positions that work most of their day outside in the elements, the dress code may be modified during extreme weather conditions with the approval of the City Manager (e.g., short may be allowed during summer months, etc.).

Casual Days

- In recognition of the desire to have a weekly casual day, the City has established a casual dress day on Fridays and the Thursday prior to the RDO. Employees must adhere to all of the personal appearance policies and should exercise good judgement and common sense when dressing casually and take into consideration any meetings that might require a professional dress. Casual attire should not include sweats or shorts. Jeans, t-shirts, or sweatshirts with City logo are considered casual attire. At the City Manager's

sole discretion, Casual Days can be eliminated or modified at any time.

- From time to time the City Manager may allow for themed days that will allow for employees to dress in a specific theme. It is expected dress remains appropriate and safe for the work performed but may allow for things other than the City logo to appear on articles of clothing.

Tattoos

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

- No tattoos are allowed anywhere on the head, face, or neck.
- Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang related.

Piercings

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

- No objects, articles, jewelry, or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth, except that of reasonably sized pierced earrings may be worn in the nose or ear lobe.
- Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

14.2 Off-Duty Social and Recreation Activities

The City may sponsor social or recreational activities for its employees. Employee attendance at the social activities is voluntary and is not considered 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 recreation,

social or athletic activity that is not part of the employee's work-related duties.

14.3 Smoking

The City is a smoke free environment including vaping and any other form of tobacco products. In accordance with California State Labor Code 6404.5, tobacco products of any kind will not be used while operating a City vehicle.

15 DISCIPLINARY ACTION

15.1 Authority to Discipline

Employees who hold non-probationary appointments, and are not at-will, shall not be disciplined without good cause. At-will and probationary employees are subject to dismissal without cause and without the right of appeal. For purposes of this section, disciplinary action shall be defined to include one or more of the following: oral reprimands, written reprimands, suspensions, demotions, reductions in pay, and dismissal. Oral and written reprimands may be initiated at the supervisor level. Disciplinary action more serious than a written reprimand must be initiated at the Department Director level in consultation with the Human Resources Director and the City Manager. The Human Resources Director shall be notified of any contemplated disciplinary action prior to the time it is taken, provided that in emergency situations or other instances when prior notification is not practicable, the Human Resources Director may be notified as soon as possible subsequent to the time the action is taken.

15.2 Grounds for Disciplinary Action

Good cause for disciplinary action exists not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the City, affects the employee's ability to perform their duties, causes other employees not to be able to perform their duties, or involves any improper use of the employee's position for personal advantage or the advantage of others. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

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

- Being under the influence of an intoxicating beverage or non-prescriptions narcotic or drug while on duty or the failure to notify a supervisor, in writing, when the employee is taking prescription medication that can impair judgment or performance.
- Conduct unbecoming of an employee of the City.
- Conviction of any felony or misdemeanor in State or Federal court which is reasonably related to the individual's position with the City.
- Discourteous or non-cooperative treatment of the public, City elected officials, employees or volunteers.
- Dishonesty or immorality on the job, including making any false representation or statement or making any omission of a material fact.
- Improper political activity as defined by California law, Government Code Sections 3201-3209 that governs improper conduct related to elections and political activity.
- Willful violation of safety, endangering self or others, or failure to follow adopted safety practices or failure to properly used required personal protective gear and equipment.
- Engaging in outside employment without authorization.
- Engaging in unlawful discrimination or unlawful sexual harassment in violation of the City's policy and State and Federal law.
- Excessive tardiness or absenteeism.
- Failure to obtain and maintain a current license or certificate as a condition of employment.
- Failure to report to work, remain on duty or return to duty after a requested leave of absence has been disapproved, revoked, or cancelled.
- Fraud of any kind; falsification of any City application, medical history record, invoice, paperwork, timesheet, investigative questionnaire, or any other City document.
- Improper or unauthorized use or misuse of City equipment or supplies, or damage to or negligence in the care and handling of City property.
- Inattention, inefficiency, incompetence, carelessness, or inexcusable negligence in the performance of duties.
- Insubordination or failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment from an authorized 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.
- Neglect of job duties.

- Offensive or obscene language in public, or towards the public, City elected official, City employee or volunteer.
- 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 is given in the expectation of receiving favored treatment.
- Violation of the City's or departments confidentiality policies, or disclosure of confidential City information to any unauthorized person or entity.
- Violation of any provisions of these Rules, official City policies and workplace conduct rules, and departmental policies, rules, procedures, and regulations.

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

15.3 Types of Discipline

Any authorized supervisory employee may propose disciplinary action for cause against an employee under their supervision in accordance with the procedures outlined in these Rules. In general, the City shall adhere to the principles of progressive discipline, but the City has the right to initiate disciplinary proceedings at any level up to and including termination where the circumstances warrant doing so.

Oral Reprimand - Verbally notifies the employee that their performance or behavior must be improved. Oral warnings are generally given by supervisors when counseling has failed to produce the desired changes. The warning defines the areas in which improvement is required, sets up goals leading to this improvement, and informs the employee that failure to improve will result in more serious action. Although the supervisor makes a note of the content of the warning and sends a confirming memo to the employee, no record is placed in the employee's permanent personnel file unless subsequent action is necessary. Supervisors will keep the oral reprimand in their file and utilize during the evaluation period as deemed necessary by the supervisor. Oral reprimands are not subject to the disciplinary appeal procedure set forth in these Rules.

Written Reprimand - Official notification to the employee that there is cause for dissatisfaction with the employee's services and that further disciplinary measures may be taken if said cause is not corrected. Written reprimands should be given in consultation with the Human Resources

Director. The supervisor shall provide a copy of the written reprimand to the employee as well as review the violation and the reasons for the reprimand. An acknowledgement of receipt will be requested, and the employee has the right to respond in writing within seven (7) days of the notification. Written reprimands shall be made a part of the employee's official personnel record along with any response received by the employee and may be considered as pertinent evidence or information in any hearing. Written reprimands are not subject to the disciplinary appeal procedure set forth in these Rules.

Suspension without pay – The City Manager may suspend an employee for cause without pay, for up to thirty (30) calendar days per disciplinary occurrence. Suspension is considered unpaid leave; therefore, an employee will not accrue sick, vacation, insurance, retirement, etc. 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 procedure set forth in the Rules.

Reduction in Step within range as a disciplinary measure - Is the withdrawal of step advancements granted for merit, efficiency, and length of service. Reduction in pay shall become effective on the effective date of the disciplinary action. Reduction may be made on a permanent or temporary basis. Reductions of pay are subject to the disciplinary appeal procedure set forth in these Rules.

Disciplinary Demotion - Shall be a reduction in classification to a classification having a lower maximum salary with reduction in salary as provided in Section 10.10 of these Rules. Demotion without consent may be made to the classification having the lowest maximum salary in the classification series or a classification series comparable to that within which the employee's position is located. Demotion may be made on a permanent or temporary basis. Demotions are subject to the disciplinary appeal procedure set forth in these Rules.

Dismissal – Regular employees shall be terminated for cause after appropriate disciplinary proceedings have been followed. If necessary, an employee may be removed from services immediately and placed on paid leave pending the completion on an investigation and disciplinary determinations. The City Manager may terminate the employment of any 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 these Rules. Dismissals are subject to the disciplinary appeal procedure set forth in these Rules.

15.4 Procedures for 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 employees who are subject to dismissal, suspension, disciplinary demotion, or reduction in pay for disciplinary purposes. They do not apply to management employees, probationary, part-time, temporary, 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.

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 Director. The City Attorney shall be advised of any investigation and shall provide direction to the person who is conducting the investigation.

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 their address of record by Certified Mail 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:

- A statement of the nature of the Disciplinary Action to be taken.
- A statement of the causes, therefore.
- A statement of the act(s) or omission(s) upon which the causes are based.
- A copy of the materials upon which the Disciplinary Action is based.
- A statement informing the employee of their 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.

- A statement informing the employee of their right to have a representative of their choice present at all meetings related to the discipline, including the Skelly conference.
- 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.

16 DISCIPLINARY APPEALS PROCESS

16.1 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 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 these Rules.

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 their 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:

- The level of discipline, if any, to be imposed and the effective date of the discipline.
- The specific charges upon which the discipline is based.
- A summary of the facts that show that the elements of each charge at issue in the intended discipline are met.
- A copy of all materials upon which discipline is based.
- 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, email to the last known email 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.

16.2 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 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 these Rules.

An appeal must be filed in writing with the Human Resources Director 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.

16.3 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.

16.4 Scheduling the Hearing

If the employee files a notice of appeal, an evidentiary hearing shall be arranged for by the Human Resources Director and in consultation with the City Attorney. Typically, the hearing officer shall be 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.

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

16.6 Failure of Employee to Appear at the Hearing

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

16.7 Representation

The employee may represent themselves at the hearing or be represented by counsel or another representative of their choice.

16.8 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.

16.9 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.

16.10 No Retaliation

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

16.11 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 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 their position.

17 GRIEVANCE PROCEDURE

The City is dedicated to positive employer/employee relations and will strive to maintain good working conditions, competitive wages and benefits, open communication, and employee involvement.

Communication is expected to follow the chain of command and an employee should bring all concerns regarding their job or working environment to their immediate supervisor. If the immediate supervisor is unable to resolve the concern, or is part of the concern, the employee should go to their Department Director. If the Department Director is unable to resolve the concern, the employee should seek assistance from the Human Resources Director, City Manager or City Attorney.

This procedure is intended to ensure that every reasonable effort will be made to resolve problems as near as possible to the point of origin.

17.1 Definition of “Grievance”

Subject to the exclusions listed in these Rules, a grievance is defined as any dispute involving the interpretation, application, or alleged violation of a specific express term of these Rules.

17.2 Eligibility to File a Grievance

Only full-time employees in regular non-probationary appointments who are adversely affected by an act or omission of the City are eligible to file a grievance.

17.3 Exclusion from the Grievance Procedure

The following matters are excluded from the definition of a “grievance”:

- Requests for changes in wages, hours, or working conditions.
- The content of employee evaluations or performance reviews, except those that result in a loss of benefits to the employee.
- Challenges to reclassification, layoff, transfer, denial of reinstatement.
- Challenges to examinations or appointment to positions.
- Challenges to this grievance procedure.
- Disciplinary Actions.

17.4 Procedure

In almost every circumstance an employee should follow the “chain of command” as outlined in Section 17 of these Rules; however, if for good cause an employee feels uncomfortable about reporting a matter of

concern to their immediate supervisor, Department Director, the Human Resources Director, or City Manager, then the employee should report directly to the City Attorney.

17.5 Reporting Time Limitation

An employee who wishes to initiate the grievance process must bring the grievance to the attention of their Department Director within ten (10) calendar days after the employee 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.

17.6 Informal Resolution Procedure

To initiate informal discussions of a grievance, the employee shall provide the Department Director with a written description of the circumstances causing the grievance within the time set forth in Section 17.5 and must indicate in the written description that the matter is being pursued as a grievance as outlined in these Rules. 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 Department Director shall provide the employee 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.

17.7 Formal Grievance Procedure

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

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 Director, with a copy to the employee's Department Director. The grievance shall contain the following information:

- A description of the specific grounds of the grievance, including names, dates, and places necessary for a complete understanding of the grievance.
- A listing of the provisions of City Rules, ordinances, policies, and procedures which are alleged to have been violated.
- A list of all persons who are witnesses or who are involved.

- A listing of the reasons why the Department Director's proposed resolution of the problem is unacceptable.
- A listing of specific actions requested of the City, which will remedy the grievance.

Grievance Meeting

The Human Resources Director shall meet within ten (10) calendar days with the employee and the Department Director, separately or together, at their discretion, to resolve the subject of the grievance. The Human Resources Director 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.

Appeal Process

The employee may submit a written appeal to the City Manager if the Human Resources Director's 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, then the City Attorney shall hear the appeal. If no appeal has been submitted within ten (10) calendar days from the date of receiving the formal decision, the Human Resources Director's formal decision shall be considered as final.

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.

Timelines

Failure of the City to comply with the time limits of the grievance procedures allows the employee to appeal to the next level of review. Failure of the employee 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.

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 amount of work time for the actual meetings involved in the grievance process, this does not include preparation time.

No Retaliation

Employees shall not be penalized or retaliated against in any way for using the grievance procedures or testifying as a witness in a grievance proceeding.

18 SEPARATION, RESIGNATION, LAYOFF AND REEMPLOYMENT

The following are recognized as formal types of separation from City Services:

Probationary Release
Release of Part-Time, Temporary or Seasonal Employee
Resignation
Retirement
Job Abandonment
Layoff
Non-Disciplinary Separation
Disciplinary Separation

18.1 Separations

All employees who separate from City service must:

- Return all City property to the Human Resources Director or the immediate supervisor prior to receiving the final paycheck.
- Clear any existing financial obligations with the City.
- If applicable, file a Form 700 leaving office statement with the City Clerk.

In addition, employees who resign or retire shall adhere to the following procedures before they will be deemed to have separated in good standing:

- Submit a written notification stating the intent to resign or retire and the proposed effective date to their immediate supervisor.
- Provide a minimum notice of two weeks. The City encourages employees who become aware of their pending separation from the City to let the Human Resources Director know as far in advance as possible. Failure to provide reasonable notice shall be noted in

the personnel file and may be cause for denying future employment by the City.

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

Use of accrued leave may not be used to extend employment beyond the last day worked without advance written approval of the City Manager.

Non-Disciplinary separations due to the inability to accommodate after the reasonable accommodation and interactive process is concluded will be given a written notes of the reasons for separation, the evidence supporting the decision to separate for non-disciplinary reasons and an opportunity to respond before the separation takes effect.

18.2 Retirement

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

An Employee planning to retire from the City shall provide a written notice to the Department Director and the Human Resources Director. Such notice should be provided, whenever possible, at least sixty (60) calendar days prior to the effective date of retirement.

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

18.3 Termination-Disciplinary

An employee may be terminated based on disciplinary action pursuant to these Rules.

18.4 Release from Probation and At-Will Employees

Probationary employees will be released pursuant to the provisions in these Rules.

At-Will employees will be released pursuant to the provisions in these Rules.

18.5 Job Abandonment

Separation of an employee who is absent without notification or authorization for twenty-four (24) consecutive scheduled work hours or more, in accordance with Section 19.2 of these Rules.

18.6 Layoff

Should the City Manager determine that reductions in force are necessary due to lack of work, reorganization, or for financial reasons, layoffs may be directed. In the event of layoffs, the City shall provide affected employees with as much notice as possible.

The decision to lay off an employee is not subject to any right of appeal or grievance.

18.7 Layoff List Preparation Procedure

When a position within a classification is removed, the following general procedure shall be followed:

- Seasonal or part time employees will be released before an employee in the same classification with probationary or permanent status.

19 WORK WEEK AND ATTENDANCE

Department Directors shall assign daily hours of work (or shifts) for employees within departments, as required to meet operational requirements. The Department Director may recommend changes to an employee's work period, week, or hours to meet the requirements of the City. Changes shall be recommended to the Human Resources Director and approved by the City Manager.

Any foreseeable absence or deviation from regular working hours desired by an employee shall be cleared in advance through the employee's supervisor, and such absences shall be noted on the employee's time sheet.

19.1 Work Week

The City operates under a modified 9/80 work schedule. City office hours will be based on the needs of the City in general and will be set by the City Manager. As a modified 9/80 schedule, City Hall will be closed on the first and third Fridays each month. Modified 9/80 schedules (nine hours Monday through Thursday, eight hours alternate Friday, and alternate

Fridays closed) shall be Friday halfway through the workday through the following Friday halfway through the workday. These designated work weeks may be changed only as a result of major changes in operations, payroll procedures or as otherwise necessary in order to deliver services as efficiently and economically as possible. Any deviations from this work schedule must be approved in writing by the City Manager and must be included in the employee's personnel file.

On rare occasions and when it creates efficiencies within the Department, the City Manager may designate an alternative schedule. These schedules may include a 9/80 work schedule, 5/8 work schedule or a 4/10 work schedule.

Any alternative schedule other than the modified 9/80, must be requested in writing to the Department Director. If the Department Director agrees the requested schedule is in the best interest of the department, they will present it to the City Manager for approval. Requests will be on a case-by-case basis and the City Manager reserves the right to rescind approval of the alternative schedule with at least a ten (10) day written notice. Any approved alternative schedule shall be on file in the employee's personnel file.

19.2 Attendance

Employees are expected to report to work as scheduled, on time, and prepared to start work. Employees are also expected to remain at work for their entire work schedule, except when required to leave on authorized City business or some other authorized leave. All departments shall keep daily attendance records of employees, which shall be reported on the employee's timesheet.

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 time should follow the procedures provided in these Rules for the particular type of leave that they are requesting.

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. If the employee's immediate supervisor is not available, then the employee must notify the Department Director or designee. Employees shall inform their supervisor of the expected duration of any late arrival or absence. Employees who call later than their scheduled time to begin work for their assigned shift shall be deemed to have an unauthorized tardy or absence in violation of this attendance

policy. Abuse or misrepresentation of any form of accrued or paid or unpaid leave time will be grounds for discipline.

An employee who is absent from work without notification or authorization for twenty-four (24) consecutive work hours or more will be considered to have abandoned their employment with the City, which will be treated as an automatic resignation effective as of the last day an employee worked. In this case the City will provide notice to the employee to their last known telephone number, last known email address or last known address. If, within ten (10) days of said notice, the employee can show good cause for the failure to return to duty, the Human Resources Director, in their discretion may, with approval of the City Manager, reverse the resignation. In the event that an employee's absence is deemed an "automatic resignation" in accordance with this Rule, the employee shall have the same right to appeal afforded to employees who are terminated for cause under these Rules. However, an employee's absence without notification or authorization for twenty-four (24) hours or more shall be deemed just cause for termination.

19.3 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.

19.4 Meals and Rest Periods

Meal Periods

Employees shall receive a sixty (60) minute meal period that shall not be compensated, with the exception of safety personnel such as police officers or safety staff such as police service assistants. During the meal period, the employee shall be relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. A thirty (30) minute lunch period may be considered by the Department Director but must be requested in writing by the employee and will only be approved if such a schedule will not impair the efficiency and effectiveness of the department. The Department Director may rescind approval of the thirty-minute lunch period with at least ten (10) working days written notice to the employee.

Police Department staff may not always be able to be relieved of duty during meal periods. At the discretion of the Chief of Police, meal periods required by these rules, may be waived should an employee's duties require them to work through the meal period.

Rest Periods

Employees shall have a fifteen (15) minute rest period for each half of their shift, as scheduled by the supervisor. The rest period may be interrupted or cancelled if necessary to complete work and shall be compensated time. The rest periods shall not be combined or used to shorten the workday.

Lactation Breaks

Any employee who wishes to express breast milk for an infant child during scheduled work hours will receive additional unpaid time beyond the compensated rest period provided in these Rules. Those desiring to take a lactation break must schedule breaks with the department supervisor. Approved lactation breaks will not be interrupted, except in emergency circumstances.

The City will make all reasonable efforts to accommodate employees by providing an appropriate, private location to express milk. 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 bathroom. 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.

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 workday.

19.5 Timekeeping

All employees must sign and accurately record all hours worked and any leave taken on their timesheets. Employees must immediately report any errors on a timesheet that has already been submitted to their supervisor.

All employees are responsible for the accurate and timely submission of timesheets as well as any other supporting documented required to accurately report time. Timesheets should accurately reflect actual time worked and should be completed daily. Timesheets should only be altered or adjusted by the employee. If there are discrepancies with the employee's timesheet as submitted, Department Directors or designee

shall discuss with the employee and upon agreement of both parties, the employee shall alter the timesheet.

In the event the employee is unable to complete their timecard due to absence, Department Directors should report the employee's hours worked on their behalf and have the employee approve at the earliest date upon return. If discrepancies exist, they will be corrected on the first payroll following the employee's return.

Timesheets are due the Monday following the completion of a pay period no later than 10:00am. Timesheets are required to be electronically approved by the employee as well as the Department Director or designee.

Hours are to be recorded in quarter (1/4) hours and rounded down at the six-minute mark and up at the 7-minute mark. For example, 8:06 AM will be recorded as 8:00 AM on the timesheet and 8:07 AM will be recorded as 8:15 AM on the timesheet. Rounding does not relieve an employee from the responsibility of completing their scheduled number of hours for each day.

Exempt employees may be required to use accrued leave time for partial day absences of four (4) hours or more. However, exempt employees are generally expected to work their entire schedule each day, and the City Manager may require exempt employees to use accrued leave for partial day absences of less than four (4) hours. With prior approval of the City Manager, exempt employees may make up time off on other days and not need to use accruals.

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

19.6 Overtime

Recording hours worked as well as any leave time taken by an employee is necessary to provide an accurate basis for preparing paychecks, monitoring leave accruals, and assuring compliance with all Federal and State laws.

All hours worked in excess of forty (40) hours in the work week will be paid in accordance with FLSA. Overtime must be approved in writing by an employee's supervisor in advance. Overtime worked without prior permission will result in disciplinary action.

Employees in positions designed as overtime eligible will receive additional compensation, either in cash or compensatory time off, in a work week during which they work more than forty (40) hours. Work weeks will not be altered to avoid paying overtime, but employees may request an alternative schedule in advance with approval from their supervisor.

In accordance with FLSA, only actual hours worked will be used to calculate hours. Time paid, but not worked such as sick leave, vacation, holiday, or compensatory time off, does not count towards the calculation of hours worked.

Overtime pay for work on employee's scheduled day off will be based on actual hours worked in excess of 40 hours in the work week.

Should a full-time, non-exempt employee work a City event on a weekend that includes Holiday pay in the same work week, the employee will be paid at time and a half for all hours worked at the event. Holiday pay will be the only hours type that is included as hours worked for this purpose and only applies if the employee is required to work the event. These events include things such as Summer Fest and the Heart of Oakley.

Any hours spent traveling to out of town training or for training outside of an employee's normal work schedule should be applied in accordance with the City's Travel Policy.

19.7 Paid Overtime and Compensatory Time Off

Compensation for overtime hours worked will be at a rate of one and a half (1.5) times the employee's regular rate of pay 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 (40) hours of unused compensatory time off. Accrual of compensatory time off shall be at the rate of one and a half (1.5) 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 for all overtime hours worked until the balance is below the maximum. All compensatory time off will be cashed out at separation in accordance with the FLSA.

Compensatory time off is intended to be taken as soon as it is mutually convenient following the date on which it is earned. Time off should be requested in advance, similar to vacation, and must be approved prior to

taking. Time off should be requested in writing to the supervisor with at least five (5) days' notice.

Should an employee receive a promotion or reclassification to an exempt position, all compensatory time off will be paid on the last day of employment in the non-exempt position. Payments will be made at the regular rate of pay for the non-exempt position.

19.8 Police-FLSA Section 207 (k)

The work period for sworn non-exempt employees, consistent with the 7(k) exemption of the Fair Labor Standards Act, is one hundred seventy-one (171) hours per 28-day work period. The workweek is not necessarily the same as the calendar week. The workweek for all sworn, non-exempt police officers begin at 12:00 AM Sunday and ends at 11:59 PM Saturday.

20 Management LEAVE

20.1 Management Leave-Management Employees

In lieu of the payment of overtime, exempt employees are granted ninety-six hours (96) of management leave on January 1st of each calendar year. Management leave will be prorated for management employees who are hired or promoted into a management position during the year. The proration will be 8 hours per month including the month in which the employee is hired or promoted.

All ninety-six (96) hours of management leave should be used during the calendar year in which it was earned. Up to forty (40) hours of unused leave will be allowed to carry over to the next calendar year.

On rare occasions and with the approval of the City Manager, more than forty (40) hours management leave may be carried over to the next calendar year, subject to a maximum accrual limit of one hundred sixty (160) hours. Such a request must be made in writing on or before December 15th of each year. Failure to request a carry over by December 15th will limit an employee to the standard forty (40) hour carryover limit. Any accrued management leave that would exceed the carryover or maximum accrual limits of this provision are lost.

If leave was previously approved to be taken in December and the City cancels that leave for any reason, the amount approved will be carried over to the next year notwithstanding the above limits.

Management leave can only be cashed out upon separation of employment and will be paid at the employee's base pay.

21 VACATION

Unless otherwise specified in a Memorandum of Understanding or Council approved resolution, each full-time employee shall accrue vacation on a bi-weekly basis at the following rate for continuous service performed in pay status as follows:

0 to 36 months of service:	80 hours per year (3.08 per pay period)
36 to 72 months of service:	120 hours per year (4.62 per pay period)
72 to 168 months of service:	160 hours per year (6.15 per pay period)
168 or more months of service:	200 hours per year (7.69 per pay period)

The increase in rate of vacation accruals is effective on the next pay period following the anniversary of the employee's hire date.

21.1 Maximum Accruals

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 that employee.

0 to 36 months of service:	200 hours maximum
36 to 72 months of service:	300 hours maximum
72 to 168 months of service:	400 hours maximum
168 or more months of service:	500 hours maximum

Maximum Accrual Buy Back

Any hours accrued above the maximum as of the paycheck that includes December 1st of each year will be paid to the employee on the second paycheck in December.

21.2 Part-Time Employee Vacation Accrual

Part-Time employees working more than one thousand five hundred (1,500) hours per year will be eligible for a pro-rated accrual based on their full-time equivalent percentage.

Part-Time employees working under one thousand (1,000) hours per year will be eligible for up to thirty-eight (38) hours of vacation accrual per year. This excludes any seasonal, or temporary positions.

Accruals will occur bi-weekly in the amount of 1.46 hours per pay period.

21.3 Maximum Accruals Part-Time Employees

Regardless of the number of hours worked per year, vacation accrual hours will cap at two (2) times the annual accrual, i.e. seventy-six (76) hours.

There will be no cash out provision, except as required by law at separation, for part time vacation accruals. Any hours that would accrue above the seventy-six (76) hour maximum will be lost. Accruals will not continue until the accrual bank is below the maximum.

21.4 Use of Vacation

There is no waiting period before an employee can request to take accrued vacation. Vacation hours cannot be used in the pay period within which they are earned. Employees may only schedule time off for vacation hours that have already been accrued.

Email requests to the employee's immediate supervisor should be submitted for approval of vacation time off. The amount of time taken at any one time shall be determined by the Department Director with regard for the needs of the City.

21.5 Effect of Sick Leave On Vacation Leave

In the event an employee becomes ill during a vacation period, such time shall not be charged as vacation leave if the following conditions are met:

Employee Sick Leave Requirements

The employee complies with the same notice requirements as required when the employee is not on leave, including notice to the employee's supervisor no later than the start of the employee's regular work shift. If the employee becomes ill after the start of the work shift, then the employee must promptly provide notice on the same day the illness begins. In the event an employee is unable due to injury or illness to provide prior notice or same-day notice, the employee must provide notice

as soon as possible. Sick leave shall only be granted for those days on which notice is given.

Return to work requirements

The employee, upon return to work, submits a doctor's certificate for each day the employee was absent from work.

21.6 Vacation Pay-Out Upon Termination

A regular or probationary employee whose employment with the City terminates shall be paid for that part of vacation accumulations that remains unused at the time of termination. Payment for unused vacation shall be made at the base rate of pay in effect for such employees at time of termination.

Unless otherwise provided by State Law, when termination is caused by the death of the employee, said pay for unused vacation shall be paid to the beneficiary the employee has designated. Such designation shall be in writing, signed by the employee and filed with the Human Resources Department. In the event an employee has not designated a beneficiary, the payment shall be made to the estate of the employee.

21.7 Eligibility to Earn Vacation

An employee will accrue vacation while in a paid leave status. Vacation accruals will be pro-rated based on the number of hours being reported on the timesheet. Any employee in an unpaid leave status will not accrue vacation unless approved in advance by the City Manager.

21.8 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 base rate twice each fiscal year as follows:

- The lump sum payment will occur on the second pay period in March and October of each year.
- The employee must have three (3) consecutive years of full-time services with the City.
- The employee must have taken at least eighty (80) hours of vacation, compensatory time off or management leave in the twelve (12) months preceding the buyback request.
- The employee's accrual bank cannot fall below one hundred twenty (120) hours.

21.9 Hardship Request

If an employee eligible for vacation accrual experiences a financial hardship due to unforeseen circumstances, the employee may submit a request to the Human Resources Director to receive cash payment of accrued vacation. Examples of qualifying events may include unexpected legal expenses, medical expenses not covered by other means, or any unforeseen situation that would necessitate a hardship request.

The Human Resources Director will ensure that the request meets the requirements and that the requested vacation accrual hours are available prior to seeking City Manager approval. The City will make a determination within five (5) business days of the hardship request.

Hardship payouts will only be considered on leave balances above one hundred twenty (120) hours. At no time should a payout cause a leave balance to fall below one hundred twenty (120) hours.

22 HOLIDAYS

22.1 Authorized Holidays

Every full-time probationary and regular employee shall be entitled to the following paid holidays each calendar year and such other days as may be designated by action of the City Council:

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day After Thanksgiving
- Christmas Eve Day
- Christmas Day
- New Year's Eve Day
- Floating Holidays (2)

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 will be observed on the next preceding or succeeding workday, as determined by the City.

If the holiday falls on the employee's regularly scheduled day off, the employee's day off is moved to the next closest workday within the same work week with supervisor approval.

An employee wishing to observe a holiday particular to the employee's national origin, culture, or religion may do so with prior approval of the Department Director. The time off shall be charged to vacation, floating holiday, compensatory time off or management leave.

The City provides regular and probationary full-time employees with eight (8) hours of pay for the observed holidays listed in Section 22.1. If a full-time employee is working an alternative work schedule, including the modified 9/80, the employee must use vacation, compensatory time off, floating holiday or management leave to make up the difference in the eight (8) hour holiday and their normal scheduled hours. With the approval of the Department Director, the employee may work to make up the difference in hours. Holiday time does not count as hours worked for the purpose of calculating overtime unless outlined separately in these Rules.

Part-time employees working more than one thousand five hundred (1,500) hours per year will receive holiday pay at a pro-rated number of hours based on FTE percentage.

All regular and probationary full-time employees receive two (2) eight (8) hour floating holidays on January 1st each year. Floating holiday time off requires advanced approval of the employees' supervisor.

Part-time employees working more than one thousand five hundred (1,500) hours per year will receive floating holidays at a pro-rated number of hours based on FTE percentage.

Newly hired or promoted employees will receive floating holidays based on the calendar year quarter in which they are hired.

January-March	16 hours
April-June	12 hours
July-September	8 hours
October-December	4 hours

Floating holidays must be used in the calendar year in which they are earned and will not carry forward. Any unused floating holiday hours at December 31st each year, will be lost.

Any unused floating holidays at the time of separation will be paid to the employee at the employees' base pay at the time of their separation.

22.2 Work Performed on Holidays

Employees are expected to observe all City designated holidays unless job demands require an employee to work. A regular and probationary full-time employee scheduled to work on a holiday shall be paid straight time for actual hours worked and in addition will be paid eight (8) hours of holiday pay.

Regardless of hours worked per year, part-time employees scheduled to work on a holiday shall be paid straight time for actual hours worked and in addition will be paid holiday pay for the number of actual hours worked, not to exceed eight (8) hours of holiday pay. If work hours on a holiday exceeds the forty (40) hours in a work week, hours worked will be paid in accordance with FLSA.

22.3 Holidays Falling During Vacation

When a day designated and observed by the City as a holiday occurs on a day on which an employee is taking vacation, such employee shall not be charged as using vacation for that day. The employee's compensation for that day shall be holiday pay and the employee shall not be paid or charged for vacation, except for the additional hour(s) for those employees on an alternative work schedule.

23 SICK LEAVE

Sick leave shall be requested only in cases of actual employee or dependent sickness or disability, medical, dental or vision treatment, or as authorized in Section 23.6 of these Rules. The employee requesting sick leave shall, whenever possible, notify their supervisor or Department Director prior to the start of the employee's regular work shift. Where the need for sick leave is foreseeable, such as for pre-scheduled appointments, leave shall be requested with at least one (1) business day advance notice. Where the need for leave is not foreseeable and the employee is unable due to illness, injury, or other exigent circumstances to provide notice prior to the start of their work shift, the employee must provide notice as soon as practicable.

Sick leave with pay shall not be allowed unless the employee has met and complied with the provisions of these Rules and their Department Director has approved such use. Accrued and unused sick leave shall not be paid out when the employee separates from City employment except as provided in Section 23.9 and Section 23.10 of these Rules. Abuse of the sick leave benefit, as described in these Rules, is grounds for disciplinary action, up to and including termination.

23.1 Certification

The Department Director may request, in their discretion, that the employee produce a certificate issued by a licensed physician or other satisfactory proof of illness before sick leave is granted. The Department Director may also direct an employee to attend a physical examination by a City-retained licensed physician, at City expense, to ascertain whether the employee is fit to perform the duties of the position.

23.2 Prohibited Activity

Any employee who is absent from work on a leave as provided in Section 23 of these Rules or who is absent after requesting such leave shall not engage in work or other activities at any time which would conflict with the inability to report for work and to perform the duties assigned.

23.3 Eligibility

Regular and probationary employees shall be eligible to accrue sick leave upon commencement of City employment. There is no waiting period to utilize sick leave accruals, however, sick leave hours cannot be used within the pay period in which they were earned.

Part time employees working more than one thousand five hundred (1,500) in a fiscal year will accrue sick leave at a pro-rated number of hours based on their FTE percentage.

Part time employees working less than one thousand (1,000) hours in a fiscal year or Seasonal employees will accrue sick leave consistent with the Healthy Workplace Families Act. Any leave accrued under the law cannot be used until reaching the 90th day of employment. Sick leave hours cannot be used within the pay period in which they are earned.

For all employees, sick leave may under no circumstance be used before it is actually accrued.

23.4 Accrual

For Full time employees, sick leave shall be accrued at the rate of 3.69 hours per pay period that an employee has worked regularly scheduled hours or has been on an authorized paid leave.

For Part time employees working more than 1,500 hours in a fiscal year, sick leave shall be accrued on a pro-rata basis depending on the average

expected hours per week. In no case should the number of hours exceed 3.69 hours in a pay period.

For Part time employees working less than 1,000 in a fiscal year and for seasonal employees, sick leave will accrue at a rate of .034 for every hour worked.

Sick leave will continue to accrue during any paid leave of absence and will be pro-rated based on the number of hours being paid. During all unpaid leaves of absence, including FMLA, sick leave accruals will cease until the employee returns to a paid status, unless otherwise required by law.

23.5 Accumulation

All full-time employees may accrue a maximum of one thousand (1,000) hours of sick leave.

Part-time employees working more than one thousand five hundred (1,500) hours per fiscal year may accrue a pro-rated maximum number of hours proportional to their FTE percentage, but never more than one thousand (1,000) hours.

Part-time employees working less than one thousand (1,000) hours per fiscal year and seasonal employees may accrue a maximum of forty-eight (48) hours of sick leave.

Once the accrual maximum is reached, the employee will no longer accrue hours until the accrual balance has fallen below the maximum.

23.6 Use

Sick leave may be requested and used as approved by the Department Director or Human Resources Director. Pay for approved sick leave shall be authorized until the employee's accumulated sick leave hours have been exhausted and at such time the employee shall receive no further pay for sick leave.

Sick leave can be used for the following purposes:

- Diagnosis, care or treatment of an existing health condition or preventative care for an employee or any of the following of the employee's family members:
 - Child of any age or dependency status
 - Parent or parent in-law

- Spouse or registered domestic partner
- Grandparent
- Grandchildren
- Sibling
- Another person designated by the employee prior to or at the time the employee requests paid sick days (provided that an employee may not designate more than one person in this manner in a twelve (12) month period and only one-half of the sick leave accrued annually may be used for this purpose).
- For an employee who is a victim of domestic violence, sexual assault or stalking to obtain a temporary restraining order or other court assistance to help ensure the health, safety or welfare of the employee or their child or to 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.

23.7 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:

- Failure to notify supervisor of medical absence.
- Failure to provide physician's verification when required.
- Fraudulent physician verification.
- Use of sick leave for that which it was not intended or provided.
- Continued pattern of maintaining zero or near zero leave balances or seeking approval of leave without pay because sick leave accrual has been exhausted.
- Pattern of abuse, for example, the routine use before and after holidays before and after weekends or regular days off; after pay days; of any one specific day; following overtime worked; frequent use of half days; and any routine use of any combination of the above.

Proof of Illness or Injury will be required in the following circumstances:

- An absence lasting three (3) or more days.
- Frequent use of sick leave accruals.
- When a pattern of sick leave has been identified.
- When a supervisor has reason to believe that sick leave is being abused.
- When an employee is released to return to work after an extended absence.

The employee may be required to submit a statement or certification for a licensed physician, dentist or optometrist stating the employee is or was incapacitated and unable to perform their normal duties. The statement or certification must include a date of when the employee can return to work with or without restrictions, listed restrictions should there be any and a date of when restrictions will be lifted, if known.

If the employee has a qualifying disability under the Americans with Disabilities Act (ADA) or the Fair Employment and Housing Act (“FEHA”), the City will engage in the interactive process in accordance with the Interactive Process Policy.

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.

23.8 Use of Sick Leave toward Retirement

An employee may not use sick leave to extend a retirement (either disability or service retirement) or separation date, unless specifically provided for in an applicable Memorandum of Understanding, or as required by law.

23.9 Sick Leave at Separation

- Full Time employees hired on or before June 30,2022

Sick leave is forfeited and not cashed out upon separation unless an employee has completed ten (10) years or more with the City at the date of separation.

If ten years of service are met, fifty percent (50%) of the value of accrued sick leave or 360 hours, whichever is less, will be paid to the employee at separation as follows:

Payment can be taken as a lump sum cash payment or deposited into the employees deferred compensation account (as allowed under the terms and conditions of the plan and Internal Revenue Service regulations).

- Full Time employees hired on or after July 1, 2022

Sick leave is forfeited and not cashed out upon separation

23.10 Sick Leave at Retirement

Sick leave is forfeited and not cashed out upon retirement unless an employee has completed ten (10) years or more with the City at the date of retirement. This applies to full time employees only.

If years of service are met, one hundred percent (100%) of the value of accrued sick leave will be paid to the employee at retirement as follows:

Payment can be taken as a lump sum cash payment or deposited into the employee's deferred compensation account (as allowed under the terms and conditions of the plan and the Internal Revenue Service regulations) or used as a payment to CalPERS to buy service credits.

Only fifty percent (50%) of the accrued sick leave can be allocated to CalPERS to buy service credits.

23.11 Integration of Benefits

If an employee is on approved illness or injury leave and is receiving State Disability Insurance (SDI) or temporary Disability payments (including Workers' Compensation payments), the employee may choose to supplement these payments utilizing accruals to continue to receive a full paycheck. To exercise this option, the employee shall provide a claims history showing payment amounts as well as dates paid by SDI, Worker's Compensation, or temporary disability so that the City can ensure the supplemented hours are correctly applied.

23.12 Catastrophic Leave

An employee may be eligible to receive donations of up to four hundred and eighty (480) hours of accruals to be used towards sick leave associated with a catastrophic leave. Hours can only be donated if the employee has exhausted all allowable leave banks.

Catastrophic illness or injury is defined as a critical medical condition that is terminal, a long-term major physical impairment or disability to the employee or an immediate family member. The definition of immediate family member and the usage of sick leave shall be defined as self, spouse, child or parent or anyone in the employee's direct care. This program will be administered in accordance with the City's Catastrophic Leave and Accrual Donation Administrative Policy.

24 LEAVES OF ABSENCE WITHOUT PAY

24.1 Authorization for Leave of Absence Without Pay

At the sole discretion of the City Manager, an employee may be granted a leave of absence without pay. Any leave without pay will be based on the operational needs and best interest of the City. Employees' must make a written request using the Leave Without Pay form and must seek approval of the City Manager prior to the leave being taken.

Leave without pay may not be requested until the employee has utilized all applicable leave hours in the employee's accrual leave bank.

Any employee in an unpaid status may no longer receive benefits including accruals, medical, dental, vision, retirement, etc. Any continuation of benefits will be at the City Manager's discretion.

The decision of the City Manager shall be final and is not subject to grievance or appeal.

The City may fill the position with a temporary employee during the term of the leave of absence or undertake any other appropriate measures to address workload needs.

24.2 Return from Authorized Leave of Absence Without Pay

When an employee intends to return from an authorized leave of absence without pay, extending beyond thirty (30) days, the employee shall contact the Human Resources Director as soon as possible but not less than three (3) working days prior to the planned day of return. Upon an employee's notification that the employee intends to return after a leave of absence without pay, the City shall make reasonable effort to do so. Failure of an employee to abide by this notification procedure or to report for work promptly at the date of leave expiration shall be grounds for discipline up to and including termination.

Employees returning from leave because of illness or disability must first submit to the Human Resources Director a release to work from a

physician that satisfactorily certifies the employee can perform the essential functions of the position to which they desire to return, with or without accommodation. Further, the employee may be subject to an examination by a City retained licensed physician, at City expense, to ascertain whether the employee is fit to perform the duties of the position.

24.3 Status of Employee on Authorized Leave of Absence Without Pay

Break in Service

Authorized leaves of absence without pay shall not be construed as a break in service, and rights accrued at the time the leave is granted shall be retained by the employee. However, vacation credits, sick leave credits, holidays, health benefits, and retirement benefits, increases in salary, and other similar benefits shall not accrue to a person granted such leave during the period of absence unless otherwise expressly provided for in a Council-approved action. Employees in such status may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay.

Employee Return to Work

An employee returning after an authorized leave of absence without pay shall retain the same status and shall be placed at the same salary step in the pay range currently in effect for the class as the employee received when the authorized leave of absence without pay commenced. Time spent on such leave without pay shall not count toward service within the pay range and the employee's salary anniversary date shall be set forward a period of time equal to the employee's total absence as adjusted to the beginning of the closest pay period.

24.4 Unauthorized Leave of Absence

Whenever an employee is absent from work during a regular shift without permission or without advanced notification to their 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 allowable by law.

Without extenuating circumstances, an unauthorized leave of absence is grounds for termination.

Employees not returning from an authorized leave of absence when agreed upon, will be considered as unauthorized leave.

25 OTHER LEAVES OF ABSENCE

25.1 Administrative Leave

The City, in its discretion, may place an employee on administrative leave with or without pay. Employees on such leave shall be available and are subject to the City's instructions during their normal working hours.

25.2 Bereavement Leave

The City shall grant leaves of absence with pay when a member of the employee's or employee's spouse or domestic partner's immediate family dies. "Immediate family" is defined as a spouse or a child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law as defined in Government Code Section 12945.2. The City, in its discretion, may request documentation of the death of the family member. If requested, the employee shall provide documentation of the death within thirty (30) days of the first day of leave. Examples of such documentation include a death certificate, published obituary, or written verification of death, burial, or memorial services from a religious institution, a governmental agency, or a funeral home or similar entity.

Upon the death of a family member, an employee may take up to five days of bereavement leave. The days need not be consecutive but must be completed within three months of the date of death. Up to three (3) working days of leave shall be with pay if the death occurred within the State of California, and up to five (5) days if the death is outside of the State.

Additional time off in excess of the time stated above, may be taken by an employee with prior approval of their immediate supervisor. Additional time off is not paid and the employee must use accruals to account for the time off. Sick leave may be used to supplement bereavement leave. If the employee does not have accrual hours to utilize, the employee must request a Leave Without Pay in accordance with Section 24.1 of these Rules to extend bereavement leave beyond five (5) days.

25.3 Family and Medical Leave (FMLA/CFRA)

In accordance with federal and state laws and regulations, the City shall provide family and medical leave, which is unpaid leave, to eligible employees. "Family and Medical Leave" under this Rule refers to leave

pursuant to the Family and Medical Leave Act of 1993 (“FMLA”) and the California Family Rights Act (“CFRA”). Employees with any questions or requests for information about family and medical leave should consult the Human Resources Department and the City’s FMLA/CFRA administrative policy.

25.4 Jury Duty

All full-time employees and part-time employees regardless of the number of hours worked, who are required to report for jury duty shall be granted leave for such purpose, upon presentation of the jury notice to the Department Director. Said employees shall receive full pay for their normally scheduled work hours for the time served on a jury, provided the employee remits to the City all fees as soon as received by the employee for such duties.

Compensation for mileage or subsistence allowances shall not be considered as a fee and shall be retained by the employee.

Employees are expected to report to work before and after any jury service if jury service begins after the start of your normal shift or ends before the end of your normal shift. Jury service means physically reporting to the court to serve on a jury and does not include being instructed to call for status updates.

25.5 Military Family Leave

In accordance with the Family and Medical Leave Act (FMLA), eligible employees may use their twelve (12) weeks of FMLA leave for any "qualifying exigency" arising out of a family member's active military duty. Eligible employees are also permitted to take up to twenty-six (26) weeks of leave in a single twelve (12) month period to care for a family member who sustains a serious illness or injury while on active military duty.

25.6 Military Leave

Military Leave With Pay, shall be granted in accordance Federal and State law. An employee entitled to military leave shall give their Department Director an opportunity, within the limits of military regulations, to determine when such leave shall be taken. Prior to taking such leave, an employee shall present a copy of the military orders to the Department Director. The Department Director shall promptly advise the Human Resources Director of such military orders. The employee’s work schedule may be temporarily changed by the Department Director to accommodate the leave and department workloads, in accordance with applicable law. Benefits shall continue to accrue to the employee to the extent required by

law. Employees on military leave shall be granted promotional opportunities and reinstatement after return from military leave in accordance with applicable law.

25.7 Military Spouse Leave

In accordance with California Military & Veterans Code Section 395.10, eligible spouses and domestic partners of active members of the military are entitled to up to ten (10) days of unpaid leave when their spouse or domestic partner, who is in active military service, is on qualified leave.

25.8 Paid Family Leave (PFL)

Employees who are covered by State Disability Insurance (SDI) are eligible for Paid Family Leave (PFL) benefits while taking care of family member(s). These benefits are paid by the State Employment Development Department.

25.9 Pregnancy Disability Leave (PDL)

Any employee who is disabled because of pregnancy, childbirth, or a related medical condition may be entitled to pregnancy disability leave (PDL). The rules for PDL are contained in the City's Pregnancy Disability Leave Administrative Policy

25.10 School Activity Leave

Employees who are parents, guardians, or grandparents of a child in kindergarten through grade 12 may take up to forty (40) hours per year, not to exceed eight (8) hours per month, to participate in the child's school activities. The employee shall use accrued vacation, management leave, floating holiday or compensatory time for this leave. Prior notice of the need for this leave shall be given to the supervisor. If accrued vacation or compensatory time off have been exhausted, the employee must request and receive approval for leave without pay in accordance with Section 24.1 of these Rules.

25.11 Voting Leave

Time off with pay to vote in any general, direct primary or presidential primary election shall be granted as provided by state law. If an employee does not have sufficient time to vote outside of their working hours, they may take time off to vote at the beginning or end of the shift, whichever provides the freest time to vote. Employees shall give their supervisors at least two (2) working days' prior notice of the need to take such time off. Only the first two (2) hours of time taken to vote shall be paid leave.

25.12 Witness Leave

An employee who is subpoenaed to appear in court in a matter regarding an event or transaction which they perceived or investigated in the course of employment with the City, shall be allowed to do so without loss of compensation, unless it is the employee's own lawsuit.

An employee subpoenaed to appear in court in a matter unrelated to their official capacity, or who is appearing in court in a matter initiated by the employee, shall be permitted time off without pay, or if the employee chooses, to use accrued vacation, management leave, floating holiday, or compensatory time for this purpose.

The employee may be required to present the subpoena to their Department Director.

25.13 Leave Rights for Victims of Crime and Abuse

Pursuant to Labor Code Sections 230 and 230.1, the City provides certain leave rights an employee who is a victim of crime or abuse. For purposes of this provision, "a victim of crime or abuse" means an employee who is a victim of stalking, domestic violence, or sexual assault, who is a victim of a crime that caused physical injury or mental injury and a threat of physical injury, or whose immediate family member is deceased as a direct result of a crime.

Eligible employees may take time off for any of the following purposes:

- To seek relief, such as a temporary restraining order, or other assistance to help safeguard the "health, safety, or welfare" of the employee or their child.
- To seek medical attention for injuries caused by crime or abuse.
- To obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization as a result of crime or abuse.
- To obtain psychological counseling or mental health services related to an experience of crime or abuse.
- To participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation.

An employee must provide reasonable advance notice to the Human Resources Director, whenever possible, and provide written certification of their status as a victim of crime or abuse. If advance notice is not feasible, the employee must provide certification within a reasonable time after the

absence. The written certification will be kept confidential to the extent allowed by law, and can include any of the following:

- A police report indicating that the employee is a victim of crime or abuse.
- A court order protecting or separating the employee from the perpetrator of the crime or abuse, or other documentation from the court or the prosecuting attorney that the employee has appeared in court.
- Documentation from a medical professional, domestic violence counselor, sexual assault counselor, victim advocate, health care provider, or counselor that the employee is (or was, as applicable) undergoing treatment or receiving service for physical or mental injuries or abuse.
- Any other form of documentation that reasonably verifies that the crime or abuse occurred, including but not limited to, a written signed statement certifying that the absence is (or was) for a purpose authorized under Labor Code Section 230(c) or Section 230.1.

The leave is unpaid unless the employee is eligible for and elects to use sick leave in accordance with Section 23.6 of these Rules.

25.14 Crime Victim or Family Member Victim Rights Proceeding 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 the following:

- 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 utilize vacation, management leave, floating holiday, or compensatory time off.

26 EMPLOYEE TRAINING AND EDUCATION PROGRAMS

26.1 Training and Development

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

Any out-of-town travel requirements should be completed in accordance with the City's Travel Policy.

The City encourages participation in professional organizations that will enhance the employee's job-related skills, abilities, and knowledge. Membership or certificates should be approved in advance by the Department Director or the City Manager. Approved memberships or certificates may be paid directly by the City or will be reimbursed upon submittal of satisfactory evidence of payment.

26.2 Education and Tuition Reimbursement

Employees are encouraged to further their education by taking accredited courses which satisfy any of the following criteria:

- Related to the employee's present position with the City.
- Related to the employee's potential development with the City.
- Part of a program leading to a degree related to the employee's present position or potential for development.

An employee who participates in an educational program may be reimbursed for courses taken on the employee's own time and at the employee's expense in accordance with the City's Tuition Reimbursement Policy and Procedure.

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

27 NEPOTISM POLICY

This policy prohibits 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, domestic partner, children, 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.

27.1 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:

- 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, morale, or potential conflicts of interest.
- 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, morale, or potential conflicts of interest.

27.2 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 the employee with the later hire date. There can be no guarantee that the new position will be within the same classification or at the same pay 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 will separate employment with the employee with the later hire date.

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 grievance procedures.

28 HARASSMENT AND DISCRIMINATION PREVENTION

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. 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 treats 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 their 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. For investigation guidelines for the informal and formal process for resolving sexual harassment and/or discrimination complaints see Section 29 of these Rules.

28.1 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, coworkers 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.

Definitions

- **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), reproductive health decisions, and any other consideration made unlawful by federal, state, or local law.

- **Discrimination:** This Policy prohibits treating covered individuals differently because of the individual's protected classification, actual or perceived; because the individual associates 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, etc.; 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.

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, or unwanted love letters or notes.

- Sexual favors – unwanted sexual advances which condition an employment benefit (or withhold a detriment) upon an exchange of sexual favors.

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.

28.2 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:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's appointment.
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals.
- 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.

28.3 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 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.

28.4 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:

- 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.
- 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.
- 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.
- 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).

28.5 Complaint Procedure

Report and Investigation of Complaint

If an individual believes that any City employee, vendor, client, or other business contact has harassed them, then the individual should immediately report the incident to their 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 Department, then the individual should report directly to City Attorney. Employees are not required to follow the chain of command.

Any employee, who sees or learns of conduct that may constitute harassment under this policy, shall immediately advise their Department Director of the incident and actions taken. The Department Director shall

immediately report the incident and actions taken to the Human Resources Director.

Upon receiving notification of a harassment complaint, the Human Resources Director will complete and/or delegate the following steps.

- Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with
 - The complainant.
 - The accused.
 - Other persons who have relevant knowledge concerning the allegations in the complaint.
- Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy considering all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- 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.
- 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.
- Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.

28.6 Proactive Approach

The City takes a proactive approach to potential violations of this Policy and will investigate 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.

28.7 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.

28.8 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 Civil Rights Department (CRD). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, or employees can check posters that are located on City bulletin boards for office locations and telephone numbers.

28.9 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 their 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.

28.10 Responsibilities

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

- Treating all individuals in the workplace or on worksites with respect and consideration.
- Modeling behavior that conforms to this Policy.
- Participating in periodic training.
- Cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.
- Taking no actions to influence any potential witness while the investigation is ongoing.
- Reporting any act, they believe in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to their immediate supervisor, or department head, or City Manager.

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

- Informing employees of this Policy.
- 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.
- Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
- Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
- Informing those who complain of harassment or discrimination of their options to contact the EEOC or CRD regarding alleged Policy violations.
- Assisting, advising, or consulting with employees and the City Manager regarding this Policy.
- 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.
- Implementing appropriate disciplinary and remedial actions.
- Reporting potential violations of this Policy of which they become aware to the City Manager, regardless of whether a complaint has been submitted.
- Participating in periodic training and scheduling employees for training.

29 Investigation Guidelines for Sexual Harassment and Discrimination Complaints

29.1 Investigation Procedure

Any investigation of sexual harassment or discrimination allegations shall be conducted in accordance with the section 28 of these Rules.

29.2 Treat All Complaints Seriously and Act Promptly

Even if a complaining employee insists that they want nothing done about the complaint, the City has an obligation to investigate any allegation of sexual harassment or discrimination promptly and thoroughly. 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.

29.3 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.

29.4 Conduct of Investigator

All complaints of sexual harassment and discrimination will be treated seriously and promptly investigated.

29.5 Confidentiality Of Investigation

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

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

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

29.6 Detailed Interview With Complainant

The investigator will interview the complaining employee. The complaining employee may be asked specific questions in order to obtain detailed information about the allegations.

29.7 Interview the Accused Employee and Other Employees

The investigator should interview the accused employee and all witnesses with relevant information. All interviews should be documented in detail and/or recorded.

29.8 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.

29.9 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, for notice, and for progressive discipline.

30 MISCELLANEOUS

30.1 Effective and Approval

These rules and regulations shall only become effective when the City Council adopt them. Upon adoption they shall supersede any and all City-wide and/or departmental personnel management policies, rules, regulations, and procedures previously adopted, except those adopted by order of a department director which are not in conflict with these Rules.

Any and all provisions contained in a Memorandum of Understanding (MOU) in effect at the time of adoption of these Rules, and which may be in conflict with the provisions of these Rules, shall remain in effect and supersede these Rules until such time as the conflicting provisions of the MOU may be modified, through the meet and confer process, to conform to these Rules. No existing MOU shall be modified, and no new MOU shall be entered into, which would establish provisions that would be in conflict with these Rules unless expressly identified by the City Manager and recommended to the City Council for review and approval.

30.2 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.

30.3 City Records, Contracts and Requests for Information

All official City records and files are considered 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 employees' Department Director.

All media requests should be referred to the City Manager or designee, specifically authorized by the City Manager to handle public information.

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.

Employees shall not respond to any subpoenas, requests for deposition or other legal requests for information regarding City business. Any such request shall be reported to the Department Director, City Manager and City Attorney immediately.

30.4 Employee Remote Access

Unless approved in advance by the City Manager, non-exempt employees may not have remote access to City equipment, resources, or emails. To be in compliance with FLSA any remote access for non-exempt employees will be on a case-by-case basis and will be the responsibility of the employee and the Department Director to ensure timecards are completed accurately and include any time spent working remotely.

30.5 Exempt Employee

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:

- Exempt positions are designed with an "at least 40-hour" workweek in mind. The necessity to perform consistent work for a substantial

number of hours over 40 per workweek should be examined so that exempt employees are utilizing their time wisely.

- Exempt employees, including Department Directors are generally expected to be available to perform their job duties during normal business hours, however, completing the work assigned for an exempt position will, from time to time, require extra work to be performed outside of normal business hours or on the weekends.
- 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, subject to the approval of the City Manager. Typically, an exempt employee will have a deduction from their accruals to equal the amount of time absent from work that reduces the employee's normal workday, similar to non-exempt employees. Subject to the approval of the City Manager, for an exempt employee, absences of less than four (4) hours, are not to be charged to leave accruals, if at least 80 hours total have been worked otherwise during the timesheet reporting period (this would include a holiday day). See Section 19.5 for absences in excess of four (4) hours.
- Neither flexible work hours nor administrative 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.

30.6 Personnel Records

The Human Resources Department maintains personnel records for all employees.

Personnel records are considered 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

The City shall maintain an official personnel file for each of its employees. Personnel files contain such personnel records as may be deemed necessary for the administration of labor and employment relations in the City. Personnel files shall be made available to employees for inspection within a reasonable time after an employee's written request and without loss of pay, provided that employees shall make arrangements with their supervisor if the inspection occurs on duty.

The City may preclude inspection of certain information in accordance with the law, such as background and other pre-employment information and materials relating to confidential investigations.

The City shall maintain separate files for injury reports, confidential medical records, grievances, discrimination complaints and other matters in accordance with applicable laws.

Employee Name, Classification Title, Department, Status, Salary Range, Salary, Benefits, Date of Hire and Separation date are all considered public record and will be disclosed if requested.

Outside Inquiries on Employees

All inquiries concerning information about employees from outside sources should be directed to Human Resources. No employee is authorized to provide a job reference for a current or former employee.

When former or current sworn employees are seeking employment in other agencies there may be a background investigation. In these instances, the Police Chief or designee will cooperate with the background investigation and may respond to such request on behalf of the City.

Rules Do Not Create Employment Contract

These Rules do not create a “contract” of employment between the City and any employee. Public employment is statutory, not contractual.

Severability

If any part of these Rules is determined to be unconstitutional or illegal, such part shall be severed from these rules and the remaining Rules shall be given full force and effect. The City shall comply with changes in state and federal law and shall amend these Rules as necessary for consistency. The term “City” as used in these rules refers to the City of Oakley. Responsibilities and rights of the City under these rules are exercised by the City Manager and may be delegated at the City Manager’s discretion.