

City of Hawthorne

EMPLOYEE HANDBOOK
AND
PERSONNEL RULES

Prepared January 2022

Introduction and General Information Policies

101.1 Welcome

We believe that you are an integral part of our team and you will work with us to make our team successful. This handbook describes many of our policies and outlines the programs and benefits available to eligible employees. The handbook will answer many questions you may have about your employment at City of Hawthorne. We suggest that you become familiar with the handbook as soon as possible. We hope and believe that your experience here will be challenging, enjoyable, and rewarding.

Again, welcome! Sincerely,
Human Resources Department

101.2 Introductory Statement

This handbook has been prepared to provide our employees with a general understanding of our personnel policies, work rules and benefits. If statements in the handbook are found to be in conflict with existing or future state or federal laws, the City of Hawthorne Municipal Code, or with the respective negotiated agreements with the bargaining units, such laws, policies, agreements will supersede any statements made in this Employee Handbook. All employees are responsible for becoming familiar with our policies and procedures. If you have any questions regarding the material in the handbook, please contact your supervisor or any other member of management for clarification. The handbook should not be construed as an employment contract or agreement for employment for any specified period of time.

We reserve the right to make changes to these policies at any time. Employer will meet-and-confer with the applicable bargaining units regarding any changes that would affect the terms and conditions of employment. When changes are necessary, we will provide you with amended pages for your handbook. Please sign the acknowledgement that you have read and understand the policies and return the signed acknowledgment to Human Resources.

102 Effect and Applicability of Personnel Policies

102.1 *No Contract Right; City's Discretion to Modify These Policies*

These Personnel Policies ("Policies") do not create any contract right, or any express or implied contract of employment. The City of Hawthorne ("City") retains the full discretion to modify these Policies at any time in accordance with law.

102.2 *Applicability of Policies*

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

102.3 *Conflict Between These Policies and a Collective Bargaining Agreement*

If a provision of these Policies conflicts with any provision of a valid collective bargaining agreement between the City and a recognized employee organization, the provision of the collective bargaining agreement that is in conflict shall apply to employees covered by that collective bargaining agreement.

103 Categories of Employees and Non-Employees

103.1 *Non-Classified Employee*

A non-classified employee is considered to be an at-will employee who has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal as long as there is not a violation of federal, state or local law. A non-classified employee may voluntarily leave the employment of the City of Hawthorne upon proper notice, or may be terminated at any time and for any reason as long as there is no violation of federal, state or local law. Refer to the Memorandum of Understanding and any applicable side letters to determine whether you are an at-will employee or subject to the Civil Service rules, or if other terms of your employment exist. Some represented at-will employees may be entitled to due process protections pursuant to the terms of their collective bargaining agreement. Refer to the applicable MOU or your labor representative.

The classification of a job position may occasionally change from classified to non-classified or from non-classified to classified. Review your bargaining unit's current MOU and any applicable side letters to confirm whether a position is classified or non-classified.

103.2 *Probationary Employee*

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

103.3 *Classified Employee*

A classified employee is a permanent employee who has satisfactorily completed the initial probationary period and cannot be disciplined, except when the City has cause to do so. A permanent employee has a property right in continued employment, and has the right to pre- and post-disciplinary procedural due process and an evidentiary appeal for certain types of disciplinary actions that result in a significant deprivation of property.

103.4 *Full or Part-Time Employee*

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

A part-time employee is one whose position is budgeted to work less than 40 hours per week. Part-time employees may have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.

Part-time employees serve at the pleasure of the appointing authority, have no property right in continued employment, and have no right to any pre- or post-disciplinary procedural due process or evidentiary appeals. A part-time employee is an at-will employee.

103.5 *Temporary/Seasonal Employee*

A temporary or seasonal employee is an at-will employee who is appointed other than from an eligible list for a short term or seasonal basis, not to exceed six months. A temporary or seasonal employee serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

103.6 *Volunteer*

A volunteer is not an employee, but instead is an individual who provides services to the City for civic or philanthropic reasons and receives no compensation or benefits other than nominal fees and reimbursement of expenses. A volunteer serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

103.7 *Independent Contractor*

An independent contractor is not an employee, and serves solely pursuant to a contract that has been formed and approved as required by City purchasing policies and procedures.

200 Equal Employment Opportunity

201 Equal Employment Opportunity Policy

The City affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. The City prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or any other basis protected by law. Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing.

202 Policy against Discrimination, Harassment and Retaliation; Complaint Procedure

202.1 *Purpose*

The City has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. The City has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. The City encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible.

Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below.

202.2 *Covered Individuals and Scope of Policy*

The individuals covered by this Policy are: applicants; employees regardless of rank or title; elected or appointed officials; interns; volunteers; and contractors. This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

202.3 Definitions

202.3.1 Protected Classification

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law. This Policy prohibits discrimination, harassment or retaliation because: (1) of an individual's protected classification; (2) the perception that an individual has a protected classification; or (3) the individual associates with a person who has or is perceived to have a protected classification.

202.3.2 Protected Activity

This Policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this Policy; (4) opposing violations of this Policy; or (5) participating in an investigation under this Policy.

202.3.3 Discrimination

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

202.3.4 Harassment

Harassment includes, but is not limited to, the following types of behavior that are taken because of a person's actual or perceived protected classification:

- (a) Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race-oriented stories and jokes.
- (b) Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- (c) Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.

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

202.3.5 *Guidelines for Identifying Harassment*

Harassment includes any conduct that 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:

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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).

202.3.6 *Retaliation*

Retaliation occurs when an employer takes adverse conduct 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: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination; (4) spreading rumors about a complainant or about someone who supports or assists the complainant; (5) shunning or avoiding an individual who reports harassment or discrimination; or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

The City also prohibits taking adverse conduct against anyone because that person (1) associates with an individual involved in reporting harassment or discrimination or (2) supports a complaint.

203 Complaint Procedure

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint – orally or in writing – to any supervisor, manager, or department head, without regard to any chain of command, or to the Human Resources Department. Any supervisory or management employee who receives a harassment complaint should immediately notify the Personnel Officer. Upon receiving notification of a harassment complaint, the Personnel Officer or designee will complete and/or delegate the following steps. If the Personnel Officer is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

- (a) Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: (1) the complainant; (2) the accused; and (3) other persons who have relevant knowledge concerning the allegations in the complaint.
- (b) Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- (c) 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.
- (d) If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- (e) Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

Any employee who either files or is the subject of a complaint may elect to be accompanied by a representative of their choice at their investigative interview. However, the representative cannot be someone who is a witness or party to the investigation.

203.1 Proactive Approach

The City takes a proactive approach to potential Policy violations and will conduct an investigation if 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.

203.2 *Option to Report to Outside Administrative Agencies*

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

203.3 *Confidentiality*

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

203.4 *Responsibilities*

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

- 1) Treating all individuals in the workplace or on worksites with respect and consideration.
- 2) Modeling behavior that conforms to this Policy.
- 3) Participating in periodic training.
- 4) Cooperating with the City's investigations pursuant to this Policy by responding fully and truthfully to all questions posed during the investigation.
- 5) Taking no actions to influence any potential witness while the investigation is ongoing.
- 6) Reporting any act he or she believes in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or the Personnel Officer.

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

- 1) Informing employees of this Policy.

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

204 Americans with Disabilities Act

204.1 ADA Policy (Americans with Disabilities Act)

Reasonable accommodation is available to an employee with a disability when the disability affects the performance of job functions. We make our employment decisions based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as job assignments, classifications, organizational structures, position descriptions, lines of progression, and seniority lists.

We make all types of leaves of absence available to all employees on an equal basis. We are committed to not discriminating against any qualified employee or applicant because the person is related to or associated with a person with a disability. We follow all state or local laws that gives more protection to a person with a disability than the ADA gives.

We are committed to taking all other actions that are necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and any other applicable federal, state, and local laws.

204.2 *Reasonable Accommodation*

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

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

204.3 *Supporting Documentation or Certification*

204.3.1 *Reasonable Medical Documentation of Disability*

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

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

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

204.3.3 *Certification of Victim Status*

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

- (a) A written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- (b) A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

The City may request recertification of an employee's status as a victim of domestic violence, sexual assault, or stalking every six months after the date of the previous certification.

205 *Fitness for Duty Examinations*

205.1 *Applicants*

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

205.2 *Current Employee*

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

- (a) the employee's ability to perform one or more essential functions of his or her job has declined; or
- (b) could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties, or is still capable of performing those duties in a manner that does not harm him or herself or others.

205.3 *Role of Health Care Provider*

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

- (a) The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
- (b) The applicant or employee is fit to perform essential job functions;
- (c) Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- (d) There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- (e) The employee's continued employment poses a threat to the health and safety of him or herself or others.

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

205.4 *Authorization for Use of Medical Information*

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

205.5 *Medical Information from the Employee or Applicant*

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

206 Interactive Process

206.1 *When to Initiate the Interactive Process*

The Personnel Officer will initiate the interactive process when:

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

206.2 *Interactive Communication*

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

206.3 *Potential Accommodations for Applicants or Employees with Disabilities*

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

- (a) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;
- (b) Job restructuring;
- (c) Part-time or modified work schedules;
- (d) Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;
- (e) Preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system;
- (f) Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or
- (g) Reassignment to a temporary position, if the individual agrees.

206.4 *Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions*

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

- (a) Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
- (b) Change in or restructuring of work duties, such as modifying lifting requirements;
- (c) Providing more frequent breaks;

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- (d) Providing seating;
 - (e) Time off for medical appointments; and
 - (f) Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four-month pregnancy disability leave entitlement.

206.5 *Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking*

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

- (a) Transfer, reassignment, modified schedule;
- (b) Change in work telephone number;
- (c) Change in location of work station;
- (d) Installation of locks;
- (e) Assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
- (f) The implementation of a safety procedure(s);
- (g) Adjustment to job structure, workplace facility, or work requirement; and
- (h) Referral to a victim assistance organization.

206.6 *Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice*

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

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

206.7 *Determination*

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

206.8 *Access to Medical Information Regarding Fitness for Duty*

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

207 *Whistleblower Protection*

207.1 *Policy*

The City prohibits all of the following:

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

a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;

- (c) Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation; and
- (d) Retaliating against an employee because the employee's family member has, or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

207.2 *Policy Coverage*

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

207.3 *Definitions*

(a) **“Protected activity”** includes any of the following:

- (a) Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation;
- (b) Participating in or cooperating in good faith with a local, federal or state enforcement agency that is conducting an investigation in to alleged unlawful activity;
- (c) Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity;
- (d) Associating with another covered individual who is engaged in any of the protected activities enumerated here;
- (e) Making or filing in good faith and with reasonable cause an internal complaint with the City regarding alleged unlawful activity;
- (f) Providing informal notice to the City regarding alleged unlawful activity;
- (g) Calling a governmental agency's “Whistleblower hotline” in good faith;
- (h) Filing a written complaint under penalty of perjury that the City has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety; and
- (i) Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation.

(b) “Adverse action” may include, but is not limited to, any of the following:

- (a) Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity;
- (b) Refusing to hire an individual because of actual or potential protected activity;
- (c) Denying promotion to an individual because of actual or potential protected activity;
- (d) Taking any form of disciplinary action because of actual or potential protected activity;
- (e) Extending a probationary period because of actual or potential protected activity;
- (f) Altering work schedules or work assignments because of actual or potential protected activity;
- (g) Condoning hostility and criticism of co-workers and third parties because of actual or protected activity;
- (h) Spreading rumors about a person because of that person’s actual or perceived protected activity; and
- (i) Shunning or unreasonably avoiding a person because of that person’s actual or perceived protected activity.

207.4 *Complaint Procedure*

An applicant or employee who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in the City’s Policy Against Discrimination, Harassment or Retaliation so that the complaint can be resolved fairly and quickly. Supervisors and Managers have the same responsibilities as defined in the Policy Against Discrimination, Harassment or Retaliation.

300 Probationary Policies

301.1 *Probationary Appointment*

- (a) **At-Will Status:** The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee is at-will during the duration of the probation, and may be rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any appeal rights set

forth in this policy. The probationary employee will be notified prior to the expiration of the probationary period that he or she has been rejected from probation.

- (b) Length of Probation: Unless otherwise specified by memorandum of understanding or these Policies, the probationary period is 12 months as a sworn peace officer in the State of California, and 12 months of actual and continuous service for all other employees. The probationary period may be extended when the probationer is absent from the position for an extended duration at the discretion of the City Manager or his/her designee. The probationary period can also be extended by the City at the discretion of the City Manager or his/her designee if the probationer is demonstrating performance issues, and the extension may allow the probationer time to correct those issues in lieu of termination.

301.2 *Probationary Period for Promotional Appointments*

- (a) At-Will Status: A promotional probationary employee may be rejected at any time during the promotional probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights described in herein. If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee may return to the position held prior to promotion at the range and step held prior to promotion, if there is a vacancy in the prior position, unless he or she is terminated for cause.
- (b) Length of Probation: On accepting a promotion, an employee serves a new probationary period of 12 months of actual and continuous service. The probationary period may be extended when the probationer is absent from the position for an extended duration at the discretion of the City Manager or his/her designee.

400 Employment of Relatives or Spouses/ Domestic Partners

401.1 *Policy*

The City regulates the employment and placement of relatives, spouses, and domestic partners so as to avoid conflicts of interest and to promote safety, security, supervision, and morale. This policy applies to all City employees and elected officials.

401.2 *Definitions*

- (a) “Relative” means child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
- (b) “Spouse” means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law.

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

401.3 *Employment of Relatives*

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

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

401.4 *Spouses or Domestic Partners*

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

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

401.5 *Marriage or Domestic Partnership After Employment*

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

in a manner the Personnel Officer finds to be consistent with the City's interest in the promotion of supervision, safety, security, or morale, then the Personnel Officer retains sole discretion to separate one employee from City employment. Absent the resignation of one employee, the less senior employee will be separated. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

500 Compensation and Payroll Practices

501 Work Schedules and Attendance

501.1 Work Schedules

Work schedules are determined at the discretion of the department head and are subject to change with or without notice, according to the needs of the department or City. An overtime-eligible employee shall be in attendance and at work during the hours specified by the supervisor.

501.2 Meal Period

A one hour non-compensated meal period will be provided to all full-time overtime-eligible employees who work at least an eight-hour work day. A 30-minute non-compensated meal period will be provided to all overtime-eligible full-time employees who work more than five hours, but less than eight hours during the workday. Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

501.3 Rest Period

A 15-minute compensated rest period may be provided to all overtime-eligible employees for each four-hour period of service, depending on department policy. The rest period shall be taken at a time designated by the employee's supervisor. Rest periods may not be combined to shorten the workday or to extend the meal period.

501.4 Lactation Break Time

An overtime-eligible employee who wishes to express breast milk for her infant child during her scheduled work hours will receive a reasonable amount of additional unpaid time beyond the 15-minute compensated rest period. (Labor Code § 1030; 29 USC § 207(r).) Those desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. (Labor Code § 1032.) Once a lactation break has been approved, the break should not be interrupted except for emergency or urgent circumstances.

501.4.1 Private Location

The City will make reasonable efforts to accommodate employees by providing an appropriate location that is not in a bathroom, to express milk in private. The City will attempt to find a location in close proximity to the employee's work area. (Labor Code § 1031; 29 USC § 207(r).) Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

501.5 *Advance Request for Permission to Deviate from Regular Work Hours*

An overtime-eligible employee is required to seek advance permission from his or her supervisor for any foreseeable absence or deviation from regular working, break, and meal times.

501.6 *Notification of Unforeseen Late Arrival or Absence*

An overtime-eligible employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor no later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the department head.

501.7 *Unauthorized Absence is Prohibited*

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. An overtime-eligible employee who fails to timely notify the supervisor of any absences as required by this Policy, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence and may be required to use paid time off in order to receive compensation for the period of absence.

501.8 *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 leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination. A leave of absence by an employee for more than three days based upon illness will require a physician's certificate to support the absence.

502 *Work Week, Overtime and Compensatory Time Off*

502.1 *Work Week*

The City Hall currently operates on a 9/80 work schedule, which means that the City Hall is closed every other Friday. Non-sworn police officers should consult their bargaining unit's MOU or Police Department internal policies for work schedule guidelines. The Fair Labor Standards Act (FLSA) 29 USC § 207(k) provides work period guidelines for sworn peace officers.

502.2 *Work Week for 9/80 Work Schedule*

Employees working a 9/80 work schedule will have a regular day off every other week as determined by the City. Currently, most employees have every other Friday off when the City Hall is closed. The day off may vary depending on the employee's position and staffing needs of the City.

502.3 *Overtime*

Overtime is all hours an overtime-eligible employee actually works over 40 hours in his or her designated work week. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so.

502.4 *No Remote Access for Overtime-Eligible Employees*

Unless the Personnel Officer specifies otherwise in writing, overtime-eligible employees may not have remote access to City equipment, resources, or email. The Personnel Officer may make an exception to this rule during emergency circumstances.

502.5 *Prior Approval Required for Overtime*

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

502.6 *Accurate Time Reporting*

All employees must accurately report all work time to the nearest 15 f minute.

502.7 *No Volunteering of Work Time*

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

502.8 *Compensatory Time Off*

An overtime-eligible employee may opt to accrue compensatory time-off (CTO) in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

- (a) **Accrual Rate:** CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee’s designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of 80 hours at any given time.
- (b) **Employee Request to Use CTO:** The City will grant an employee’s request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days’ notice, or if the department cannot accommodate the time off without undue disruption, the City will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.
- (c) **City Cash Out:** The City reserves the right to cash out accumulated CTO at any time.
- (d) **Value of CTO Cash Out:** During employment, CTO is cashed out at the employee’s current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays). Employees separating from City service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher.

600 *Performance Evaluation Policies*

601 *Performance Evaluations*

601.1 *Performance Evaluations*

A non-probationary employee’s supervisor will prepare and sign a performance evaluation on a City form for each one-year performance evaluation period. The Department Head will review and approve all performance evaluations of subordinates in his or her department. The City Manager will review and approve all performance evaluations of department heads or any other employees under his or her direct supervision. All performance evaluations must also be

reviewed and approved by the Human Resources Department. Performance evaluations shall become part of the employee's permanent personnel file.

Additional performance evaluations may be prepared at any time the Personnel Officer or Department Head deems necessary.

601.2 *Probationary Employee Performance Evaluations*

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

601.3 *Performance Evaluation Meeting*

The supervisor will meet with the employee to discuss the evaluation. The employee shall sign the evaluation to acknowledge its contents and that he or she has met with his or her supervisor to discuss the evaluation. The employee's signature shall not mean that he or she endorses the contents of the evaluation.

601.4 *No Appeal Right*

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

700 *Leaves of Absences/Sick Leave/Vacations/Holidays/Paid Time Off*

701 *Vacation Leave and Holidays*

701.1 *Vacation Leave*

All full-time and some part-time employees earn vacation leave while in paid status until they reach the applicable vacation accrual cap. Employees accrue vacation time according to the terms of the applicable memorandum of understanding or employment agreement.

701.2 *Limitations on Vacation Leave Accrual*

Vacation leave will not accrue during leaves of absence after the employee exhausts their paid time off or leave balance. As long as the employee is getting paid 40 hours per week with their accrued leave time, they will continue to accrue vacation time.

701.3 *Scheduling of Vacation Leave*

Vacation leave may not be used until it is earned.

The employee and the department head will schedule the times when an employee may take vacation leave. The scheduling will be based on the employee's preference and the City's operational needs. An employee shall provide a minimum of one week's written advance notice, unless waived by the department head, when requesting vacation time off. The Department Head may, at his/her discretion, require an employee to use accrued vacation.

701.4 *Unused Vacation Leave Upon Separation*

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

701.5 *Holidays*

Full-time employees, except temporary/seasonal employees, receive the holidays listed below with pay. If New Year's Day, Independence Day, or December 25 falls on a Sunday, the Monday following shall be treated as the holiday. If any of those three holidays falls on a Saturday, the preceding workday shall be treated as the holiday. Part-time employees are not entitled to paid holidays.

- New Year's Day
- Martin Luther King's Birthday
- President's Day
- Cesar Chavez Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Thanksgiving Day
- Day After Thanksgiving Day
- December 24
- December 25

701.6 *Effect of Holiday on Vacation Leave*

If one or more holidays falls within a vacation leave that an eligible full time employee is taking, such holiday shall not be charged as vacation leave. Full time employees on a 9/80 work schedule, however, do not receive any holiday pay for a holiday that falls on the regular day off.

701.7 *Floating Holidays*

Full time employees are entitled to floating holidays allocated on a calendar year basis that must be used during that year. Refer to your bargaining unit's MOU to determine the number of floating holidays to which you are entitled and whether you are entitled to a payout of unused floating holiday time. Not all employees are entitled to payouts for this unused time.

701.8 *Pay for Holidays*

Employees entitled to paid holidays or floating holidays shall be paid for the number of hours the employee was scheduled to work had it not been a holiday or floating holiday. An overtime-eligible employee who is required to work on a holiday will receive holiday pay and pay for the actual time worked on the holiday.

702 Sick Leave

City of Hawthorne provides paid sick leave benefits to eligible employees who are temporarily absent due to illness or injury. See the Memorandum of Understanding for your employee bargaining unit for details on sick leave benefits. You may use sick leave benefits to be absent because you are ill or injured. You can also use sick leave to be absent because of the illness or injury of your child, parent, or spouse.

If you cannot report to work because of an illness or injury, you should notify your supervisor before the scheduled start of your workday, if possible. Your supervisor must also be contacted on each additional day of absence. Before you can return to work after a sick leave absence of more than three days, you must provide a doctor's statement that you may safely return to work. When possible, if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice.

The City may require that employees provide a physician's certification to support any absence that involves the illness of the employee or family member if the City suspects that there is an abuse of sick leave by the employee. All employees who use paid leave to address issues related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.

Unused sick leave benefits are allowed to accumulate indefinitely. Sick leave is not paid out on termination of employment.

703 Family and Medical Care Leaves

703.1 *Statement of Policy; Concurrent Running of FMLA and CFRA Leaves*

The City provides family and medical care leave for eligible employees as required by State and federal law. Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. This Policy is supplemented by the Federal Family and Medical Leave Act (FMLA), and the California Family Rights Act (CFRA). Unless otherwise stated in this Policy, "Leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the City will run each employee's FMLA and CFRA leaves concurrently.

703.2 *Definitions*

- (a) "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- (b) "Single 12 Month Period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
- (c) "Family member" for FMLA leave means an employee's child, parent, and spouse. "Family member" for CFRA leave means an employee's child, parent, spouse, domestic partner, grandchild, grandparent, and sibling.
- (d) "Child"
 - 1) Under the FMLA, "child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is "incapable of self-care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
 - 2) Under the CFRA, "child" means a child, including a child who is 18 years of age or older who is capable of self-care. An employee's child means a biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in place of parent.
- (e) "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

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- (f) “Spouse” means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below.
- (g) “Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.
- (h) “Grandparent” means a parent of the employee’s parent.
- (i) “Grandchild” means a child of the employee’s child.
- (j) “Sibling” means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.
- (k) “Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves:
- 1) Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
 - 2) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - a. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
 - b. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i. Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the

supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

- 3) Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a “serious health condition” only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave. (*See* Policy 808, Leave Because of Pregnancy, Childbirth, or Related Medical Condition.)
 - 4) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
 - 5) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.
 - 6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- (l) “Health Care Provider” means:
- 1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
 - 2) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;

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- 3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
 - 4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
 - 5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
 - 6) Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
- (m) "Covered active duty" means: 1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or 2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- (n) "Covered Service Member" means: 1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or 2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- (o) "Outpatient Status" means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- (p) "Next of Kin of a Covered Service Member" means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

"Serious Injury or Illness" means: 1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered service member incurred in the line of duty on active duty in the Armed Forces (or existed before the

beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating; or 2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

703.3 *Eligibility:*

To be eligible for leave, an employee must have been employed for at least twelve-months and have worked for at least 1,250 hours during the twelve-month period immediately preceding the commencement of leave. The twelve-months need not be consecutive; however, employment prior to a continuous break in service of 7 years or more will not be counted unless the break is due to an employee's fulfillment of military obligations or governed by a collective bargaining agreement or other written contract.

Employees may be eligible for additional leave if he/she is a spouse, son, daughter, parent or next of kin of a current member of the Armed Forces, including members of the National Guard or Reserves, with a serious injury or illness. Employees may take up to twenty-six weeks of leave in a single twelve-month period to care for the service member. This leave is not in addition to the twelve weeks available for other FMLA reasons.

703.4 *Intermittent Leave*

Generally, FMLA leave must be taken in a single block. Under certain circumstances, however, FMLA leave may be taken on an intermittent or reduced work schedule basis. A Parental Leave of Absence may be taken intermittently or on a reduced work schedule basis if the employee and the organization can agree on the schedule requested by the employee.

A Medical Leave of Absence may be taken intermittently or on a reduced work schedule basis if the requesting employee produces the required certification that there is a medical need for a leave of absence and that the medical need is best accommodated through an intermittent leave or reduced work schedule. NOTE: City of Hawthorne reserves the right to require a second or third medical opinion in appropriate cases where authorized to do so by the FMLA.

If medical leave is requested on an intermittent or reduced work schedule basis, the organization may, at the discretion of management, transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. Any such transfer will be to a job that offers pay and benefits that are equivalent to those available in the employee's regular job. Employees on unforeseeable intermittent leave will not be required to transfer to an alternative job.

A fitness for duty certification can be required every thirty days in the case of intermittent or reduced schedule leaves if reasonable safety concerns exist. The employee has fifteen days to provide this certification.

703.5 *Reasons for Leave*

Leave is only permitted for the reasons listed below.

- (a) The birth of a child or to care for a newborn of an employee;
- (b) The placement of a child with an employee in connection with the adoption or foster care of a child;
- (c) Leave to care for a child, parent, or spouse, who has a serious health condition;
- (d) Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, or sibling who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA.
- (e) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of his/her position;
- (f) Leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation;
- (g) Under the CFRA only, leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s domestic partner is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA; or
- (h) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered service member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period.

703.6 *Minimum Duration of Leave*

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- (a) If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two weeks duration on any two occasions.
 - (b) If leave is requested to care for a child, parent, spouse, domestic partner, grandparent, grandchild, sibling or the employee him/herself with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this Policy is required.

703.7 *Parents both Employed by the City*

If both parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave:

- i. The aggregate number of workweeks of FMLA leave to which both may be entitled may be limited to 12 workweeks during any 12-month period; and
- ii. Each parent is entitled to take 12 workweeks of CFRA leave during any 12-month period.

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

703.8 *Employee Benefits While On Leave*

- (a) **Group Health Insurance during Unpaid Leave:** Leave under this Policy is unpaid. While on unpaid leave, employees will continue to be covered by the City's group health insurance for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the City will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks).
- (b) **Benefit Plans Not Provided through the City's Group Health Plan during Unpaid Leave Do Continue:** While on unpaid leave, employees will continue to be covered by the City's benefits plans that are not part of its group health plan for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job.
- (c) **Payment of Premiums:** Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using his or her paid leave) or direct payments (if the employee is not using his or her

paid leave). The City will inform the employee whether the direct payments for premiums should be paid to the carrier or to the City, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.

- (d) **Recovery of Premium if the Employee Fails to Return from Leave:** If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control.

703.9 *Substitution of Paid Accrued Leaves*

The FMLA only requires unpaid leave. However, the law permits an employee to elect, or the employer to require the employee, to use accrued paid vacation leave, paid sick or family leave for some or all of the FMLA leave period. When paid leave is used for an FMLA-covered reason, the leave is FMLA-protected.

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

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

703.9.2 *City's Right to Require an Employee to Use Paid Leave when Using FMLA/CFRA Leave*

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

- (a) Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; and
- (b) An employee must agree to use accrued sick leave to care for a child, parent, spouse, domestic partner, grandparent, grandchild, or sibling.

703.9.3 ***City’s Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves***

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

703.9.4 ***City’s and Employee’s Rights if an Employee Requests Accrued Leave without Mentioning FMLA or CFRA***

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the City denies the employee’s request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the City may require the employee to exhaust accrued leave as described above.

703.10 ***Medical Certification/ Recertification***

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

- (a) ***Employee’s Own Serious Health Condition:*** When an employee requests leave for their own serious health condition their health care provider must provide written certification that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position. Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested.

- (b) ***Family Member Serious Health Condition:*** Employees who request leave to care for a child, parent, domestic partner, spouse, grandparent, grandchild, or sibling who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, spouse, grandparent, grandchild, or sibling and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, domestic partner, spouse, grandparent, grandchild, or sibling. The term “warrants the participation of the employee” includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly

providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

(c) ***Service member Serious Injury or Illness:*** Employees who request FMLA leave to care for a covered service member who is a child, spouse, parent or “next of kin” of the employee, must provide written certification from a health care provider regarding the injured service member’s serious injury or illness. The City will verify the certification as permitted by the FMLA regulations.

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

703.11 *Time to Provide a Medical Certification*

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

703.12 *Consequences for Failure to Provide an Adequate or Timely Certification*

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

703.13 *Human Resource’s Review of the Contents of Medical Certification for Employee’s Own Serious Health Condition*

(a) ***Complete and Sufficient:*** The employee must provide a certification for his or her own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, a Human Resources professional will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is

necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

- (b) **Authentication and Clarification:** After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the Human Resources professional may contact the health care provider who provided the certification to clarify and/or authenticate the certification. "Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Human Resources professional may not ask for additional information beyond that required on the certification form.

703.14 *Second and Third Medical Opinions for Employee's Own Serious Health Condition*

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

703.15 *Employee Notice of Leave*

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact day(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. For foreseeable leave due to a qualifying emergency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

703.16 *Reinstatement Upon Return From Leave*

- (a) **Reinstatement to Same or Equivalent Position:** Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

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- (b) **Date of Reinstatement:** If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.
- (c) **Employee's Obligation to Periodically Report on His/Her Condition:** Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return. (29 CFR § 825.311.)
- (d) **Fitness for Duty Certification:** As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his or her job, the employee must obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement. (Gov. Code § 12945.2(k)(4); 29 CFR § 825.312.)
- (e) **Reinstatement of "Key Employees":** Under the FMLA only, the City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. Under the CFRA, the City may not deny reinstatement to a "key" employee during or upon the expiration of CFRA leave unless the refusal is justified by California Code of Regulations, Section 11089(c) (1)(2).

703.17 *Required Forms*

Employees must complete the applicable forms to receive family and medical care leave. The forms may be found in the Human Resources Department.

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

704.1 *Amount of Leave*

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

704.2 *Notice & Certification Requirements*

- (a) **Notice:** Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Personnel Officer.
- (b) **Certification:** The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: 1) the employee is disabled from working by pregnancy, childbirth or a related medical condition; 2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and 3) the estimated duration or end date of the leave. (2 Cal.Code Regs §§11050(b)(7); 11050(e).)

704.3 *Compensation During Leave*

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

704.4 *Benefits during Leave*

- (a) **Group Health Insurance:** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act.
- (b) **Sick and Vacation Leaves:** Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave. An employee who uses 40 hours of sick or vacation leave per week will continue to accrue the full amount of sick and vacation leave. An employee who uses less than 40 hours of sick or vacation leave per week will accrue a prorated amount of sick and vacation leave.
- (c) **Employee Status during Leave:** The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

704.5 *Reinstatement*

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

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

- (c) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies. (*See Policy 206, Reasonable Accommodation and Interactive Process.*)

705 *Other Leaves*

705.1 *Jury Duty Leave/Subpoenaed or Court-Ordered Witness Leave*

Any employee, including a part-time, temporary, or seasonal employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his or her supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her supervisor.

705.2 *Overtime-Eligible Employees*

All overtime-eligible employees will be paid for time spent in jury service or court appearances pursuant to a subpoena. The time spent on jury duty is not work time for purposes of calculating overtime compensation. The City will offset from pay the amount the employee receives from the Court for daily jury fees.

705.3 *Overtime-Exempt Employees*

All FLSA-exempt employees will continue to receive their normal salary while on jury duty unless the jury service prevents the exempt employee from performing any work for a full week. The City will offset the amount from pay the employee receives from the Court for daily jury fees.

705.4 *Other Court or Administrative Proceeding Appearances*

705.5 *Regarding Agency Duties*

Any employee who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of his or her City job duties, must give his or her supervisor as much advance notice as is possible. The City will determine whether the matter involves an event or transaction in the

course of the employee's City job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time. The City will offset the amount from pay the employee receives for witness fees.

705.6 *Regarding Employee-Initiated Proceedings*

Any employee who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that he or she initiated, is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time.

705.7 *Regarding Crimes Involving Employee or Family*

Employees who themselves or their family members have been a victim of a serious or violent crime or domestic violence may take leave from work to attend judicial proceedings related to such crime, or to obtain medical treatment or therapy related to such crime. The employee is required to provide as much as advance notice as possible to his/her supervisor of the need to take time off for such purposes. The employee may be required to provide a copy of the notice of the scheduled proceeding. The leave is unpaid unless the employee elects to use accrued vacation, sick or other paid leave or compensatory time off.

705.8 *Bereavement Leave*

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

705.9 *Military Leave*

Military leave will be granted in accordance with state and federal law. An employee requesting leave for this purpose shall promptly provide the department head with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

705.10 ***Paid Administrative Leave***

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

705.11 ***Time Off to Vote***

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

705.12 ***Leave of Absence Without Pay Must Be Authorized By Law or These Policies***

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

706 **Industrial Injury Leave**

706.1 ***Employees Not Covered by Labor Code Section 4850***

Employees, other than those covered by Labor Code section 4850, who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in pay status under the following provisions. Employees covered by Labor Code Section 4850 are first responders and public safety officers, who should refer to their separate policy and procedures manual regarding work-related injuries.

706.2 ***Coordination of Benefits***

When the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated sick leave, vacation, personal holidays, and compensatory time, if any. The employee will continue in pay status and receive his or her pay until his/her accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.

706.3 *Accrual of Sick and Vacation Leave Continues While on Paid Leave*

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

706.4 *Unpaid Leave and Continuation of Health Care Benefits*

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

707 **Voluntary Assignment of Sick Leave**

In some instances employees may assign a portion of their accrued sick leave to another employee who has exhausted his/her sick leave bank due to illness. Review your applicable bargaining unit MOU to determine who is eligible to assign accrued sick leave and the guidelines for such assignment.

800 Job Movement

801 Resignation, Job Abandonment, Layoff and Separation

801.1 *Types of Separation*

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

- (a) Probationary Release;
- (b) Release of at-will employee;
- (c) Resignation;
- (d) Retirement;
- (e) Job abandonment;
- (f) Layoff;
- (g) Non-disciplinary separation; or
- (h) Disciplinary separation.

801.2 *Probationary Release*

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

801.3 *Release of Non-Classified Employees*

Non-classified, at-will employees may be separated at any time, without cause, and without right to any appeal or grievance as long as there is no violation of public policy or statutes, and as long as the termination is not in violation of the provisions of the employee's bargaining unit MOU.

801.4 *Resignation*

An employee who wishes to resign his or her City employment in good standing must submit written notice of resignation to the Department Head and/or Personnel Officer at least two weeks prior to the planned separation date. The written notice must state the reasons for the resignation. Failure to follow the aforementioned procedure may be cause for denying future employment with the City. A resignation occurs when the Department Head and/or Personnel

Officer accepts the resignation in writing. A resignation can be accepted by the Department Head and/or Personnel Officer even if it is submitted less than two weeks prior to the planned resignation date. The Department Head or Personnel Officer is not required to accept a retraction of the resignation once received, in which case the resignation is final and irrevocable.

801.5 *Retirement*

An employee planning to retire may provide a written notice to the Personnel Officer prior to the effective date of the retirement. A notice of retirement occurs when the Personnel Officer accepts the notice of retirement in writing. The Department Head or Personnel Officer is not required to accept a retraction of the notice of retirement once it is received, in which case the resignation is final and irrevocable.

801.6 *Job Abandonment*

An employee is deemed to have resigned from his/her position if he or she is absent for 4 or more consecutive scheduled work days/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at his or her address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the City's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Department Head before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will only be reinstated with the approval of the Department Head and upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification.

801.7 *Layoff*

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

801.7.1 *Order of Layoffs*

Employees will be laid off in the inverse order of their seniority in their classification in the department. Seniority is determined based on the length of employment in the affected classification in the department, or higher classifications in the department. Length of employment includes all days of employment in attendance at work and on authorized or legally-protected leaves of absence. Length of service does not include unauthorized periods of leave or suspension or layoff. Within each classification, employees will be laid off in the following order: temporary; part-time; probationary; and permanent status. If two or more employees in a classification to be laid off have the same length of employment, the employee to be laid off will be decided by lottery. Employees are encouraged to review their applicable MOU regarding rights and procedures in the event that layoffs are necessary.

801.7.2 *Notification of Layoff*

Employees to be laid off will be given 30 calendar days' notice of layoff.

801.7.3 *Displacement*

Permanent employees who are noticed for layoff and who have held permanent status in a lower classification within the same classification series in the same department, may displace employees in the lower classification provided that the employee seeking to displace has greater length of employment in the lower classification than the incumbent in the lower classification. Employees in lower classifications will be displaced in inverse order of their length of employment in the classification. Any employee who seeks to displace another must provide the Personnel Officer with written notice no later than five working days after the date of the notice of layoff.

801.7.4 *Transfer*

If the Personnel Officer determines that a permanent employee who is subject to layoff is qualified to perform the duties in a vacant position, the employee will receive a written notice of option to transfer in lieu of layoff. An employee who does not accept a transfer within 10 days after the date of the written notice, forfeits the option to transfer. An employee who accepts a transfer will be paid the rate applicable to the position into which he or she transfers.

801.7.5 *Appeal*

An employee who has been noticed for layoff, and who has any questions or concerns about the layoff decision or process may make an appointment to be heard by the Personnel Officer for an informal pre-layoff review. The employee must request this appeal in writing within five work days from the date of the notice of layoff. The Personnel Officer's decision is final.

801.7.6 *Non-Disciplinary Separation*

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect. Any for cause employee has the opportunity for a post-separation appeal as described in Policy 901, Causes for Discipline and Procedures.

801.7.7 *Disciplinary Separation*

A for cause employee may be separated for disciplinary reasons pursuant to the policy and procedures in Policy 901, Causes for Discipline and Procedures.

802 Return of City Property

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

803 *Job References/Verification of Employment*

All reference inquiries and verifications of employment must be referred to and approved by the Personnel Officer. Unless the Personnel Officer receives a written waiver signed by the employee, the City will release only the employee's dates of employment, last position held, and final salary rate. Department heads and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the Personnel Officer on a case-by-case basis.

804 Reorganization and Voluntary Transfers

804.1 *Reorganization*

The City shall meet and confer with the various bargaining units to effect reorganizations of the City. Reorganization means the planned elimination, addition, consolidation or redistribution of functions or duties.

804.2 *Voluntary Transfer*

A permanent employee may initiate a request to transfer to another position in the same or lower classification for which the employee is qualified in the opinion of the Personnel Officer and City Manager by submitting a written request to transfer to the Human Resources Department. The request will be kept on file for one year from the date of receipt. With the approval of the Department Head for whom the employee now works and the Department Head for whom the employee wishes to work, the employee will be transferred to the new position when the first vacancy becomes available. An employee who transfers to a new position will be paid the rate applicable to the position into which he or she transfers.

900 Discipline

901 Causes for Discipline and Procedures

901.1 *Causes for Discipline*

Employees may be disciplined for, including but not limited to, any of the following causes of discipline:

- (a) Violation of any department rule, City policy or City regulation, ordinance or resolution;
- (b) Absence without authorized leave or tardiness;
- (c) Excessive absenteeism and/or tardiness as defined by the employee's department head, and/or these Policies;
- (d) Use of leave from work in a manner not authorized or provided for under City policies;
- (e) Making any false representation or statement, or making any omission of a material fact;
- (f) Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;
- (g) Unsatisfactory job performance;
- (h) Inexcusable neglect of duty;
- (i) Inefficiency;
- (j) Misusing or damaging any City property, equipment, resource, or vehicle, or the waste of City supplies through negligence or misconduct.
- (k) Insubordination; or insulting or demeaning the authority of a supervisor or manager;
- (l) Dishonesty;
- (m) Theft;
- (n) Violation of the City's or a department's confidentiality policies, or disclosure of confidential City information to any unauthorized person or entity;
- (o) Misuse or unauthorized use of any City property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, City communication systems, City vehicles or intellectual property;
- (p) Mishandling of public funds;

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- (q) Falsifying or tampering with any City record, including work time or financial records;
 - (r) Discourteous or offensive treatment of the public or other employees;
 - (s) Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.
 - (t) Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
 - (u) Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the City;
 - (v) Any conduct that impairs, disrupts or causes discredit to the City, to the public service, or other employee's employment;
 - (w) Reckless or unsafe conduct;
 - (x) Working overtime without prior authorization or refusing to work assigned overtime;
 - (y) Carrying firearms or other dangerous weapons while on duty when not required by job duties; or
 - (z) Horseplay or fighting.

901.2 *Types of Counseling, Reprimands and Discipline*

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

- (a) **Verbal Reprimand:** A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.
- (b) **Counseling Memo:** A counseling memo will be provided to an employee to identify: a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below. A counseling memo is not considered "punitive action" under the Public Safety Officers Procedural Bill of Rights Act
- (c) **Written Reprimand:** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A

written reprimand will be retained in the employee's personnel file and documented in the performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below. The employee has the right to have his or her written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the Personnel Officer within 14 days after the reprimand is received.

- (d) **Suspension Without Pay:** The City may suspend an employee from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the suspension is final and documented in the performance evaluation conducted during the rating period in which the suspension occurred. A suspension without pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.
- (e) **Reduction in Pay or Paid Leave:** The City may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of three forms: (1) a decrease in salary to a lower step within the salary range; (2) a decrease in salary paid to an employee for a fixed period of time; or (3) loss of accrued paid vacation or administrative leave, floating holiday, or compensatory time off. Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation. A reduction in pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.
- (f) **Demotion:** The City may demote an employee from his or her position to a lower position for cause. Documents related to a demotion shall become part of the employee's personnel file when the demotion is final and documented in the performance evaluation. A demotion is subject to the discipline and discipline appeal procedures described below.
- (g) **Dismissal:** The City may dismiss an employee from his or her position for cause. Documents related to the dismissal shall become a part of an employee's personnel file when the dismissal is final. A dismissed employee is entitled to the discipline and discipline appeal procedures described below.

901.3 *Discipline Procedures*

The following discipline procedures only apply to the City's Classified employees. These discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

- (a) **"Skelly" Notice of Intended Disciplinary Action to Employee:** A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:

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- (a) The level of the intended discipline;
 - (b) The specific charges that support the intended discipline;
 - (c) A summary of the facts that show that the elements of each charge at issue in the intended discipline;
 - (d) A copy of all materials upon which the intended discipline is based;
 - (e) Notice of the employee's right to respond to the Department Head regarding the intended discipline within five days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;
 - (f) Notice of the employee's right to have a representative of his or her choice at the *Skelly* conference; and
 - (g) Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to issuance of the preliminary notice of discipline.

(b) **Response by Employee and *Skelly* Conference:** If the employee requests a *Skelly* conference, the Department Head or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances. The Department Head will consider the employee's presentation before issuing the preliminary notice of discipline. The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the preliminary notice of discipline will be issued.

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

- (a) The level of discipline, if any, to be imposed;
- (b) The specific charges upon which the discipline is based;
- (c) A summary of the facts that show that the elements of each charge at issue in the intended discipline;
- (d) A copy of all materials upon which the discipline is based; and
- (e) Notice of the employee's right to respond to the City Manager regarding the discipline within five days from the date of the notice, either by requesting a conference, or by providing a written response, or both;

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- (f) Notice of the employee's right to have a representative of his or her choice at the conference; and
 - (g) Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.
- (d) **Response by Employee and City Manager Conference:** If the employee requests a conference, the City Manager or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances. The City Manager will consider the employee's presentation before issuing the final disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the preliminary notice of discipline, is a waiver of the right to respond, and the final notice of discipline will be issued.
- (e) **Final Notice of Discipline:** After the conference and/or timely receipt of the employee's written response, the City Manager will make a decision to: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the City Manager will provide the employee with a notice that contains the following:
- (a) The level of discipline, if any, to be imposed and the effective date of the discipline;
 - (b) The specific charges upon which the discipline is based;
 - (c) A summary of the facts that show that the elements of each charge at issue in the intended discipline;
 - (d) A copy of all materials upon which the discipline is based; and
 - (e) A reference to the employee's appeal right and deadline to appeal.
- (f) **Delivery of the Final Notice of Discipline:** The final notice of discipline will be sent by mail method that verifies delivery to the last known address of the employee, or delivered to the employee in person. If the notice is not deliverable because the employee 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.

902 Discipline Appeal Procedures

The following appeal procedures only apply to the City's Classified employees. All Classified employees. The following appeal procedures apply only to suspension without pay, demotion, reduction in pay or dismissal.

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- (a) **Request for Appeal Hearing:** An employee may submit a written request for appeal to the Civil Service Commission within 10 days. Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline.
- (b) **Civil Service Commission:** The appeal shall be heard by the Civil Service Commission.
- (c) **Date and Time of the Appeal Hearing:** The Civil Service Commission will set a date for an appeal hearing. The civil service commission shall, within twenty days after receipt of the petition or answer to a notice of charges, hold a hearing. The director shall notify the person requesting the hearing and all other interested persons of the date of said hearing, and shall publicly post in the lobby of the City Hall a notice of the time and place.
- (d) **Prehearing Notice of Witnesses and Evidence:** No later than 10 days before the hearing date, each party will provide the other and the Civil Service Commission a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to call any witness or evidence that has not been listed, unless that party can show that the party could not have reasonably anticipated the need for the witness or exhibit.
- (e) **Subpoenas:** Upon the request of either party, and upon its own motion, the Civil Service Commission will issue subpoenas to compel attendance and evidence at the appeal hearing. Each party is responsible for serving his/her/its own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they are required to be in attendance at the hearing.
- (f) **Continuances:** The Civil Service Commission may continue a scheduled hearing only upon good cause shown.
- (g) **Record of the Appeal Hearing:** The hearing shall be recorded, either electronically or by a court reporter, at the option of the City. If the City orders a transcript or makes a transcript of the recording, the City will notify the employee within three days of ordering or making the transcript, and will provide a copy of the transcript upon receipt of the costs of duplication. The employee may order a copy of the transcript at his/her own cost.
- (h) **Employee Appearance:** The employee must appear personally before the Civil Service Commission at the time and place set for the hearing, unless he or she has first been excused by the Commission. Failure of the employee to appear at the hearing without first being excused by the Commission shall be deemed a withdrawal of his or her answer and the punitive action of the City shall stand. The employee may be represented by any person he or she may select.
- (i) **Conduct of the Hearing:**
- 1) **Sworn Testimony:** All witnesses shall be sworn in prior to testifying. The chairperson of the Civil Service Commission or the court reporter shall request each
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witness to raise his or her hand and respond to the following: “Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?”

- 2) **Evidence:** Hearings need not be conducted according to technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner that the Civil Service Commission decides is the most conducive to determining the truth. The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The Civil Service Commission shall determine the relevance, weight and credibility of testimony and evidence.
 - 3) **Exclusion of Witnesses:** During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing.
 - 4) **Burden of Proof:** The City has the burden of proof by the preponderance of the evidence.
 - 5) **Authority of Commission:** The Civil Service Commission shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.
 - 6) **Professionalism:** All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or the members of the Civil Service Commission.
- (j) **Presentation of the Case:** The parties will address their remarks, evidence, and objections to the Civil Service Commission. The Civil Service Commission may terminate argument at any time and issue a ruling regarding an objection or any other matter. The Civil Service Commission may limit redundant or irrelevant testimony, or directly question the witness. The hearing will proceed in the following order unless the Civil Service Commission directs otherwise:
- 1) The City is permitted to make an opening statement;
 - 2) The employee is permitted to make an opening statement;
 - 3) The City will produce its evidence;
 - 4) The employee will produce its evidence;
 - 5) The City, followed by the employee, may present rebuttal evidence; and
 - 6) Oral closing arguments of no more than 20 minutes may be permitted at the discretion of the Civil Service Commission. The City argues first, the employee argues second,

and if the City reserved a portion of its time for rebuttal, the City may present a rebuttal.

- (k) Written Briefs:** Either party may request to submit a written brief and/or a draft decision. The Civil Service Commission will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.
- (l) Commission's Decision:** Within 10 days of the conclusion of the hearing, the Civil Service Commission shall make written findings and a decision as to the discipline. The findings of the Civil Service Commission shall be final.

Any member of the Commission may submit a minority or supplemental report which shall be filed as a permanent record by the Personnel Officer.

- (m) Proof of Service of the Written Findings and Decision:** The City will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. It shall be the responsibility of the employee to inform the City of his/her address. A copy of the decision shall also be provided to the Personnel Officer.

1000 Grievances

1001 Grievance Procedures

1002 *Definition of a Grievance*

A grievance is an alleged violation of a specific provision of these Policies that adversely affects the employee and that contains all of the information listed in the “Statement of the Grievance” below. The following procedure applies to all City employees, unless: the employee is covered by a grievance procedure in a memorandum of understanding; another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. The grievance procedure cannot be utilized to challenge the content of a performance evaluation.

1003 *Statement of the Grievance*

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

1004 *Timelines*

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

1005 *Procedures*

- (a) **Step I Informal Resolution with Supervisor:** The employee must first work in good faith to resolve the grievance informally through discussion with his/her immediate supervisor no later than 10 days after the grievant first became aware of the facts or circumstances resulting in the filing of the grievance.
- (b) **Step II Department Head:** If the employee believes that the grievance has not been resolved through Step I, the employee may submit a written Statement of the Grievance to his/her department head. The employee must submit the Statement of the Grievance within 28 days after the grievant first became aware that a grievance has occurred. The department head shall consider, discuss the grievance with the grievant, and/or investigate as he/she deems appropriate, and shall, within 10 days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant.

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- (c) **Step III City Manager:** If the employee believes that the grievance has not been resolved through Step II, the employee may appeal the grievance decision of the department head to the City Manager. Such appeal must be filed within 10 days of the date of the department head's written decision. The City Manager shall consider, discuss the grievance with the grievant, and/or investigate as he/she deems appropriate, and shall, within 10 days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant.
- (d) **Step IV Civil Service Commission:** If the employee believes that the grievance has not been resolved through Step III, the employee may appeal the grievance decision of the City Manager to the Civil Service Commission. Such appeal must be filed within 10 days of the date of the City Manager's written decision. A hearing will be held in front of the Civil Service Commission within 20 days of receipt of the employee's appeal. Upon the conclusion of the hearing, and within ten days thereafter, the Civil Service Commission shall cause its findings and recommendations to be prepared in writing and shall certify the same. The Personnel Officer shall deliver a copy of such findings and recommendations to all persons or agencies affected by the decision. Any member of the Civil Service Commission may submit a minority or supplemental report which shall be filed as a permanent record by the Personnel Officer. The decision of the Civil Service Commission shall be final.

1100 Miscellaneous Policies

1101 Personnel Files

1101.1 Confidential City Files

The City maintains a personnel file on each employee. Files are kept for at least six years after separation of employment. A personnel file will contain only material that the City deems necessary and relevant or that is required by law. Personnel files are the property of the City, and access to the information they contain is restricted to protect employee privacy interests.

1101.2 Notification of Changes

Each employee is responsible to promptly notify the Personnel Officer of any changes in his or her contact and benefits information, including: mailing address; telephone number; persons to contact in emergency; and number and names of dependents.

1101.3 Access to Applicant or Employee Medical Information

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

1101.4 Employee Access to Personnel File

- (a) **Inspection of File:** A current employee may inspect his or her own personnel file and personnel records kept by their supervisor, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect his or her personnel records one time per year. A current or former employee and/or his or her representative, who wishes to review his or her personnel file should make a written request to the Human Resources Department. The inspection must occur in the presence of the Personnel Officer or designee and: (1) at a location where the employee works and at a time other than the employee's work time; or (2) at another agreed upon location without loss of compensation to the employee.
- (b) **Copies:** A current or former employee is entitled to receive a copy of his or her personnel records within 30 days after the employer receives a written request. A current or former employee who wishes to receive such a copy should contact the Human Resources Department in writing. The City may charge a fee for the actual cost of copying.

(c) **Representative’s Inspection:** If the current or former employee wishes to have another person/representative inspect his or her personnel file, he or she must provide the person/representative with written authorization. The Human Resources Department will notify the employee and/or representative of the date, time and place of the inspection in writing.

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

1101.5 Limitations on Access or Copying of Personnel File

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

1102 Limitations on Outside Employment

1102.1 No Outside Employment Without Prior Approval

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with his or her City duties, functions, responsibilities, or that of the department in which he or she is employed at the City. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the Department Head and the City Manager prior to undertaking any outside employment as described in this Policy.

1102.2 Authorization For Outside Employment

(a) **Written Request:** Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to his or her Department Head. The written request must include: (1) the work hours and/or time required; (2) job title or the nature of the activity; (3) the work location; (3) and the supervisor, manager and name of the employer or activity. The request should be made on an “Outside Employment Agreement” form, which is available in the Human Resources Department.

(b) **Analysis and Decision:** The Department Head, with input from the City Manager, will determine if the outside employment, activity, or enterprise is compatible with the employee’s employment at the City. If the Department Head and City Manager determine such activity is compatible, or would be if any conditions or restrictions applied, the Department Head will authorize the activity and specify the conditions/ restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee’s personnel file.

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

1102.3 *Prohibited Outside Activities*

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

- (a) Involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of the City or employment at the City;
- (b) Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee would be required or expected to render in the regular course of his/her City employment;
- (c) Involves the performance of an act in other than his/her capacity as a City employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he/she is employed; or
- (d) Involves time demands that would render the employee's performance of his or her regular City employment less efficient or dangerous to the employee.

1102.4 *Changes in Outside Employment Status*

The employee must promptly report in writing to the Department Head any of the following changes that may occur during the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties.

1102.5 *Revocation / Suspension of Outside Employment Authorization*

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

- (a) The employee's work performance declines; or
- (b) An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the City.

1102.6 *Use of City Equipment Prohibited*

Under no circumstances may an employee use any City equipment, vehicles, tools, supplies, machines, or any other item that is City property while an employee is engaged in any outside employment, activity or enterprise.

1103 Limitations on Political Activity

1103.1 No Solicitation During Work Hours or City Offices

City employees or officers may not solicit or receive political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during the working hours of its officers and employees, or in City offices.

1103.2 No Targeted Solicitation of City Officers or Employees

Officers or employees of the City, or candidates for elective office of the City, may not directly or indirectly solicit political contributions from other officers or employees of the City unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from and employees of the City.

1103.3 No Political Activity in Uniform

No City employee or official shall participate in political activities of any kind while in a City uniform or other City-issued clothing.

1103.4 No Political Activity on City Property or During Work Hours

City employees and officials are prohibited from engaging in political activity during working hours or on City property.

1104 Use of City Equipment or Resources

1104.1 Policy and Applicability

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

1104.2 Agency Equipment or Resources

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

1104.3 *No Expectation of Privacy*

The City periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through City networks or electronic resources. City employees must provide the agency with the employee's username or password for any City-issued equipment or resource. The existence of passwords or delete functions does not restrict the City's access. As a result, City employees have no expectation of privacy in their use of any City equipment or resources.

1104.4 *Appropriate Use Only -- No Misuse*

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

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

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

1104.5 *City Email Address Must be Used for City Business*

The City's email system is an official communication tool for City business. The City establishes and assigns official email addresses to each employee as the City deems necessary. Employees must send all City communications that are sent via email to and from his or her official City email address. Employees are prohibited from using their private email address (e.g., Gmail, yahoo, MSN/Hotmail, etc.) when communicating City business via email. Should an email related to City business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's City email account and responded to accordingly.

1104.6 *Incidental Personal Use of City Communications Equipment Permitted*

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

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

1105 Policy Against Violence in the Workplace

1105.1 Safe and Secure Workplace

The City is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. The workplace includes any City property, including vehicles and parking lots, or any location where City business is conducted or where an individual is acting as a representative of the City or in a way that could affect the City's business interests. Any violation of this Policy may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

1105.2 Prohibited Behavior

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

1105.3 "Workplace Violence"

"Workplace violence" is defined as any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

- (a) Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property;
- (b) The destruction of, or threat of destruction of City property or another employee's property;
- (c) Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay;
- (d) Striking, punching, slapping, or assaulting another person;
- (e) Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise;
- (f) Harassing or threatening phone calls;
- (g) Surveillance;
- (h) Stalking; and
- (i) Possessing a weapon(s) during work hours unless the City issues the weapon(s) for performance of the job. "Weapon" is defined as a firearm, chemical agent, club or baton,

knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

1105.4 *Incident Reporting Procedures*

- (a) Employees must immediately report to their supervisor or department director whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department director will immediately report the matter to the Personnel Officer.
- (b) The Personnel Officer or designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.
- (c) The Personnel Officer or designee will take appropriate steps to provide security, such as:
 - 1) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
 - 2) Asking any threatening or potentially violent person to leave the site; or
 - 3) Immediately contacting an appropriate law enforcement agency.

1105.5 *Investigation*

The Personnel Officer or designee will see that reported violations of this Policy are investigated as necessary.

1105.6 *Prevention*

Each department head has authority to enforce this Policy by:

- (a) Training supervisors and subordinates about their responsibilities under this Policy;
- (b) Assuring that reports of workplace violence are accurately and timely documented and addressed;
- (c) Notifying the Personnel Officer and/or law enforcement authorities of any incidents;
- (d) Making all reasonable efforts to maintain a safe and secure workplace; and
- (e) Maintaining records and follow up actions as to reports of workplace violence.

1200 Appearance Standards

1201 Basis for Standards

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

This personal appearance policy will not replace or supersede the existing uniform and grooming standards found in the City of Hawthorne Police Policy & Procedures Manual for all sworn personnel.

1201.1 Dress Code

Employees are required to dress appropriately for the jobs they are performing, and are expected at all times to present a professional and businesslike image to their colleagues and the public. The following dress code regulations shall apply to all City employees unless otherwise stated. If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

1201.1.1 Uniformed Employees

- (a) Maintenance of Uniforms: Employees required to wear uniforms are responsible for maintaining them in good condition. Regardless of an employee's duties or anticipated work assignment, uniforms should be clean at the start of the work day. This includes shoes and all other footwear.
- (b) Replacement of Uniforms: Replacement uniforms will be issued within a timeframe, which is in accordance with the language of the respective collective bargaining agreement (Memorandum of Understanding) and/or the existing policies established by each department.
- (c) Personal Appearance When in Uniform: Wearing a uniform properly is a strong part of its value in projecting a professional image. Employees should be conscious of the following:
 - a. All types of uniformed dress shirts, including tee shirts and collared polo-type shirts, will be tucked in.
 - b. Shoes, whether provided at the employees expense or at the City's will be of conventional style and substantial construction, and clean at the start of the work day. Socks or hosiery are required.
 - c. Departments will standardize the arrangements of patches and insignia on uniforms. Only those items authorized by the department concerned will be worn.
 - d. Departments will standardize the embroidery or printing used on uniforms. The selected style will be chosen with due regard to clarity and professional appearance. Only those items authorized by the department concerned will be used.

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- e. As an employee of the City of Hawthorne your actions are a direct reflection of the City and the image that is presented to the public. The City expects all employees to use proper judgment and discretion when wearing a City-issued uniform.
 - f. Inspectors (Building, Housing and Public Works) & Code Enforcement Personnel will wear a specific department-issued top and pants. Shoes will also be provided as per the language stated in the Hawthorne Municipal Employee's Association Memorandum of Understanding.

1201.1.2 Other Employees

Other employees who are not required to wear a uniform are nevertheless required to wear appropriate business attire. This standard applies in the following cases:

- (a) City Hall, City Hall Affiliated Locations, and City Council Meetings: For employees working in City Hall or within other locations affiliated with City Hall, or who are attending City Council meetings, appropriate business attire is defined as:
 - a. Suits (optional), ties (recommended but not mandatory), collared shirts, blouses and knit tops, blazers, sports coats (optional), professional jackets, sweaters/v-neck sweaters, sweater sets, dresses, skirts, dress pants, wool or blend pants, khaki pants and belts.
 - b. Shoulders must be covered.
 - c. Appropriate dress shoes must have enclosed or sling back heel. Front of shoe is optional (i.e.: open-toe, peep toe and closed toe).
 - d. The following attire is considered inappropriate:
 - * Blouses or shirts: halter tops, spaghetti straps,
 - * Skirts that exceed 3" above the knee
 - * beach style flip flops
 - * t-shirts or shirts containing graphic designs such as logos, sayings, images
 - * sleeveless white undershirts or tank tops
- (b) City Parks & City Yard: For employees working at other City facilities such as the Parks Division and City Yard, appropriate business attire will be similar to those working in City Hall, except that the department heads or a designated supervisor, who is responsible for these facilities, is free to use their discretion for which a standard business attire would not be appropriate and may relax these standards to accommodate local environmental conditions.
- (c) Part-time employees serving in the Recreation Division will be issued a specific top, and at the discretion of the department head, will be allowed to either wear shorts or jeans/khaki pants.
- (d) Other Meetings: At other City meetings, appropriate business attire will be the same as for those defined for City Hall employees.

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- (e) Special Events: Employees will be free to use their own good judgment when selecting attire for a special event such as the Tailgate BBQ, Christmas Luncheon, Retirement parties, etc.
 - (f) Casual Fridays: Casual Friday is defined as a Friday when City Hall is open to the public. On casual Fridays all employees are expected to exercise good judgment and common sense in their choice of clothing for the day. Casual Friday dress does not apply to employees required to wear a uniform. Casual attire includes, but is not limited to:

- *Casual slacks, Docker or khaki pants, summer dresses, polo type shirts, short sleeve shirts, corduroy pants or skirts, slip on shoes, loafers, and/or appropriate sandals with backs.

- *No flip-flops, or other beach style sandals.

- *T-shirts or outerwear displaying messages or logos are not appropriate.

- *Small logos indicating the clothing's manufacturer are allowed.

1201.1.3 All Employees

The following section is applicable to all employees.

- (a) All employees are required to maintain a clean, neat and well-groomed appearance. Good personal hygiene is required. Regardless of an employee's duties or anticipated work assignment, they are expected to meet this standard at the start of the work day. Employees will refrain from using heavy perfume, cologne, aftershave or other scents whose odor is noticeable to coworkers.
- (b) Wearing City logo clothing under appropriate circumstances is optional and encouraged.
- (c) All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed;
- (d) Prescribed uniforms and safety equipment must be worn;
- (e) Hair must be neat, clean and well-groomed;
- (f) Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion;
- (g) Jewelry that does not pierce the skin is acceptable except where it constitutes a health or safety hazard; and
- (h) Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work.

1202 Tattoos

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

- (a) No tattoos are allowed anywhere on the head, face, or neck;
- (b) Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang-related;
- (c) No visible tattoos shall be larger than 4 by 6 inches; and
- (d) Any non-conforming tattoos will be covered with clothing, bandage or makeup while at work, or removed.

1203 Piercing

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

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

1204 Procedures for Correction of Dress Code Violations

The City will make reasonable accommodations to these standards for any employee based on religious practices, ethnicity, disability, or medical conditions.

If an employee's clothing does not meet the standards outlined in this policy, they will be asked to refrain from wearing the unsuitable item or similar items to work in the future. This first infraction and counseling will constitute a verbal warning for purposes of progressive discipline.

Progressive disciplinary action will result in a written warning if dress code violations continue. If, after the first verbal warning, the employee continues to violate the dress code, the employee will be asked to return home to change, and the missed time from work to travel and change clothing will be deducted from the employee's leave accruals (vacation, floating holiday, compensatory time, and/or administrative leave). Continued violations after a written warning will result in additional measures to attempt to correct the ongoing violation, which measures

may include but not be limited to suspension without pay. If an employee has questions or concerns about whether an item of clothing is suitable for work, they should confer with their immediate supervisor or the City Manager.

Nothing in this policy is to be construed to supersede State, Federal or Agency safety regulations/standards. If a conflict exists between this policy and State, Federal or Agency safety regulations/standards, said regulations/standards shall take precedence over this policy.

1300 Emergencies and Natural Disasters

1301 State of Emergency

A state of emergency may be declared in the City due to a number of different events, including but not limited to earthquakes, pandemics, terrorist attacks, civil unrest, and extreme weather conditions. Emergency conditions may result in full lockdown, modified work schedules, or other changes to the normal work routine as required by the specific emergency. Employees will be notified by a text message system when an emergency occurs or has been declared. These notifications will be sent to both City-owned and personal cell phones. There will also be emails sent to the employee's City email address.

The conditions, and therefore requirements of the employees, attendant to an emergency will likely be fluid and ever-changing. Therefore, it is the employee's responsibility to periodically check emails and text messages for updates regarding the emergency situation. If an employee has questions regarding the situation or what is expected of the employee, the employee should make every effort to contact their immediate supervisor or Department head.

1302 Designation as Disaster Service Workers

Under State law, Title I, Section 3100 of the California Government Code, all government employees are declared Disaster Service Workers who can be called upon in any emergency. This means that City, County, and State employees have a responsibility to help in a disaster.

During a disaster, some departments will respond in their traditional roles (such as police and fire). Other departments may be required to perform their day-to-day tasks as well as other duties to support the activities of the City's Emergency Operations Center (EOC). Employees who do not have a specific disaster assignment, and who have not received specific training, may be asked to perform other duties as assigned. These duties will normally be nontechnical, but very important, such as:

- Answering telephones
- Ordering / Delivering supplies
- Rendering first aid
- Guiding visitors
- Managing volunteers
- Monitoring news reports
- Picking up tree limbs
- Staffing barricades

Cooking / Food Handling
Running messages
Tracking information in the EOC
Helping in a Red Cross shelter
Language Interpretation
Crisis Counseling
Filling sandbags
Other tasks as needed

During a time of emergency, non-essential employees may perform regular duties or may have alterations to their duties. You may also be asked to take on tasks outside of your normal responsibilities to work in support of emergency operations, assist with support functions at a disaster site, coordinate information about the disaster or available public services, and other activities needed to effectively respond to the hazard in your community.

Examples of how your work may be altered during an emergency response period include:

- (a) Performing your usual services, but with additional hours or in a different location. For example: providing disaster victims with government services, such as medical aid, housing, or other assistance.
- (b) Emergency response related activities associated with the program in which you normally work (those who work in programs with statutory response responsibilities during an incident). For example: Lab Technicians; Epidemiologists; Drinking Water Engineers; Food, Drug and Radiation Inspectors; Safety and Health Officers, Public Information Officers, and Program Managers
- (c) Using your professional skills and abilities to go above and beyond your normal daily tasks. Laboratory Technicians, scientists, or engineers may be asked to perform work duties in lab or in the field.
- (d) You may be asked to support emergency operations in the City's Emergency Operations Center (EOC), or your Department Emergency Operations Center. EOC tasks may include assisting with purchasing, record keeping, time keeping; Analyzing information, providing subject matter expertise, planning response activities; Answering phones, supporting emergency response facilities, writing press releases, monitoring media; Processing requests for supplies or resources to be sent to local health departments.

When working in your role as a Disaster Service Worker, always remember to:

- (a) Keep detailed records. For example, activity log, expenses, assignments, names and contacts. record your expenses, your DSW assignments, and the name of your DSW manager.
- (b) Always sign in and out from work (track your work hours).
- (c) Always report your whereabouts to your command supervisor so that you can be easily located if needed.

Employees should continue to monitor text messages and emails during the pendency of the disaster to keep abreast of their role and responsibilities.