

# **CITY OF BEAUMONT**

## **PERSONNEL MANUAL**



**AS AMENDED  
ADOPTED BY CITY COUNCIL JUNE 30, 2009**

**THIS POLICY MANUAL SUPERSEDES THE JUNE 3, 2008 UPDATED EMPLOYEE HANDBOOK**

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**1. VERIFICATION OF RECEIPT OF PERSONNEL MANUAL**

EACH EMPLOYEE SHALL VERIFY THAT HE/SHE HAS BEEN GIVEN A COPY OF THIS MANUAL. THE VERIFICATION SHALL BE DATED AND SIGNED BY THE EMPLOYEE AND THE ORIGINAL MAINTAINED IN THE EMPLOYEE'S PERSONNEL FILE.

THE VERIFICATION SHALL BE MADE IN SUBSTANTIALLY THE FOLLOWING FORM:

"I HAVE BEEN GIVEN A COPY OF THE CITY OF BEAUMONT PERSONNEL MANUAL. I UNDERSTAND THAT IT IS MY RESPONSIBILITY TO READ THE MANUAL. I FURTHER UNDERSTAND THAT THE MANUAL CONTAINS IMPORTANT INFORMATION GOVERNING MY EMPLOYMENT WITH THE CITY OF BEAUMONT, INCLUDING REGULATIONS AND OBLIGATIONS THAT ARE EXPECTED OF ME AS A CITY EMPLOYEE. FURTHERMORE, I UNDERSTAND THAT I AM OBLIGATED UNDER THE CALIFORNIA CONSTITUTION THAT I AM DECLARED TO BE A DISASTER SERVICE WORKER, AS OUTLINED IN SECTION 4.3.7.

FINALLY, I ALSO UNDERSTAND THAT THE ORIGINAL OF THIS VERIFICATION OF RECEIPT WILL BE PLACED IN MY PERSONNEL FILE.

DATED: (SAMPLE)

(SAMPLE)  
EMPLOYEE'S NAME

(SAMPLE)  
EMPLOYEE'S SIGNATURE

## 2. INTRODUCTION

THIS MANUAL CONTAINS EMPLOYMENT POLICIES OF THE CITY OF BEAUMONT. EACH CITY EMPLOYEE IS RESPONSIBLE FOR KNOWING ITS CONTENTS.

NOTE, HOWEVER, THAT THE POLICIES EXPRESSED HEREIN MAY DIFFER SLIGHTLY FROM CITY DEPARTMENT TO DEPARTMENT. CITY DEPARTMENTS MAY HAVE ADDITIONAL POLICIES, PROCEDURES AND REGULATIONS WHICH ARE NECESSARY FOR EFFICIENT INTERNAL OPERATIONS. EMPLOYEES OF THE BEAUMONT POLICE DEPARTMENT SHALL CONSULT THEIR SUPERVISORS FOR ADDITIONAL INFORMATION THAT IS APPLICABLE ONLY TO POLICE DEPARTMENT EMPLOYEES. IN ADDITION, THE CITY HAS NEGOTIATED SEVERAL MEMORANDA OF UNDERSTANDING (MOUS) WITH EMPLOYEE ORGANIZATIONS AND INDIVIDUAL EMPLOYEES. THESE MOUS CONTAIN SPECIFIC INFORMATION ABOUT WORKING HOURS, PAY AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

THEREFORE, IN ADDITION FOR BEING RESPONSIBLE FOR KNOWING THE CONTENTS OF THIS MANUAL, EMPLOYEES MUST ALSO CONSULT THEIR DEPARTMENT'S SPECIFIC POLICIES AND REGULATIONS, AND ANY APPLICABLE MOU. IN THE EVENT A SPECIFIC PROVISION OF THIS MANUAL CONFLICTS WITH A SPECIFIC PROVISION OF A CURRENT MOU, OR CONFLICTS WITH A CITY MANAGER-APPROVED DEPARTMENT POLICY OR REGULATION, THE PROVISIONS OF THE MOU, AND THE APPROVED DEPARTMENT POLICY OR REGULATION WILL PREVAIL.

OVER TIME, NEW LAWS COME INTO BEING REQUIRING PERIODIC REVISIONS TO THIS MANUAL. THE CITY WILL ENDEAVOR TO PROVIDE EACH CITY EMPLOYEE WITH NOTIFICATION OF ANY CHANGE; HOWEVER, EACH EMPLOYEE IS RESPONSIBLE FOR CONSULTING THE MOST RECENT EDITION OF THIS MANUAL.

FINALLY, THIS MANUAL ONLY APPLIES TO EMPLOYEES OF THE CITY, NOT TO ITS INDEPENDENT CONTRACTORS. AN "EMPLOYEE" IS DEFINED AS AN INDIVIDUAL WHOSE WORK IS DIRECTED AND CONTROLLED, OR IS SUBJECT TO THE DIRECTION OR CONTROL, BY THE CITY WITH RESPECT TO THE FINAL RESULTS OF THE WORK AND THE DETAILS OF WHEN, WHERE AND HOW THE WORK IS TO BE DONE.

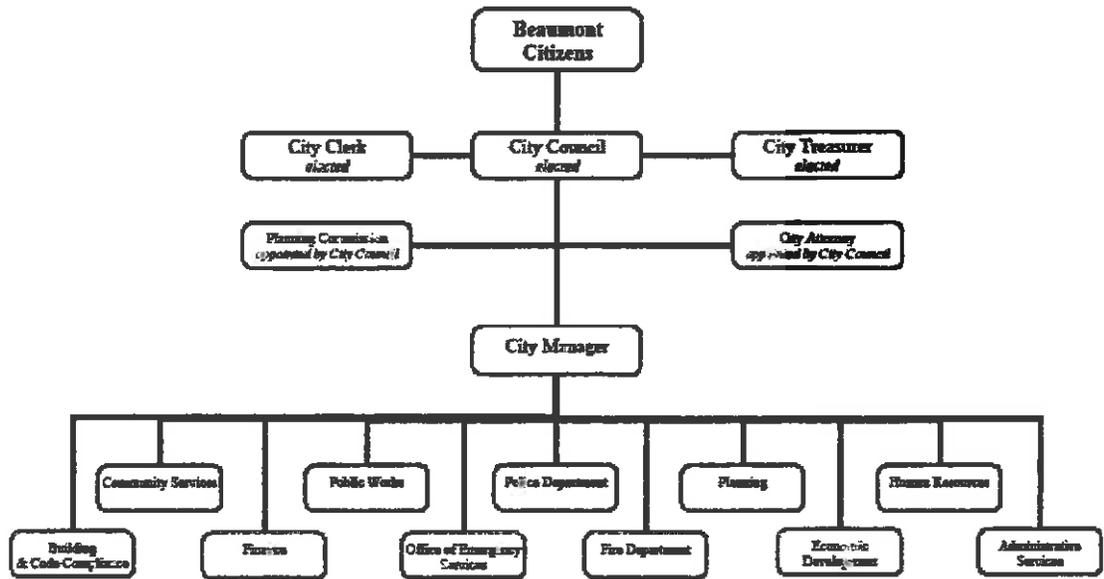
### **3. ORGANIZATION**

THE CITY OF BEAUMONT WAS INCORPORATED AS A CITY ON NOVEMBER 18, 1912. THE CITY IS GOVERNED BY A CITY COUNCIL, CONSISTING OF FIVE PERSONS, EACH PERSON ELECTED FOR A TERM OF FOUR YEARS. THE CITY COUNCIL MEETS TWICE A MONTH, ON THE FIRST AND THIRD TUESDAY OF EACH MONTH.

THE CITY COUNCIL ADOPTS POLICIES THAT SPECIFY WHAT CITY SERVICES ARE TO BE PROVIDED TO CITY RESIDENTS. SOME OF THE SERVICES THAT THE CITY PROVIDES INCLUDES PUBLIC SAFETY SERVICES (POLICE AND FIRE), PARKS AND RECREATION SERVICES, SANITATION SERVICES (REFUSE AND SEWER SERVICES), BUILDING AND SAFETY SERVICES, AND SERVICES TO THE CITY'S SENIOR CITIZENS.

THE CITY COUNCIL'S POLICIES ARE IMPLEMENTED BY THE CITY MANAGER, WHO IS DIRECTLY RESPONSIBLE TO THE CITY COUNCIL FOR THE ADMINISTRATION AND IMPLEMENTATION OF COUNCIL POLICIES. TO ASSIST THE CITY MANAGER, THE CITY EMPLOYS A STAFF OF ADMINISTRATIVE, TECHNICAL AND FIELD PERSONNEL.

THE CITY'S ACTIVITIES AND SERVICES ARE DIVIDED INTO FUNCTIONAL DEPARTMENTS, WITH MANAGERS ASSIGNED TO EACH DEPARTMENT. THE ORGANIZATION OF THE CITY, AND ITS DEPARTMENTS, ARE SHOWN BELOW:



#### **4. EMPLOYMENT CONDITIONS**

IT IS THE POLICY OF THE CITY OF BEAUMONT TO RECRUIT, HIRE, AND PROMOTE FOR ALL JOB CLASSIFICATIONS WITHOUT REGARD TO RACE, RELIGION, CREED, COLOR, NATIONAL ORIGIN, AGE, MARITAL STATUS, ANCESTRY, MEDICAL CONDITION, PHYSICAL HANDICAP, DISABILITY, PREGNANCY, VETERAN OR OTHER PROTECTED STATUS, SEXUAL ORIENTATION, GENDER, GENDER IDENTITY, *OR ON THE BASIS OF ANY PERCEPTION THAT AN APPLICANT OR EMPLOYEE IS ASSOCIATED WITH SOMEONE WHO HAS, OR IS PERCEIVED TO HAVE, THESE.*

DECISIONS ON EMPLOYMENT ARE TO BE BASED UPON AN INDIVIDUAL'S QUALIFICATIONS FOR THE POSITION BEING FILLED, AS DESCRIBED BELOW.

##### **4.1 SELECTION OF EMPLOYEES**

ALL PERSONS CONSIDERED FOR EMPLOYMENT WITH THE CITY OF BEAUMONT SHALL BE QUALIFIED TO PERFORM THE DUTIES OF THE POSITION FOR WHICH THEY ARE EMPLOYED. ALL NEW EMPLOYEES MAY, DEPENDING UPON THE JOB APPLIED FOR, BE REQUIRED TO UNDERGO FINGERPRINTING, BACKGROUND CHECK, MEDICAL AND/OR PSYCHOLOGICAL EXAMS, POLYGRAPHS, AND PRE-EMPLOYMENT DRUG TESTING BEFORE REPORTING FOR WORK. ALL EMPLOYEES SHALL BE REQUIRED TO SIGN AN OATH OF OFFICE PURSUANT TO STATE LAW.

ALL NEW EMPLOYEES MUST PROVIDE AND MAINTAIN NECESSARY DOCUMENTATION TO PROVE IDENTITY AND THE RIGHT TO WORK IN THE UNITED STATES IN ACCORDANCE WITH FEDERAL AND STATE IMMIGRATION AND NATURALIZATION LAWS. FAILURE TO PROVIDE SUCH DOCUMENTATION WILL RESULT IN DISQUALIFICATION FROM SELECTION AND/OR GROUNDS FOR IMMEDIATE TERMINATION.

##### **4.2 NEPOTISM AND CONFLICTING RELATIONSHIPS**

###### **4.2.1 PURPOSE AND SCOPE**

THE PURPOSE OF THIS POLICY IS TO ENSURE EFFECTIVE SUPERVISION, SAFETY, SECURITY, PERFORMANCE, ASSIGNMENTS AND DISCIPLINE WHILE MAINTAINING POSITIVE MORALE BY AVOIDING ACTUAL OR PERCEIVED FAVORITISM, DISCRIMINATION, OR OTHER ACTUAL OR POTENTIAL CONFLICTS OF INTEREST BY OR BETWEEN EMPLOYEES OF THE CITY.

###### **4.2.2 DEFINITIONS**

**RELATIVE** - AN EMPLOYEE'S PARENT, STEP-PARENT, SPOUSE, DOMESTIC PARTNER, SIGNIFICANT OTHER, CHILD (NATURAL, ADOPTED OR STEP), SIBLING OR GRANDPARENT.

**PERSONAL RELATIONSHIP** - INCLUDES MARRIAGE, COHABITATION, DATING OR ANY OTHER INTIMATE RELATIONSHIP BEYOND MERE FRIENDSHIP.

**BUSINESS RELATIONSHIP** - SERVING AS AN EMPLOYEE, INDEPENDENT CONTRACTOR, COMPENSATED CONSULTANT, OWNER, BOARD MEMBER, SHAREHOLDER OR INVESTOR IN AN OUTSIDE BUSINESS, COMPANY, PARTNERSHIP, CORPORATION, VENTURE OR OTHER TRANSACTION WHERE THE EMPLOYEE'S ANNUAL INTEREST, COMPENSATION, INVESTMENT OR OBLIGATION IS GREATER THAN \$250.00.

**CONFLICT OF INTEREST** - ANY ACTUAL, PERCEIVED OR POTENTIAL CONFLICT OF INTEREST IN WHICH IT REASONABLY APPEARS THAT AN EMPLOYEE'S ACTION, INACTION OR DECISIONS ARE OR MAY BE

INFLUENCED BY THE EMPLOYEE'S PERSONAL OR BUSINESS RELATIONSHIP.

**SUPERVISOR** - AN EMPLOYEE WHO HAS TEMPORARY OR ONGOING DIRECT OR INDIRECT AUTHORITY OVER THE ACTIONS, DECISIONS, EVALUATION AND/OR PERFORMANCE OF A SUBORDINATE EMPLOYEE.

**SUBORDINATE** - AN EMPLOYEE WHO IS SUBJECT TO THE TEMPORARY OR ONGOING DIRECT OR INDIRECT AUTHORITY OF A SUPERVISOR.

#### **4.2.3 RESTRICTED DUTIES AND ASSIGNMENTS**

WHILE THE CITY WILL NOT PROHIBIT PERSONAL OR BUSINESS RELATIONSHIPS BETWEEN EMPLOYEES, THE FOLLOWING REASONABLE RESTRICTIONS SHALL APPLY (GOVERNMENT CODE §12940(A)):

**4.2.3.1** EMPLOYEES ARE PROHIBITED FROM DIRECTLY TRAINING, SUPERVISING, OCCUPYING A POSITION IN THE LINE OF SUPERVISION, OR BEING DIRECTLY TRAINED OR SUPERVISED BY ANY OTHER EMPLOYEE WHO IS A RELATIVE OR WITH WHOM THEY ARE INVOLVED IN A PERSONAL OR BUSINESS RELATIONSHIP .

A. IF CIRCUMSTANCES REQUIRE THAT SUCH A SUPERVISOR/SUBORDINATE RELATIONSHIP EXISTS TEMPORARILY, THE SUPERVISOR SHALL MAKE EVERY REASONABLE EFFORT TO REFER MATTERS INVOLVING THE INVOLVED EMPLOYEE TO AN UNINVOLVED SUPERVISOR.

B. WHEN PERSONNEL AND CIRCUMSTANCES PERMIT, THE CITY WILL ATTEMPT TO MAKE EVERY REASONABLE EFFORT TO AVOID PLACING EMPLOYEES IN SUCH SUPERVISOR/SUBORDINATE SITUATIONS. THE CITY, HOWEVER, RESERVES THE RIGHT TO TRANSFER OR REASSIGN ANY EMPLOYEE TO ANOTHER POSITION WITHIN THE SAME CLASSIFICATION AS IT MAY DEEM NECESSARY IN ORDER TO AVOID CONFLICTS WITH ANY PROVISION OF THIS POLICY.

**4.2.3.2** EMPLOYEES ARE PROHIBITED FROM PARTICIPATING IN, CONTRIBUTING TO, OR RECOMMENDING PROMOTIONS, ASSIGNMENTS, PERFORMANCE EVALUATIONS, TRANSFERS OR OTHER PERSONNEL DECISIONS AFFECTING AN EMPLOYEE WHO IS A RELATIVE OR WITH WHOM THEY ARE INVOLVED IN A PERSONAL OR BUSINESS RELATIONSHIP.

**4.2.3.3** EXCEPT AS REQUIRED IN THE PERFORMANCE OF OFFICIAL DUTIES OR, IN THE CASE OF IMMEDIATE RELATIVES, EMPLOYEES SHALL NOT DEVELOP OR MAINTAIN PERSONAL OR FINANCIAL RELATIONSHIPS WITH ANY INDIVIDUAL(S) WHO THEY KNOW OR REASONABLY SHOULD KNOW ARE UNDER CRIMINAL INVESTIGATION, CONVICTED FELONS, PAROLEES, FUGITIVES, REGISTERED SEX OFFENDERS OR WHO ENGAGE IN SERIOUS VIOLATIONS OF STATE OR FEDERAL LAWS.

#### **4.2.4 EMPLOYEE'S RESPONSIBILITY**

PRIOR TO ENTERING INTO ANY PERSONAL OR BUSINESS RELATIONSHIP OR OTHER CIRCUMSTANCE WHICH THE EMPLOYEE KNOWS OR REASONABLY SHOULD KNOW COULD CREATE A CONFLICT OF INTEREST OR OTHER VIOLATION OF THIS POLICY, THE EMPLOYEE SHALL PROMPTLY NOTIFY, IN WRITING, HIS/HER NEXT HIGHEST LEVEL OF SUPERVISOR WHO IS UNINVOLVED.

WHENEVER ANY EMPLOYEE IS PLACED IN CIRCUMSTANCES WHICH WOULD REQUIRE THE EMPLOYEE TO TAKE ENFORCEMENT ACTION OR PROVIDE OTHER OFFICIAL INFORMATION OR SERVICES TO ANY RELATIVE OR OTHER INDIVIDUAL(S) WITH WHOM THE EMPLOYEE IS INVOLVED IN A PERSONAL OR BUSINESS RELATIONSHIP, THE EMPLOYEE SHALL PROMPTLY NOTIFY HIS/HER UNINVOLVED, IMMEDIATE SUPERVISOR. IN THE EVENT THAT NO UNINVOLVED SUPERVISOR IS IMMEDIATELY AVAILABLE, THE EMPLOYEE SHALL PROMPTLY NOTIFY THE HUMAN RESOURCES DIRECTOR TO HAVE ANOTHER UNINVOLVED EMPLOYEE EITHER RELIEVE THE INVOLVED EMPLOYEE OR MINIMALLY REMAIN PRESENT TO WITNESS THE ACTION.

**4.2.5 SUPERVISOR'S RESPONSIBILITY**

UPON BEING NOTIFIED OF OR BECOMING AWARE OF ANY CIRCUMSTANCE(S) WHICH COULD RESULT IN OR CONSTITUTE AN ACTUAL OR POTENTIAL VIOLATION OF THIS POLICY, A SUPERVISOR SHALL TAKE ALL REASONABLE STEPS TO MITIGATE OR AVOID SUCH VIOLATIONS WHENEVER POSSIBLE. SUPERVISORS SHALL ALSO PROMPTLY NOTIFY THE CITY MANAGER OF SUCH ACTUAL OR POTENTIAL VIOLATIONS THROUGH THE CHAIN OF COMMAND.

**4.3 EMPLOYEE CLASSIFICATIONS**

THE CITY MANAGER IS AUTHORIZED TO ESTABLISH NEW POSITIONS WHERE REQUIRED IN THE CONDUCT OF THE CITY'S AFFAIRS, SUBJECT TO THE APPROVAL OF THE CITY COUNCIL.

**4.3.1 FULL-TIME REGULAR EMPLOYEE**

AN EMPLOYEE WHO HAS SERVED THE REQUIRED PROBATIONARY PERIOD SATISFACTORILY AND IS EMPLOYED TO WORK 2,080 HOURS A CALENDAR YEAR IN AN ESTABLISHED POSITION REQUIRING WORK ON A REGULAR SCHEDULE, UNLESS OTHERWISE AUTHORIZED BY THE CITY COUNCIL, IS CLASSIFIED AS A FULL-TIME REGULAR EMPLOYEE; SUCH EMPLOYEES ARE ALSO DEEMED "DISASTER SERVICE WORKERS" (SEE SECTION 4.3.7 BELOW).

**4.3.2 PART-TIME REGULAR EMPLOYEE**

AN EMPLOYEE WHO HAS SATISFACTORILY SERVED THE REQUIRED PROBATIONARY PERIOD AND IS EMPLOYED TO NORMALLY WORK LESS THAN FORTY HOURS PER WEEK IN AN ESTABLISHED POSITION ON A YEAR-AROUND BASIS SHALL BE CLASSIFIED AS A REGULAR PART-TIME EMPLOYEE. PART-TIME EMPLOYEES ARE ELIGIBLE FOR SICK LEAVE AND VACATION BENEFITS AS DEFINED IN THIS MANUAL. PART-TIME EMPLOYEES ARE NOT ELIGIBLE FOR ANY OTHER EMPLOYEE BENEFITS UNLESS DESIGNATED BY STATE OR FEDERAL LAW. PART-TIME EMPLOYEES ARE ALSO DEEMED "DISASTER SERVICE WORKERS" (SEE SECTION 4.3.7 BELOW).

**4.3.3 PROBATIONARY EMPLOYEE**

EVERY NEW EMPLOYEE IN A FULL- OR PART-TIME POSITION SHALL SERVE A PROBATIONARY PERIOD OF 12 MONTHS (18 MONTHS FOR POLICE DEPARTMENT EMPLOYEES) EXCLUSIVE OF TIME OFF FOR LEAVES OF ABSENCE AS HEREINAFTER PERMITTED. THE PROBATIONARY EMPLOYEE WILL BE EVALUATED PERIODICALLY DURING THE PROBATIONARY PERIOD AND IS SUBJECT TO DISMISSAL, WITH OR WITHOUT CAUSE, AT THE DISCRETION OF THE CITY MANAGER. THE TERMINATION CAN BE EXERCISED AT ANY TIME DURING THE PROBATIONARY PERIOD. EFFECTIVE ON THE FIRST DAY FOLLOWING COMPLETION OF THE PROBATIONARY PERIOD, IF THE EMPLOYEE'S PERFORMANCE HAS BEEN SATISFACTORY AND THE CITY MANAGER APPROVES

HIS/HER RETENTION, THE EMPLOYEE SHALL BE CONSIDERED THEREAFTER A FULL- OR PART-TIME REGULAR EMPLOYEE OF THE CITY. PROBATIONARY EMPLOYEES ARE ALSO DEEMED "DISASTER SERVICE WORKERS" (SEE SECTION 4.3.7 BELOW)

#### **4.3.4 TEMPORARY EMPLOYEE**

AN EMPLOYEE SERVING IN A POSITION IN WHICH THE REQUIREMENTS OF THE SERVICES PERFORMED ARE OF A TEMPORARY NATURE SHALL BE CLASSIFIED AS A TEMPORARY EMPLOYEE FOR A PERIOD NOT TO EXCEED TWELVE MONTHS. THIS CLASSIFICATION INCLUDES, BUT IS NOT LIMITED TO, PERSONNEL EMPLOYED FOR THE FOLLOWING: SEASONAL PEAK WORKLOADS, EMERGENCY EXTRA WORKLOADS, NECESSARY VACATION RELIEF, OR SPECIAL INVESTIGATIVE STUDY WORKLOADS. TEMPORARY EMPLOYEES ARE NOT ELIGIBLE FOR ANY EMPLOYEE BENEFITS. TEMPORARY EMPLOYEES ARE AT-WILL EMPLOYEES, AND CAN BE TERMINATED AT THE DISCRETION OF THE CITY MANAGER WITH OR WITHOUT CAUSE AND WITH OR WITHOUT PRIOR NOTICE.

#### **4.3.5 LIMITED TERM EMPLOYEE**

AN INDIVIDUAL WHO IS TEMPORARILY EMPLOYED BY ENTERING INTO AN EMPLOYMENT CONTRACT FOR A SPECIFIED PERIOD OF TIME AS APPROVED BY THE CITY COUNCIL IS A "LIMITED TERM EMPLOYEE."

LIMITED TERM EMPLOYEES ARE ONLY ELIGIBLE FOR THOSE BENEFITS AS PROVIDED FOR IN THE WRITTEN EMPLOYMENT CONTRACT.

#### **4.3.6 INTERNS**

IN AN EFFORT TO PROVIDE MEANINGFUL TRAINING AND WORK EXPERIENCE FOR COLLEGE STUDENTS PURSUING ACADEMIC STUDIES RELATED TO THE CITY'S MISSION AND GOALS, INTERNS MAY BE EMPLOYED FOR A PERIOD OF UP TO ONE YEAR, SUBJECT TO THE TERMS SET FORTH WITHIN THE INTERNSHIP PROGRAM. INTERNS ARE NOT ELIGIBLE FOR EMPLOYEE BENEFITS. INTERNS ARE AT WILL, AND CAN BE TERMINATED AT THE DISCRETION OF THE CITY MANAGER WITH OR WITHOUT CAUSE AND WITH OR WITHOUT PRIOR NOTICE.

#### **4.3.7 DISASTER SERVICE WORKERS**

THE PROTECTION OF THE HEALTH AND SAFETY AND PRESERVATION OF LIVES AND PROPERTY OF THE CITIZENS OF THE CITY OF BEAUMONT FROM THE EFFECTS OF NATURAL, MANMADE, OR WAR-CAUSED EMERGENCIES WHICH RESULT IN CONDITIONS OF DISASTER OR IN EXTREME PERIL TO LIFE, PROPERTY AND RESOURCES IS OF PARAMOUNT CITY IMPORTANCE REQUIRING THE RESPONSIBLE EFFORTS OF PUBLIC AND PRIVATE AGENCIES AND INDIVIDUAL CITIZENS. IN FURTHERANCE OF THE EXERCISE OF THE POWER OF THE CITY IN PROTECTION OF ITS CITIZENS AND RESOURCES, **ALL CITY EMPLOYEES ARE HEREBY DECLARED TO BE DISASTER SERVICE WORKERS SUBJECT TO SUCH DISASTER SERVICE ACTIVITIES AS MAY BE ASSIGNED TO THEM BY THEIR SUPERIORS OR BY LAW.**

#### **4.4 OUTSIDE EMPLOYMENT**

AN EMPLOYEE SHALL NOT ENGAGE IN ANY EMPLOYMENT, ENTERPRISE, OR OUTSIDE ACTIVITY WHICH IS IN CONFLICT WITH HIS/HER DUTIES, FUNCTIONS, RESPONSIBILITIES, OR THE DEPARTMENT BY WHICH HE/SHE IS EMPLOYED, NOR

SHALL THE EMPLOYEE ENGAGE IN ANY COMPENSATORY OUTSIDE ACTIVITY WHICH WILL DIRECTLY, OR INDIRECTLY, CONTRIBUTE TO THE LESSENING OF HIS OR HER EFFECTIVENESS AS AN EMPLOYEE.

**4.4.1 AUTHORIZATION**

ANY EMPLOYEE WISHING TO ENGAGE IN AN OCCUPATION OR OUTSIDE ACTIVITY FOR COMPENSATION SHALL INFORM THE DEPARTMENT MANAGER OF SUCH DESIRE, PROVIDING INFORMATION AS TO THE TIME REQUIRED AND THE NATURE OF SUCH ACTIVITY, AND SUCH OTHER INFORMATION AS MAY BE REQUIRED; AND THE DEPARTMENT MANAGER SHALL CONFER WITH THE CITY MANAGER TO DETERMINE WHETHER OR NOT SUCH ACTIVITY IS COMPATIBLE WITH THE EMPLOYEE'S EMPLOYMENT WITH THE CITY.

IF THE CITY MANAGER DETERMINES SUCH ACTIVITY IS COMPATIBLE, HE/ SHE MAY AUTHORIZE THE ACTIVITY IN WRITING AND SHALL SEND A COPY TO THE HUMAN RESOURCES DIRECTOR.

SAID AUTHORIZATION SHALL BE VALID ONLY FOR ONE YEAR FOR THE WORK AND PERIOD PRESCRIBED THEREIN. THE CITY MANAGER'S AUTHORIZATION SHALL BE RENEWED ANNUALLY.

**4.4.2 DETERMINATION OF INCONSISTENT ACTIVITIES**

IN MAKING A DETERMINATION AS TO THE CONSISTENCY OR INCONSISTENCY OF OUTSIDE ACTIVITIES, THE CITY MANAGER SHALL CONSIDER, AMONG OTHER PERTINENT FACTORS, WHETHER THE ACTIVITY:

- A. INVOLVES THE USE FOR PRIVATE GAIN OR ADVANTAGE OF CITY TIME, FACILITIES, EQUIPMENT, AND SUPPLIES, OR THE BADGE, UNIFORM, PRESTIGE, OR INFLUENCE OF ONE'S CITY OFFICE OR EMPLOYMENT;
- B. INVOLVES RECEIPT OR ACCEPTANCE BY AN EMPLOYEE OF ANY MONEY OR OTHER CONSIDERATION FROM ANYONE OTHER THAN THE CITY FOR THE PERFORMANCE OF AN ACT WHICH THE EMPLOYEE, IF NOT PERFORMING SUCH ACT, WOULD BE REQUIRED OR EXPECTED TO RENDER IN THE REGULAR COURSE OF HIS/HER CITY EMPLOYMENT OR AS PART OF HIS/HER DUTIES AS A CITY EMPLOYEE;
- 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;
- D. INVOLVES CONDITIONS OR FACTORS WHICH WOULD PROBABLY, DIRECTLY OR INDIRECTLY; LESSEN THE EFFICIENCY OF THE EMPLOYEE IN HIS/HER REGULAR CITY EMPLOYMENT OR CONDITIONS IN WHICH THERE IS A SUBSTANTIAL DANGER OF INJURY OR ILLNESS TO THE EMPLOYEE.

**4.4.3 USE OF CITY EQUIPMENT PROHIBITED**

NO CITY-OWNED EQUIPMENT, AUTOS, TRUCKS, INSTRUMENTS, TOOLS, SUPPLIES, MACHINES, OR ANY OTHER ITEM WHICH IS THE PROPERTY OF THE CITY SHALL BE USED BY AN EMPLOYEE WHILE SAID EMPLOYEE IS ENGAGED IN ANY OUTSIDE EMPLOYMENT OR ACTIVITY, FOR COMPENSATION OR OTHERWISE.

NO EMPLOYEE SHALL ALLOW ANY UNAUTHORIZED PERSON TO RENT, BORROW, OR USE ANY OF THE ITEMS MENTIONED ABOVE.

**4.4.4 VIOLATIONS AND PENALTIES**

ANY VIOLATION OF THE PROVISIONS HEREIN CONTAINED RESPECTING OUTSIDE EMPLOYMENT OR ACTIVITY AND USE OF CITY PROPERTY SHALL CONSTITUTE SUFFICIENT GROUNDS FOR DISCIPLINARY ACTION, UP TO AND INCLUDING TERMINATION.

**5. WORKING HOURS, PREMIUM PAY, AND OVERTIME**

REFER TO THE MOU APPLICABLE TO YOUR POSITION.

**6. EMPLOYMENT STATUS**

**6.1 TERMINATION OF EMPLOYMENT**

WHEN AN EMPLOYEE VOLUNTARILY RESIGNS FROM THE CITY, THE EMPLOYEE'S LAST DAY WORKED WILL BE CONSIDERED HIS/HER LAST DAY AS AN ACTIVE EMPLOYEE. ALL ACCRUED, UNUSED VACATION HOURS WILL BE PAID OUT AT THE TIME OF SEPARATION, AS WELL AS THE APPROPRIATE PERCENTAGE OF ACCRUED AND UNUSED SICK HOURS (REFER TO THE MOU APPLICABLE TO YOUR POSITION).

**6.2 LAYOFF/REDUCTION IN FORCE/RECALL**

SUBJECT TO CITY MANAGER APPROVAL, THE HUMAN RESOURCES DIRECTOR MAY LAYOFF REGULAR AND PROBATIONARY WORKERS AT ANY TIME BASED UPON:

- A. LACK OF WORK;
- B. BUDGETARY REASONS;
- C. ELIMINATION OF PROGRAMS; OR
- D. ELIMINATION OF SERVICES.

AT LEAST TWO WEEKS WRITTEN NOTICE SHALL BE GIVEN TO ANY EMPLOYEE WHO IS LAID OFF. IF LESS THAN TWO WEEKS NOTICE IS PROVIDED, THE EMPLOYEE WILL BE PAID FOR THE DIFFERENCE BETWEEN THE DATE OF LAYOFF AND TWO WEEKS.

AT THE SOLE DISCRETION OF THE CITY MANAGER, A DEMOTION OR TRANSFER TO ANOTHER DEPARTMENT OR CLASSIFICATION MAY BE MADE TO PREVENT A LAYOFF, PROVIDED THE EMPLOYEE IS QUALIFIED BY EDUCATION AND/OR EXPERIENCE AND IS CAPABLE OF PERFORMING THE DUTIES OF THE CLASSIFICATION. THE DEPARTMENT MANAGERS, IN CONSULTATION WITH THE HUMAN RESOURCES DIRECTOR, AND AS APPROVED BY THE CITY MANAGER, WILL EFFECT THE LAYOFFS.

**6.2.1 REDUCTION IN FORCE (RIF)**

WHEN IT BECOMES NECESSARY TO REDUCE THE WORK FORCE AT THE CITY, THE CITY MANAGER SHALL DESIGNATE THE JOB CLASSIFICATION AND DEPARTMENT IN ORDER TO EFFECT A REDUCTION IN THE WORK FORCE. CONTRACT, TEMPORARY, PART-TIME, SEASONAL, OR PROBATIONARY EMPLOYEES IN THE SAME JOB CLASSIFICATION, AS ONES PROPOSED TO BE REDUCED WITHIN THE AGENCY SHALL BE LAID OFF FIRST. ALTHOUGH THE CITY MANAGER MAY ELECT TO DO SO, HE/SHE IS NOT REQUIRED TO ALLOW LAID-OFF EMPLOYEES TO "BUMP" EMPLOYEES IN OTHER CLASSIFICATIONS UNLESS THE EMPLOYEE HAS PREVIOUSLY SUCCESSFULLY HELD A POSITION IN ANOTHER CLASSIFICATION, IN WHICH CASE THE LAID-OFF EMPLOYEE WOULD BE CONSIDERED FOR LAYOFF, IF ANY, FROM THE PREVIOUSLY HELD CLASSIFICATION, ALONG WITH OTHERS IN THAT CLASSIFICATION, IN ACCORDANCE WITH THE "ORDER OF LAYOFF" SET FORTH BELOW.

PROBATIONARY PROMOTIONAL EMPLOYEES WHO ARE LAID OFF SHALL, IF APPLICABLE, BE RETURNED TO THEIR FORMER CLASSIFICATION. EMPLOYEES WHO ACCEPT LOWER POSITIONS OR TRANSFERS IN LIEU OF LAYOFF SHALL BE PLACED AT THE SALARY RANGE OF THE NEW POSITION.

### **6.2.2 ORDER OF LAYOFF**

THE ORDER OF LAYOFF OF REGULAR EMPLOYEES WITHIN THE SAME JOB CLASSIFICATION SHALL BE MADE WITH THE COOPERATION OF THE LOCAL BARGAINING UNITS AND IN ACCORDANCE WITH A SYSTEM WHICH FAVORS RETENTION OF THE MORE MERITORIOUS EMPLOYEES, BASED UPON EVALUATION OF THE FOLLOWING FACTORS, IN THE LISTED ORDER OF IMPORTANCE:

- A. THE TWO MOST RECENT PERFORMANCE EVALUATION RECORDS AS FINALIZED AND/OR FILED IN THE EMPLOYEE'S PERSONNEL FILE, EXCEPT WHEN AN EMPLOYEE HAS LESS THAN TWO YEARS OF SERVICE WITHIN THE CITY. IN THAT CASE, ONLY ONE PERFORMANCE EVALUATION WILL BE USED;
- B. DOCUMENTS OF DISCIPLINARY ACTIONS DURING THE PRECEDING 24 MONTHS;
- C. SENIORITY (LENGTH OF SERVICE IN A CAREER POSITION)
  - 1. IN THE CLASSIFICATION;
  - 2. IN THE DEPARTMENT; AND
  - 3. AT THE CITY.

THE CITY MANAGER MAY DEVIATE FROM THESE CRITERIA FOR GOOD CAUSE, INCLUDING THE DESIRABILITY OF MAINTAINING A DEPARTMENT OR WORK UNIT WITH ADEQUATE STAFFING TO PERFORM REQUIRED SERVICE, AND MAINTAINING EMPLOYEES IN THE CLASSIFICATION OR DEPARTMENT WHO HAVE DEMONSTRATED THE ABILITY TO PERFORM WORK AVAILABLE.

### **6.2.3 SENIORITY**

SENIORITY IS DETERMINED FROM THE DAY OF EMPLOYMENT IN A CITY DEPARTMENT AS A REGULAR EMPLOYEE, PROVIDED THAT ANY REGULAR EMPLOYEE WHO, AS A RESULT OF PROMOTION, TRANSFER, OR VOLUNTARY DEMOTION, IS HIRED TO A REGULAR POSITION IN ANOTHER DEPARTMENT, SHALL, FOR PURPOSES OF LAYOFF, CARRY SENIORITY PREVIOUSLY ACQUIRED OVER TO THE NEW DEPARTMENT.

SENIORITY SHALL CONTINUE TO ACCRUE DURING PERIODS OF VACATION, SICK LEAVE, LAYOFF NOT EXCEEDING TWO YEARS, ANY AUTHORIZED LEAVE OF ABSENCE, OR ANY CALL TO MILITARY SERVICE FOR THE DURATION OF THE CALL TO DUTY. SENIORITY SHALL NOT ACCRUE DURING ANY OTHER BREAK IN CONTINUOUS SERVICE, UNLESS REQUIRED BY LAW.

### **6.2.4 OTHER POLICIES**

ANY EMPLOYEE WHO RECEIVES AN INVOLUNTARY TRANSFER (EXCEPT FOR DISCIPLINARY TRANSFERS) SHALL HAVE AUTOMATIC "BUMPING RIGHTS" TO THE CLASSIFICATION SAID EMPLOYEE WAS INVOLUNTARILY TRANSFERRED FROM FOR UP TO SIX MONTHS FROM THE EFFECTIVE DATE OF THE INVOLUNTARY TRANSFER IN THE EVENT OF LAYOFF.

### **6.2.5 RECALL LIST**

THE NAME OF EVERY REGULAR EMPLOYEE WHO IS LAID OFF, TRANSFERRED, OR DEMOTED TO A CLASSIFICATION IN THE SAME DEPARTMENT FOR LONGER THAN ONE PAY PERIOD DUE TO A REDUCTION IN FORCE SHALL BE PLACED ON THE RECALL LIST MAINTAINED BY THE HUMAN RESOURCES DIRECTOR.

VACANCIES TO BE FILLED WITHIN A DEPARTMENT SHALL BE OFFERED, FIRST IN ORDER OF PERFORMANCE, TO INDIVIDUALS NAMED ON THE RECALL LIST WHO, AT THE TIME OF THE REDUCTION IN FORCE, HELD A POSITION IN THE SAME JOB CLASSIFICATION WITHIN THE DEPARTMENT AS THE VACANCY TO BE FILLED. INDIVIDUAL NAMES MAY BE REMOVED FROM THE RECALL LIST BY THE HUMAN RESOURCES DIRECTOR FOR ANY OF THE FOLLOWING REASONS:

- A. THE EXPIRATION OF TWO YEARS FROM THE DATE OF PLACEMENT ON THE LIST.
- B. REEMPLOYMENT WITH THE CITY IN A REGULAR FULL-TIME POSITION IN A DEPARTMENT OTHER THAN THAT FROM WHICH THE EMPLOYEE WAS LAID OFF.
- C. FAILURE TO RESPOND WITHIN FOURTEEN CALENDAR DAYS OF MAILING OF A CERTIFIED LETTER REGARDING AVAILABILITY FOR EMPLOYMENT.
- D. FAILURE TO REPORT TO WORK WITHIN FOURTEEN CALENDAR DAYS OF MAILING OF A CERTIFIED LETTER CONTAINING A NOTICE OF REINSTATEMENT TO A POSITION, ABSENT MITIGATING CIRCUMSTANCES.
- E. REQUEST IN WRITING TO THE HUMAN RESOURCES DIRECTOR TO BE REMOVED FROM THE LIST.

#### **6.2.6 STATUS ON REEMPLOYMENT**

A REGULAR EMPLOYEE WHO HAS BEEN LAID OFF OR TERMINATES IN LIEU OF REASSIGNMENT AND IS REEMPLOYED IN A REGULAR POSITION WITHIN TWO YEARS FROM THE DATE OF HIS/HER LAYOFF OR TERMINATION SHALL BE ENTITLED TO:

- A. RESTORATION OF SENIORITY ACCRUED PRIOR TO AND DURING LAYOFF.
- B. CREDIT FOR ALL SERVICE PRIOR TO LAYOFF FOR THE PURPOSE OF DETERMINING THE RATE OF ACCRUAL OF VACATION LEAVE.
- C. PLACEMENT IN THE SALARY RANGE AS IF THE EMPLOYEE HAD BEEN ON A LEAVE OF ABSENCE WITHOUT PAY IF HE/SHE IS REINSTATED TO THE SAME JOB CLASSIFICATION IN THE SAME DEPARTMENT FROM WHICH HE/SHE WAS LAID OFF OR TERMINATED.

#### **6.3 SEVERANCE PAY**

IT IS THE POLICY OF THE CITY OF BEAUMONT THAT SEVERANCE PAY BE GRANTED TO TERMINATED EMPLOYEES UNDER CERTAIN LIMITED CIRCUMSTANCES. THE CITY WILL ESTABLISH THE TERMS AND CONDITIONS FOR SEVERANCE PAY AND WILL COMMUNICATE SUCH TERMS TO THE EMPLOYEE UPON TERMINATION. THE CITY RETAINS THE RIGHT TO AMEND OR TERMINATE ITS SEVERANCE PAY PLAN AT ITS SOLE DISCRETION.

#### **6.4 ABANDONMENT OF EMPLOYMENT**

AN EMPLOYEE WHO IS ABSENT, WITHOUT AUTHORIZED LEAVE, FOR THREE OR MORE CONSECUTIVE WORKDAYS IS DEEMED TO HAVE RESIGNED HIS/HER EMPLOYMENT WITH THE CITY. IF THE DEPARTMENT MANAGER, WITH THE CONCURRENCE OF THE HUMAN RESOURCES DIRECTOR, DETERMINES THAT EXTENUATING CIRCUMSTANCES EXIST,

THE RESIGNATION MAY BE RESCINDED, IN WHICH CASE THE ABSENCE MAY BE COVERED BY LEAVE, WITH OR WITHOUT PAY, IF SO APPROVED BY THE HUMAN RESOURCES DIRECTOR.

## **6.5 PROMOTION**

A PROMOTION SHALL BE THE MOVEMENT OF AN EMPLOYEE FROM ONE CLASSIFICATION TO ANOTHER CLASSIFICATION IN A HIGHER SALARY RANGE. SUCH EMPLOYEE SHALL BE PLACED ON PROMOTIONAL PROBATION FOR A PERIOD OF 6 MONTHS (18 MONTHS IN THE POLICE DEPARTMENT).

IF SUCH EMPLOYEE FAILS HIS/HER PROMOTIONAL PROBATION, THE EMPLOYEE SHALL NOT HAVE THE RIGHT TO RETURN TO HIS/HER FORMER CLASSIFICATION UNLESS THERE IS A VACANT POSITION IN SAID FORMER CLASSIFICATION. IF SUCH EMPLOYEE IS RETURNED TO HIS/HER FORMER CLASSIFICATION, THE EMPLOYEE SHALL RETURN TO HIS/HER ORIGINAL STATUS IN THE FORMER CLASSIFICATION. IF SUCH EMPLOYEE IS ON PROMOTIONAL PROBATIONARY STATUS AT THE TIME THE ANNUAL PERFORMANCE REVIEW IS DUE, THE EMPLOYEE SHALL BE ENTITLED TO THE PERFORMANCE REVIEW.

IF SUCH EMPLOYEE IS ON PROBATIONARY STATUS AT THE TIME THE PERFORMANCE ANNUAL REVIEW IS DUE, THE EMPLOYEE'S ANNUAL PERFORMANCE REVIEW SHALL BE POSTPONED UNTIL SUCCESSFUL COMPLETION OF THE PROBATIONARY PERIOD.

## **6.6 REDUCTION**

A REDUCTION SHALL BE THE MOVEMENT OF AN EMPLOYEE FROM ONE CLASSIFICATION TO ANOTHER CLASSIFICATION AT A LOWER SALARY RANGE.

IF AN EMPLOYEE IS REDUCED TO AN ESTABLISHED POSITION IN A CLASSIFICATION IN A LOWER SALARY RANGE, SAID EMPLOYEE SHALL BE PLACED AT A SALARY LEVEL WITHIN SAID REDUCED RANGE CLOSEST TO HIS/HER CURRENT SALARY IN THE NEW RANGE. IN THE EVENT THE EMPLOYEE'S CURRENT SALARY EXCEEDS THE MAXIMUM SALARY OF THE NEW RANGE, THE CITY MANAGER SHALL MAKE DETERMINATION AS TO REDUCTION OF THE EMPLOYEE'S SALARY TO THE MAXIMUM SALARY OF THE NEW RANGE. THE EMPLOYEE SHALL BE PLACED ON SIX MONTHS PROBATIONARY STATUS.

IF SUCH EMPLOYEE IS ON PROBATIONARY STATUS AT THE TIME THE PERFORMANCE ANNUAL REVIEW IS DUE, THE EMPLOYEE'S ANNUAL PERFORMANCE REVIEW SHALL BE POSTPONED UNTIL SUCCESSFUL COMPLETION OF THE PROBATIONARY PERIOD.

## **6.7 POSITION RECLASSIFICATION**

A POSITION RECLASSIFICATION SHALL BE THE RECLASSIFICATION OF A POSITION FROM ONE SALARY RANGE TO ANOTHER SALARY RANGE.

IF AN EMPLOYEE IS IN A POSITION WHICH IS RECLASSIFIED TO A HIGHER SALARY RANGE, SAID EMPLOYEE SHALL MAINTAIN HIS/HER CURRENT SALARY RATE UNLESS HIS/HER CURRENT SALARY RATE IS BELOW THE BEGINNING SALARY OF THE NEW RANGE, IN WHICH EVENT THE EMPLOYEE SHALL, AT THE DISCRETION OF THE CITY MANAGER, BE ELIGIBLE TO RECEIVE THE BEGINNING SALARY IN THE NEW RANGE.

IF AN EMPLOYEE IS IN A POSITION WHICH IS RECLASSIFIED TO A LOWER SALARY RANGE, SAID EMPLOYEE SHALL BE PLACED AT A SALARY LEVEL WITHIN THE LOWER RANGE CLOSEST TO HIS/HER CURRENT SALARY.

## 7. LEAVE PROVISIONS

### 7.1 SICK LEAVE BENEFITS

#### 7.1.1 DEFINITION

SICK LEAVE IS AN INSURANCE OR PROTECTION PROVIDED BY THE CITY TO BE GRANTED TO EMPLOYEES IN CIRCUMSTANCES OF ADVERSITY TO PROMOTE THE HEALTH AND WELFARE OF THE INDIVIDUAL EMPLOYEE. IT IS NOT AN EARNED RIGHT TO TAKE TIME OFF FROM WORK. **EMPLOYEES SHOULD NOT AUTOMATICALLY ASSUME THAT ABSENTEEISM IS PERMISSIBLE MERELY BECAUSE THEY HAVE SUFFICIENT SICK LEAVE BENEFITS TO COVER ALL OR A PORTION OF THEIR TIME OFF. THE CITY MAY DETERMINE THAT ABSENTEEISM IS EXCESSIVE IF, BASED ON ALL FACTS AND CIRCUMSTANCES, IT IS FOUND DISRUPTIVE TO THE CITY, CO-WORKERS OR PERSONS CONTRACTING WITH THE CITY.** SICK LEAVE IS DEFINED AS THE ABSENCE FROM DUTY OF AN EMPLOYEE BECAUSE OF A BONA FIDE ILLNESS, INJURY, OR PREGNANCY, OR TO ATTEND TO THE ILLNESS OR INJURY OF A FAMILY MEMBER AS HEREINAFTER DEFINED. TEMPORARY EMPLOYEES ARE NOT ENTITLED TO SICK LEAVE BENEFITS.

#### 7.1.2 PERMISSIBLE USES

SICK LEAVE MAY BE APPLIED ONLY TO:

- A. ABSENCE DUE TO ILLNESS, INJURY, OR PREGNANCY OF AN EMPLOYEE.
- B. ABSENCE DUE TO MEDICAL AND DENTAL OFFICE APPOINTMENTS OF AN EMPLOYEE OR THEIR DEPENDENTS OR PARENTS (E.G., SPOUSE AND DEPENDENT CHILDREN) WHEN APPROVED BY THE EMPLOYEE'S SUPERVISOR.
- C. ABSENCE TO ATTEND TO AN ILLNESS OF A CHILD, PARENT, OR SPOUSE; MAXIMUM LEAVE THAT CAN BE UTILIZED IS UP TO 5 DAYS OF THE EMPLOYEE'S YEARLY SICK LEAVE ACCRUAL.
- D. LEAVE OF ABSENCE AS APPROVED PER THE LEAVE POLICY (SEE LEAVE OF ABSENCE POLICY, PARAGRAPH 7.2).

#### 7.1.3 GENERAL PROVISIONS

TO QUALIFY FOR SICK LEAVE BENEFITS, THE EMPLOYEE MUST CONTACT HIS OR HER SUPERVISOR AT LEAST ONE HOUR PRIOR TO SCHEDULED START TIME, UNLESS EXTENUATING CIRCUMSTANCES PREVENT THIS, OR IN ADVANCE OF THE TIME THE EMPLOYEE IS SCHEDULED TO REPORT FOR DUTY.

MINIMUM CHARGE TO THE NON-EXEMPT EMPLOYEE'S SICK LEAVE ACCOUNT SHALL BE ONE-HALF HOUR AND THEREAFTER IN ONE-HALF HOUR INCREMENTS. EXEMPT EMPLOYEES SHALL NOT BE CHARGED FOR LESS THAN ONE DAY OF SICK LEAVE.

THE DEPARTMENT HEAD SHALL BE RESPONSIBLE FOR CONTROL OF ABUSE OF THE SICK LEAVE PRIVILEGE. THE EMPLOYEE MAY BE REQUIRED, AT ANY TIME, TO FURNISH A CERTIFICATE ISSUED BY A LICENSED PHYSICIAN OR NURSE, OR OTHER SATISFACTORY EVIDENCE OF ILLNESS; HOWEVER, FOR ABSENCES OF FIVE WORKING DAYS OR MORE, A REQUEST FOR LEAVE AND A MEDICAL STATEMENT IN PRESCRIBED FORMS, STATING EXPECTED DATE OF RETURN, MUST BE SUBMITTED TO HUMAN RESOURCES. UPON RETURN TO

WORK, A WRITTEN DOCTOR'S RELEASE MUST BE SUBMITTED TO HUMAN RESOURCES AND A RETURN-TO-DUTY EXAM MAY BE REQUIRED.

#### **7.1.4 SICK LEAVE BENEFIT PAYOUT PROVISIONS**

UPON AN EMPLOYEE'S RETIREMENT (AT NORMAL RETIREMENT DATE), DEATH, OR TERMINATION, UNUSED SICK LEAVE SHALL BE PAID TO SAID EMPLOYEE, OR HIS/HER DESIGNATED BENEFICIARY IN THE EVENT OF DEATH, AS PROVIDED IN THE MOU APPLICABLE TO YOUR POSITION.

### **7.2 PERMISSIBLE LEAVES**

#### **7.2.1 FAMILY AND MEDICAL LEAVE**

##### **7.2.1.1 STATEMENT OF POLICY**

THE CITY WILL ALLOW FAMILY AND MEDICAL CARE LEAVE FOR ELIGIBLE EMPLOYEES. THE FOLLOWING PROVISIONS SET FORTH CERTAIN RIGHTS AND OBLIGATIONS WITH RESPECT TO SUCH LEAVE. RIGHTS AND OBLIGATIONS WHICH ARE NOT SPECIFICALLY SET FORTH BELOW ARE SET FORTH IN THE DEPARTMENT OF LABOR REGULATIONS IMPLEMENTING THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA), AND THE REGULATIONS OF THE CALIFORNIA FAMILY RIGHTS ACT (CFRA). UNLESS OTHERWISE PROVIDED BY THIS ARTICLE, "LEAVE" UNDER THIS ARTICLE SHALL MEAN LEAVE PURSUANT TO THE FMLA AND CFRA.

##### **7.2.1.2 PAY/BENEFITS DURING FAMILY/MEDICAL LEAVES**

FAMILY/MEDICAL LEAVES (FMLA/CFRA) OF ABSENCE ARE UNPAID. THE EMPLOYEE IS REQUIRED TO UTILIZE ALL ACCRUED PAID LEAVE BEFORE GOING WITHOUT PAY DURING A LEAVE PERIOD. ALL TIME OFF, PAID OR UNPAID, IS COUNTED TOWARDS THE TWELVE-WEEK PERIOD.

- A. **CALIFORNIA PAID FAMILY LEAVE PROGRAM:** THE STATE EMPLOYMENT DEVELOPMENT DEPARTMENT ("EDD") ADMINISTERS A PAID FAMILY LEAVE INSURANCE PROGRAM WHICH PROVIDES SOME COMPENSATION TO CARE FOR PARENTS, CHILDREN, SPOUSES AND DOMESTIC PARTNERS OR TO BOND WITH A NEW CHILD. THE PROGRAM OFFERS UP TO 6 WEEKS OF BENEFITS IN A 12-MONTH PERIOD OF APPROXIMATELY 55% OF AN EMPLOYEE'S PAY. NOT EVERY EMPLOYEE MAY QUALIFY. FOR FURTHER INFORMATION CONTACT EDD AT 1-877-238-4373 (ENGLISH) OR 1-877-379-3819 (ESPAÑOL), OR [WWW.EDD.CA.GOV](http://WWW.EDD.CA.GOV).

##### **7.2.1.3 DEFINITIONS**

- A. **12-MONTH PERIOD:** A ROLLING TWELVE-MONTH PERIOD MEASURED BACKWARD FROM THE DATE LEAVE IS TAKEN AND CONTINUOUS WITH EACH ADDITIONAL LEAVE DAY TAKEN.
- B. **CHILD:** A CHILD UNDER THE AGE OF EIGHTEEN YEARS OF AGE, OR EIGHTEEN 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, USING TELEPHONES AND DIRECTORIES, ETC.

C. **PARENT:** 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.

D. **SPOUSE:** A HUSBAND OR WIFE AS DEFINED OR RECOGNIZED UNDER CALIFORNIA STATE LAW FOR PURPOSES OF MARRIAGE.

E. **SERIOUS HEALTH CONDITION:** AN ILLNESS, INJURY, IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT INVOLVES:

1. **INPATIENT CARE** (E.G., AN OVERNIGHT STAY) 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 THERE FROM); OR

2. **CONTINUING TREATMENT** BY A HEALTH CARE PROVIDER: A SERIOUS HEALTH CONDITION INVOLVING CONTINUING TREATMENT BY A HEALTH CARE PROVIDER INCLUDES ANYONE OR MORE OF THE FOLLOWING:

A. A PERIOD OF INCAPACITY (E.G., INABILITY TO WORK OR PERFORM OTHER REGULAR DAILY ACTIVITIES DUE TO SERIOUS HEALTH CONDITION OF MORE THAN THREE CONSECUTIVE FULL CALENDAR DAYS, AND ANY SUBSEQUENT TREATMENT OR PERIOD OF INCAPACITY RELATING TO THE SAME CONDITION) THAT ALSO INVOLVES:

1. TREATMENT OF TWO OR MORE TIMES BY A HEALTH CARE PROVIDER WITHIN 30 DAYS FROM THE FIRST DAY OF INCAPACITY, 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. THE FIRST MEDICAL VISIT MUST TAKE PLACE WITHIN 7 DAYS OF THE FIRST DAY OF INCAPACITY; 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.
- B. ANY PERIOD OF INCAPACITY DUE TO PREGNANCY OR FOR PRENATAL CARE. (THIS ENTITLES THE EMPLOYEE TO FMLA LEAVE, BUT NOT CFRA LEAVE. UNDER CALIFORNIA LAW, AN EMPLOYEE DISABLED BY PREGNANCY IS ENTITLED TO PREGNANCY DISABILITY LEAVE.)
- C. 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 (VISITING A HEALTH CARE PROVIDER AT LEAST TWICE A YEAR FOR THE SAME CONDITION) 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.
- D. A PERIOD OF INCAPACITY WHICH 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, A HEALTH CARE PROVIDER.
- E. ANY PERIOD OF ABSENCE TO RECEIVE MULTIPLE TREATMENTS (INCLUDING ANY PERIOD OF RECOVERY THEREFROM) BY A HEALTH CARE PROVIDER OR BY A PROVIDER OR 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.

3. RECUPERATION BY A MILITARY SERVICE MEMBER FROM A SERIOUS ILLNESS OR INJURY INCURRED IN THE LINE OF DUTY ON ACTIVE DUTY.

F. **HEALTH CARE PROVIDER:** INCLUDES PHYSICIAN ASSISTANTS.

#### **7.2.1.4 REASONS FOR LEAVE**

LEAVE IS ONLY PERMITTED FOR THE FOLLOWING REASONS:

- 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. TO CARE FOR A CHILD, PARENT, OR SPOUSE WHO HAS A SERIOUS HEALTH CONDITION;
- D. BECAUSE OF A SERIOUS HEALTH CONDITION THAT MAKES THE EMPLOYEE UNABLE TO PERFORM THE ESSENTIAL FUNCTIONS OF HIS/HER POSITION;
- E. IMMEDIATE FAMILY MEMBERS (SPOUSES, CHILDREN OR PARENTS) OF RESERVISTS OR MEMBERS OF THE NATIONAL GUARD WHO ARE CALLED TO ACTIVE DUTY IN THE U.S. MILITARY (FMLA ONLY) TO ADDRESS SUCH ISSUES AND EVENTS THAT ARISE OUT OF ACTIVE DUTY, OR A CALL TO ACTIVE DUTY, PROVIDED THAT THE CITY AND THE EMPLOYEE AGREE THAT SUCH LEAVE QUALIFIES UNDER FMLA, AND AGREE TO BOTH THE TIMING AND DURATION OF SUCH LEAVE.
- F. A HUSBAND (NOT A BOYFRIEND OR FIANCÉ WHO IS THE FATHER) IS ENTITLED TO LEAVE IF NEEDED TO CARE FOR HIS WIFE WHO IS INCAPACITATED DUE TO PREGNANCY PROVIDED SHE HAS A SERIOUS HEALTH CONDITION.

#### **7.2.1.5 MEDICAL CERTIFICATION REQUIREMENTS**

- A. FOR THE EMPLOYEE'S SERIOUS HEALTH CONDITION THE CITY CAN REQUIRE CERTIFICATION OF:
  1. THE DATE THE CONDITION BEGAN,
  2. THE PROBABLE DURATION OF THE CONDITION, AND
  3. A STATEMENT THAT THE EMPLOYEE IS UNABLE TO PERFORM HIS/HER JOB FUNCTIONS.

**NOTE:** IF THE EMPLOYEE'S CONDITION IS ALSO A DISABILITY FOR PURPOSES OF ADA, PAID LEAVE OR WORKER'S COMPENSATION PROGRAM BENEFITS, THE CITY MAY FOLLOW THEIR PROCEDURES FOR REQUESTING MEDICAL INFORMATION.

**B.** FOR LEAVE TO CARE FOR A FAMILY MEMBER, THE CITY CAN REQUIRE CERTIFICATION OF:

1. THE DATE THE CONDITION BEGAN;
2. THE PROBABLE DURATION OF THE CONDITION,
3. AN ESTIMATE OF THE AMOUNT OF TIME THE HEALTH CARE PROVIDER BELIEVES THE EMPLOYEE IS NEEDED, AND
4. A STATEMENT THAT THE HEALTH CONDITION WARRANTS THE EMPLOYEE'S PARTICIPATION IN THE CARE.

**C.** CERTIFICATION FOR INTERMITTENT LEAVE FOR PLANNED MEDICAL TREATMENT:

1. THE DATES ON WHICH SUCH TREATMENT IS EXPECTED TO BE GIVEN, AND
2. THE DURATION OF SUCH TREATMENT.

**D.** RELEASE OF DIAGNOSIS INFORMATION: THE EMPLOYEE SHALL APPROVE A RELEASE OF THE DIAGNOSIS OF HIS/HER CONDITION.

**E.** CERTIFICATION OBTAINED PRIOR TO LEAVE: CERTIFICATION MAY BE REQUIRED TO BE SUBMITTED 15 DAYS IN ADVANCE OF A SCHEDULE LEAVE.

**F.** INADEQUATE AND INSUFFICIENT CERTIFICATION: THE EMPLOYEE SHALL BE RESPONSIBLE FOR OBTAINING ADDITIONAL INFORMATION WITHIN 7 DAYS OF A REQUEST BY THE CITY IN THE EVENT A CERTIFICATION IS INADEQUATE OR INSUFFICIENT.

#### **7.2.1.6 LIMITATION**

FOR BIRTH, ADOPTION, OR PLACEMENT IN FOSTER CARE, LEAVE MUST BE CONCLUDED WITHIN TWELVE MONTHS OF THE BIRTH, ADOPTION, OR PLACEMENTS.

***FAMILY/MEDICAL LEAVE IS NOT AVAILABLE FOR NON-SERIOUS CONDITIONS (INCLUDING MINOR ILLNESSES OR FOR VOLUNTARY OR COSMETIC TREATMENTS) UNLESS INPATIENT CARE IS REQUIRED OR FOR ROUTINE PREVENTATIVE PHYSICAL EXAMINATIONS.***

#### **7.2.1.7 EMPLOYEES ELIGIBLE FOR LEAVE**

AN EMPLOYEE IS ELIGIBLE FOR LEAVE IF THE EMPLOYEE:

- A. HAS BEEN EMPLOYED FOR AT LEAST TWELVE MONTHS; AND
- B. HAS BEEN EMPLOYED FOR AT LEAST 1,250 HOURS DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE COMMENCEMENT OF THE LEAVE.

**NOTE:** NEW EMPLOYEES WITH A BREAK IN SERVICE OF LESS THAN 7 YEARS ARE ENTITLED TO CLAIM PRIOR SERVICE TIME IN ORDER TO BE ELIGIBLE FOR LEAVE. IF THE BREACH IN SERVICE IS MORE THAN 7 YEARS DUE TO MILITARY SERVICE THE EMPLOYEE MAY STILL BE ELIGIBLE.

#### **7.2.1.8 STATUS WHILE ON LEAVE**

EMPLOYEES RETAIN "EMPLOYEE" STATUS WHILE ON LEAVE, AND THE LEAVE IS NOT A "BREAK IN SERVICE" FOR PURPOSES OF SENIORITY OR BENEFIT.

THUS, AN EMPLOYEE HAS THE SAME SENIORITY WHEN RETURNING FROM LEAVE FOR PURPOSES OF LAYOFF, JOB ASSIGNMENT, OR OTHER SENIORITY-RELATED BENEFITS.

#### **7.2.1.9 AMOUNT OF LEAVE**

ELIGIBLE EMPLOYEES ARE ENTITLED TO A TOTAL OF TWELVE WORKWEEKS OF LEAVE DURING ANY TWELVE-MONTH PERIOD.

- A. **MINIMUM DURATION OF LEAVE:** IF LEAVE IS REQUESTED FOR THE BIRTH, ADOPTION, OR FOSTER CARE PLACEMENT OF A CHILD OF THE EMPLOYEE, LEAVE MUST BE CONCLUDED WITHIN ONE YEAR OF THE BIRTH OR PLACEMENT OF THE CHILD.

IF LEAVE IS REQUESTED TO CARE FOR A CHILD, PARENT, SPOUSE, OR THE EMPLOYEE HIM/HERSELF WITH A SERIOUS HEALTH CONDITION, THERE IS NO MINIMUM AMOUNT OF LEAVE THAT MUST BE TAKEN. HOWEVER, THE NOTICE AND MEDICAL CERTIFICATION PROVISIONS OF THIS POLICY MUST BE COMPLIED WITH.

- B. **SPOUSES BOTH EMPLOYED BY THE CITY:** IN ANY CASE IN WHICH A HUSBAND AND WIFE BOTH EMPLOYED BY THE CITY ARE ENTITLED TO LEAVE, THE AGGREGATE NUMBER OF WORKWEEKS OF LEAVE TO WHICH BOTH MAY BE ENTITLED MAY BE LIMITED TO TWELVE WORKWEEKS DURING ANY TWELVE-MONTH PERIOD IF LEAVE IS TAKEN FOR THE BIRTH OR PLACEMENT FOR ADOPTION OR FOSTER CARE OF THE EMPLOYEES' CHILD (I.E., BONDING LEAVE). THIS LIMITATION DOES NOT APPLY TO ANY OTHER TYPE OF LEAVE UNDER THIS POLICY.

- C. **CARE FOR U.S. MILITARY PERSONNEL:** THE CITY WILL OFFER A ONE-TIME ENTITLEMENT OF UP TO TWENTY-SIX (26) WEEKS OF UNPAID LEAVE ("MILITARY CAREGIVER LEAVE") TO EMPLOYEES WHO ARE PROVIDING CARE FOR A FAMILY MEMBER INJURED OR ILL WHILE SERVING IN THE U.S. MILITARY. THE EMPLOYEE MAY BE ENTITLED TO A NORMAL 12-WEEK LEAVE AFTER EXHAUSTING HIS/HER MILITARY CAREGIVER LEAVE ENTITLEMENT. THE CITY OFFERS UP TO 12 WEEKS OF LEAVE TO ADDRESS OTHER EVENTS WHICH ARISE OUT OF A MILITARY MEMBER'S ACTIVE DUTY OR CALL TO ACTIVE DUTY STATUS PROVIDED THAT THE CITY AND EMPLOYEE AGREE THAT

SUCH LEAVE QUALIFIES UNDER THE FMLA AND BOTH AGREE TO THE TIMING AND DURATION OF SUCH LEAVE.

**7.2.1.10 INTERMITTENT LEAVE**

- A. AN EMPLOYEE MAY TAKE INTERMITTENT OR REDUCED-TIME LEAVE (E.G., DIALYSIS, PHYSICAL THERAPY OR CHEMOTHERAPY). THE EMPLOYEE SHALL MAKE A REASONABLE EFFORT TO SCHEDULE INTERMITTANT LEAVE FOR PLANNED MEDICAL TREATMENT SO AS NOT TO DISRUPT THE CITY'S OPERATIONS:
  - 1. INTERMITTENT LEAVE IS LEAVE TAKEN IN SEPARATE BLOCKS OF TIME DUE TO A SINGLE QUALIFYING REASON.
  - 2. REDUCED-TIME LEAVE SCHEDULE IS A CHANGE IN THE EMPLOYEE'S SCHEDULE FOR A PERIOD OF TIME, NORMALLY FROM FULL-TIME TO PART-TIME.
- B. IF FMLA LEAVE IS TAKEN TO CARE FOR A SERIOUSLY-ILL FAMILY MEMBER OR BECAUSE THE EMPLOYEE IS ILL, LEAVE MAY BE INTERMITTENT OR ON A REDUCED SCHEDULE ONLY IF MEDICALLY NECESSARY.
- C. LEAVE INCREMENTS CAN BE AS SMALL AS ONE-QUARTER HOUR.
- D. IF THE NEED FOR AN INTERMITTENT OR REDUCED-TIME SCHEDULE IS FORESEEABLE, THE CITY MAY TRANSFER THE EMPLOYEE TO A PART-TIME OR LIGHT-DUTY JOB WITH DIFFERENT DUTIES BUT AT THE SAME HOURLY RATE AND BENEFITS SO LONG AS THE EMPLOYEE DOESN'T HAVE TO TAKE MORE LEAVE THAN IS MEDICALLY NECESSARY—IN WHICH CASE THE CITY CAN PROPORTIONATELY REDUCE BENEFITS (SUCH AS PAY, VACATION LEAVE) IF ITS NORMAL PRACTICE IS TO BASE SUCH BENEFITS ON THE NUMBER OF HOURS WORKED.
- E. THE CITY ALLOWS INTERMITTENT LEAVE FOR THE BIRTH OR ADOPTION OF A CHILD. THE LEAVE'S MINIMUM DURATION IS 2 WEEKS, BUT THERE IS AN EXCEPTION: THE EMPLOYEE IS ENTITLED TO TAKE LEAVE OF LESS THAN 2 WEEKS (AS LITTLE AS 1 DAY) ON ANY 2 OCCASIONS, BUT THE LEAVE MUST BE COMPLETED WITHIN 1 YEAR.
- F. THE CITY MAY REQUIRE A FITNESS-FOR-DUTY CERTIFICATION EVERY 30 DAYS IF SAFETY CONCERNS EXIST REGARDING THE EMPLOYEE'S ABILITY TO PERFORM HIS OR HER ESSENTIAL JOB FUNCTIONS.

**7.2.1.11 EMPLOYEE BENEFITS WHILE ON LEAVE**

FOR THE DURATION OF THE FAMILY AND MEDICAL LEAVE, THE CITY OF BEAUMONT WILL MAINTAIN ITS CURRENT PAYMENT FOR THE EMPLOYEE'S HEALTH COVERAGE (MEDICAL, DENTAL, PRESCRIPTION, AND VISION) UNDER ITS GROUP HEALTH PLAN. THE CITY MAY RECOVER ITS COST FOR THESE BENEFITS IF THE EMPLOYEE FAILS TO RETURN TO WORK AFTER THE CONCLUSION OF THE LEAVE.

#### **7.2.1.12 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 NOTICE AS POSSIBLE OF THEIR NEED FOR LEAVE. IF LEAVE IS FORESEEABLE, AT LEAST THIRTY 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 DATE(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. SUCH NOTICE MAY BE ORALLY GIVEN. IF THE CITY DETERMINES THAT AN EMPLOYEE'S NOTICE IS INADEQUATE OR THE EMPLOYEE KNEW ABOUT THE REQUESTED LEAVE IN ADVANCE OF THE REQUEST, THE CITY MAY DELAY THE GRANTING OF THE LEAVE UNTIL IT CAN, IN ITS DISCRETION, ADEQUATELY COVER THE POSITION WITH A SUBSTITUTE. "CALLING IN SICK" IS NOT PROPER NOTIFICATION TO THE CITY THAT THE EMPLOYEE NEEDS LEAVE.

#### **7.2.1.13 EMPLOYEE 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 DELAYS TO REINSTATEMENT WHEN THE EMPLOYEE IS READY TO RETURN.

#### **7.2.1.14 SUBSEQUENT RE-CERTIFICATION**

EMPLOYEES MAY BE REQUIRED TO OBTAIN SUBSEQUENT RE-CERTIFICATIONS AFTER THE DATE HE/SHE FURNISHES THE ORIGINAL CERTIFICATION, USUALLY EVERY 30 DAYS. EMPLOYEES SHALL SUBMIT A MEDICAL RE-CERTIFICATION EVERY 6 MONTHS.

#### **7.2.1.15 SECOND AND THIRD OPINIONS**

SECOND OPINIONS ARE APPROPRIATE IF THE CITY HAS REASON TO DOUBT THE VALIDITY OF A MEDICAL CERTIFICATION PROVIDED BY THE EMPLOYEE. THE SECOND OPINION WILL BE PAID FOR BY THE CITY AND OBTAINED FROM A HEALTH CARE PROVIDER DESIGNATED OR APPROVED BY THE CITY.

IF THE SECOND OPINION CONFLICTS WITH THE CERTIFICATION, THE CITY MAY REQUIRE, AT ITS EXPENSE, A THIRD OPINION FROM THE HEALTH CARE PROVIDER APPROVED JOINTLY BY THE CITY AND THE EMPLOYEE. THE THIRD OPINION IS CONSIDERED FINAL AND BINDING ON BOTH PARTIES.

#### **7.2.1.16 FITNESS FOR DUTY CERTIFICATION**

AN EMPLOYEE WHOSE LEAVE WAS DUE TO THE EMPLOYEE'S OWN SERIOUS HEALTH CONDITION, WHICH MADE THE EMPLOYEE UNABLE TO PERFORM HIS/HER JOB, UPON RETURN TO WORK THE EMPLOYEE MUST OBTAIN AND PRESENT A FITNESS FOR DUTY CERTIFICATION FROM THE HEALTH CARE PROVIDER THAT THE EMPLOYEE IS ABLE TO RESUME WORK. FAILURE TO PROVIDE SUCH CERTIFICATION WILL RESULT IN DENIAL OF REINSTATEMENT.

### **7.2.1.17 REINSTATEMENT UPON RETURN FROM LEAVE**

UNLESS OTHERWISE REQUIRED BY LAW, AN EMPLOYEE'S ORIGINAL POSITION OR A SUBSTANTIALLY SIMILAR ONE WILL BE MADE AVAILABLE UPON RETURN FROM A FAMILY/MEDICAL LEAVE. IF BUSINESS CONDITIONS REQUIRE A REDUCTION IN FORCE, EMPLOYEES ON AN APPROVED FAMILY/MEDICAL LEAVE OF ABSENCE WILL BE CONSIDERED FOR LAYOFF AND TREATED AS ACTIVE EMPLOYEES FOR PURPOSES OF THE SELECTION PROCESS.

IF AN EMPLOYEE IS OFFERED HIS/HER ORIGINAL POSITION OR A SIMILAR POSITION AT THE CONCLUSION OF AN APPROVED FAMILY/MEDICAL LEAVE AND DOES NOT ACCEPT THE POSITION, THEN HE/SHE WILL BE CONSIDERED TO HAVE VOLUNTARILY TERMINATED HIS/HER EMPLOYMENT EFFECTIVE THE DAY SUCH REFUSAL IS MADE.

NO EMPLOYEE MAY RETURN TO WORK FROM A FAMILY/MEDICAL LEAVE OF ABSENCE GRANTED DUE TO HIS/HER OWN SERIOUS MEDICAL CONDITION WITHOUT THE APPROPRIATE HEALTH CARE PROVIDER'S RELEASE FORM. IF AN EMPLOYEE FAILS TO RETURN TO WORK AT THE END OF THE LEAVE, THE EMPLOYEE WILL BE CONSIDERED TO HAVE VOLUNTARILY TERMINATED HIS/HER EMPLOYMENT, EFFECTIVE THE DATE THE APPROVED FAMILY/MEDICAL LEAVE OF ABSENCE HAS ENDED.

### **7.2.1.18 REQUIRED FORMS**

EMPLOYEES MUST FILL OUT THE FOLLOWING APPLICABLE FORMS IN CONNECTION WITH LEAVE UNDER THIS POLICY:

A. "REQUEST FOR LEAVE" FORM PREPARED BY THE CITY TO BE ELIGIBLE FOR LEAVE. NOTICE THAT DESCRIBES:

1. THE REASON FOR THE REQUESTED LEAVE (THE EMPLOYEE'S OWN BELIEF OF HIS/HER MEDICAL CONDITION NEED NOT BE ACCEPTED).
2. THE ANTICIPATED DURATION OF THE LEAVE.
3. THE ANTICIPATED COMMENCEMENT OF THE LEAVE.

NOTE: IF THE EMPLOYEE WHO HAS THE ABILITY TO, BUT FAILS TO GIVE, TIMELY NOTICE THE LEAVE MAY BE DENIED OR BE DELAYED FOR UP TO 30-DAYS.

B. MEDICAL CERTIFICATION, EITHER FOR THE EMPLOYEE'S OWN SERIOUS HEALTH CONDITION OR FOR THE SERIOUS HEALTH CONDITION OF A CHILD, PARENT, OR SPOUSE.

C. "FITNESS FOR DUTY" CERTIFICATE TO RETURN FROM LEAVE.

## **7.2.2 PREGNANCY DISABILITY LEAVE (PDL)**

PREGNANCY LEAVE IS AVAILABLE TO AN EMPLOYEE WHO IS **DISABLED** BY PREGNANCY, WHICH MEANS THAT, IN THE OPINION OF THE EMPLOYEE'S HEALTH CARE PROVIDER, THE EMPLOYEE'S PREGNANCY OR RELATED MEDICAL CONDITION HAS RENDERED HER UNABLE TO PERFORM ANY ONE OR MORE OF THE ESSENTIAL FUNCTIONS OF HER JOB. PDL IS IN ADDITION TO ANY FAMILY/MEDICAL LEAVE.

### **7.2.2.1 MANNER OF REQUEST**

ALL REQUESTS MUST BE MADE IN WRITING. THE WRITTEN REQUEST SHOULD BE MADE BY COMPLETING AND SUBMITTING CITY'S REQUEST FOR LEAVE OF ABSENCE FORM AND MUST BE SUPPORTED BY A WRITTEN CERTIFICATION FROM THE EMPLOYEE'S HEALTH CARE PROVIDER, AND THE REQUEST SHALL INCLUDE THE FOLLOWING:

- A. DATE SHE BECAME DISABLED;
- B. PROBABLE DURATION OF DISABILITY;
- C. A STATEMENT SHE IS UNABLE TO WORK OR TO PERFORM AN ESSENTIAL JOB FUNCTION WITHOUT ENDANGERING HERSELF, OTHERS OR HER PREGNANCY.

### **7.2.2.2 DURATION OF PREGNANCY DISABILITY LEAVE**

PREGNANCY LEAVES WILL NORMALLY BE GRANTED FOR 6 WEEKS (8 WEEKS FOR A "C"-SECTION) FOR POST-PARTUM RECOVERY. THE LEAVE MAY BE EXTENDED UP TO A MAXIMUM TOTAL OF FOUR MONTHS IF MEDICALLY NECESSARY AS CERTIFIED BY THE PHYSICIAN. LEAVE TAKEN INTERMITTENTLY WILL BE AGGREGATED AND COUNTED TOWARD THE FOUR-MONTH TOTAL MAXIMUM.

### **7.2.2.3 INTERMITTENT LEAVE**

THE CITY WILL TRY TO REASONABLY ACCOMMODATE A PREGNANT EMPLOYEE EVEN THOUGH SHE IS NOT DISABLED, BY MEANS OF A JOB TRANSFER. **HOWEVER**, THE CITY RESERVES THE RIGHT TO REQUIRE A TRANSFER IF SHE NEEDS AN INTERMITTENT OR REDUCED SCHEDULE. THE JOB DUTIES MAY NOT BE THE SAME.

### **7.2.2.4 PAY/BENEFITS DURING PREGNANCY DISABILITY LEAVE**

PREGNANCY LEAVES ARE CONSIDERED UNPAID. EMPLOYEES WILL BE REQUIRED TO UTILIZE ALL ACCRUED SICK LEAVE BENEFITS. AFTER ALL SICK LEAVE BENEFITS HAVE BEEN EXHAUSTED, THE EMPLOYEE MAY ELECT TO UTILIZE ANY ACCRUED COMPENSATORY TIME OFF ("CTO") AND VACATION HOURS BEFORE UNPAID LEAVE BEGINS. ALL TIME OFF, EITHER PAID OR UNPAID, WILL BE COUNTED TOWARDS THE FOUR-MONTH PERIOD.

GROUP INSURANCE BENEFITS WILL BE CONTINUED WHILE AN EMPLOYEE IS ON A PREGNANCY LEAVE OF ABSENCE. DURING SUCH PERIOD, THE CITY WILL CONTINUE TO CONTRIBUTE ITS PORTION OF THE PREMIUMS. THE EMPLOYEE'S PREMIUMS CONTRIBUTION MUST CONTINUE TO BE PAID BY THE EMPLOYEE IN ORDER FOR COVERAGE TO REMAIN IN EFFECT. IF AN EMPLOYEE

DOES NOT PAY HER PORTION OF THE PREMIUMS WHILE ON LEAVE, COVERAGE UNDER THE BENEFIT PLANS WILL CEASE.

#### **7.2.2.5 RETURN FROM PREGNANCY DISABILITY LEAVE**

PROVISIONS FOR RETURNING TO WORK ARE THE SAME AS FOR FAMILY/MEDICAL LEAVES OF ABSENCE (SEE PARAGRAPH 7.2.1.17). THE CITY MAY REQUIRE A MEDICAL RELEASE.

#### **7.2.3 PERSONAL LEAVE OF ABSENCE**

EMPLOYEES MAY BE GRANTED AN UNPAID LEAVE OF ABSENCE TO ATTEND TO PERSONAL MATTERS IN CASES IN WHICH THE CITY MANAGER DETERMINES THAT AN EXTENDED PERIOD OF TIME AWAY FROM THE JOB WILL BE IN THE BEST INTERESTS OF THE EMPLOYEE AND THE CITY. EMPLOYEES WILL BE GRANTED A MAXIMUM OF THIRTY DAYS OF PERSONAL LEAVE WITHIN A TWELVE-MONTH PERIOD, AS DETERMINED BY THE CITY MANAGER. EMPLOYEES WILL BE REQUIRED TO UTILIZE THEIR ACCRUED VACATION AND CTO HOURS WHILE ON A PERSONAL LEAVE OF ABSENCE. SICK LEAVE WILL NOT BE ALLOWED UNLESS THIS LEAVE RELATES TO AN EXISTING MEDICAL LEAVE.

EMPLOYEES WHO ARE UNABLE TO REPORT FOR WORK BECAUSE OF ARREST AND INCARCERATION MAY ASK TO BE PLACED ON A PERSONAL LEAVE OF ABSENCE. IF THE EMPLOYEE IS FREED ON BAIL, A DECISION WHETHER TO ALLOW THE RESUMPTION OF ACTIVE EMPLOYMENT PENDING DISPOSITION OF THE CHARGES WILL BE MADE BY THE CITY MANAGER. THE CITY MANAGER WILL DETERMINE WHETHER REINSTATEMENT WOULD BE CONSISTENT WITH THE CITY'S NEEDS AND REQUIREMENTS.

#### **7.2.4 JURY DUTY**

ANY FULL-TIME, INCLUDING PROBATIONARY, EMPLOYEE WHO IS CALLED FOR JURY DUTY SHALL, UPON REQUEST ON PRESCRIBED FORMS APPROVED BY THE HUMAN RESOURCES DIRECTOR, BE ENTITLED TO HIS/HER REGULAR PAY FOR THOSE HOURS OF ABSENCE DUE TO PERFORMANCE OF THE JURY DUTY FOR UP TO A PERIOD OF 22 WORKING DAYS, PROVIDED THAT HIS/HER FEES FOR SUCH SERVICE, EXCLUSIVE OF MILEAGE, ARE SUBMITTED TO THE CITY FOR DEPOSIT IN THE GENERAL FUND OF THE CITY.

AN EMPLOYEE SERVING JURY DUTY MUST OBTAIN AN ATTENDANCE SLIP FROM THE COURT TO BE SUBMITTED TO ACCOUNTING WITH HIS/HER TIMESHEET IN ORDER TO BE ELIGIBLE FOR REGULAR PAY FOR THOSE HOURS OF ABSENCE DUE TO JURY DUTY.

#### **7.2.5 WITNESS LEAVE**

##### **7.2.5.1 CASES NOT INVOLVING THE CITY**

ANY FULL-TIME, INCLUDING PROBATIONARY, EMPLOYEE WHO IS REQUIRED TO BE ABSENT FROM WORK BY A SUBPOENA PROPERLY ISSUED BY A COURT, AGENCY, OR COMMISSION LEGALLY EMPOWERED TO SUBPOENA WITNESSES, WHICH SUBPOENA COMPELS HIS/HER PRESENCE AS A WITNESS, EXCEPT IN A MATTER WHEREIN HE/SHE IS NAMED AS A DEFENDANT OR PLAINTIFF OR AS AN EXPERT WITNESS, SHALL, UPON REQUEST ON PRESCRIBED FORMS APPROVED BY THE RESOURCES DIRECTOR, BE ENTITLED THE TIME NECESSARY TO COMPLY WITH SUCH SUBPOENA, PROVIDED ANY FEES RECEIVED FOR SUCH SERVICE, EXCLUSIVE OF MILEAGE, ARE SUBMITTED TO THE CITY FOR DEPOSIT IN THE GENERAL FUND OF THE CITY.

AN EMPLOYEE SO SUBPOENAED MUST SUBMIT A COPY OF THE SUBPOENA WITH HIS/HER TIMESHEET IN ORDER TO BE ELIGIBLE FOR PAY FOR SUCH ABSENCE. TO BE ENTITLED TO RECEIVE REGULAR PAY FOR SUCH WITNESS LEAVE, THE EMPLOYEE MUST REPORT FOR WORK AT THE CITY FOR TIME NOT ACTUALLY RETAINED ON WITNESS SERVICE OF ONE HOUR OR MORE PRIOR TO AND/OR UPON COMPLETION OF EACH DAY'S SERVICE, EXCLUSIVE OF TRAVEL TIME.

#### **7.2.5.2 CASES INVOLVING THE CITY**

ANY EMPLOYEE WHO IS SUBPOENAED AS A WITNESS IN A CASE INVOLVING THE CITY, ITS PERSONNEL AND/OR PROPERTY, SHALL COMPLY WITH THE PROCEDURAL REQUIREMENTS DESCRIBED IN SUBPARAGRAPH 7.2.5.1 ABOVE, EXCEPT THAT SUCH EMPLOYEE, IF SUBPOENAED ON HIS/HER DAY(S) OFF, THEN SUCH EMPLOYEE WILL BE COMPENSATED AT THE RATE OF 150% OF THEIR NORMAL HOURLY RATE OF PAY, OR BE ENTITLED TO COMPENSATORY TIME-OFF.

### **7.2.6 MILITARY LEAVE**

#### **7.2.6.1 REQUEST FOR LEAVE**

A REQUEST FOR MILITARY LEAVE SHALL BE MADE UPON PRESCRIBED FORMS APPROVED BY THE RESOURCE DIRECTOR AND SHALL STATE THE DATE WHEN IT IS DESIRED TO BEGIN THE LEAVE OF ABSENCE AND THE DATE OF ANTICIPATED RETURN. A COPY OF ORDERS REQUIRING SUCH MILITARY SERVICE SHALL BE SUBMITTED WITH THE REQUEST.

#### **7.2.6.2 MINIMUM ENTITLEMENT**

PROVISIONS OF THE MILITARY AND VETERANS CODE OF THE STATE OF CALIFORNIA, SECTIONS 395-395.5 SHALL GOVERN MILITARY LEAVE. IN GENERAL, CURRENT LAW PROVIDES THAT AN EMPLOYEE HAVING ONE YEAR OR MORE OF SERVICE WITH A PUBLIC ENTITY IS ENTITLED TO MILITARY LEAVE WITH PAY, NOT EXCEEDING THIRTY DAYS PER YEAR, IF THE EMPLOYEE IS ENGAGED IN MILITARY DUTY ORDERED FOR PURPOSES OF ACTIVE MILITARY TRAINING OR ENCAMPMENT. AN EMPLOYEE WHO IS REQUIRED TO ATTEND SCHEDULED SERVICE DRILL PERIODS OR PERFORM OTHER INACTIVE DUTY RESERVE OBLIGATIONS IS ENTITLED TO MILITARY LEAVE WITHOUT PAY, NOT EXCEEDING 180 CALENDAR DAYS PER YEAR, ALTHOUGH THE EMPLOYEE MAY, AT HIS/HER OPTION, ELECT TO USE VACATION TIME TO ATTEND THE SCHEDULED RESERVE DRILL PERIODS OR TO PERFORM OTHER INACTIVE DRILL PERIOD OBLIGATIONS. IN THE EVENT OF ANY CONFLICT BETWEEN THIS POLICY AND THE MILITARY AND VETERANS CODE, THE CODE SHALL PREVAIL.

#### **7.2.6.3 TEMPORARY ENHANCED ENTITLEMENT**

ON NOVEMBER 20, 2001, THE CITY COUNCIL ADOPTED RESOLUTION No. 2001-53, WHICH TEMPORARILY GRANTS AN ENHANCED MILITARY LEAVE ENTITLEMENT. THE RESOLUTION READS AS FOLLOWS:

**SECTION 1: RIGHT TO RECEIVE SALARY OR COMPENSATION.** IN ADDITION TO THE BENEFITS PROVIDED PURSUANT TO SECTIONS 395.01 AND 395.02 OF THE CALIFORNIA MILITARY AND VETERANS CODE, ANY EMPLOYEE OF THE CITY WHO, AS A MEMBER OF THE CALIFORNIA NATIONAL GUARD OR A UNITED STATES MILITARY

RESERVE ORGANIZATION, IS CALLED TO ACTIVE DUTY AS A RESULT OF AN EXTREME EMERGENCY DECLARED ON OR AFTER SEPTEMBER 11, 2001, SHALL HAVE THE BENEFITS PROVIDED FOR IN SECTION 2 BELOW.

**SECTION 2: ADDITIONAL BENEFITS FOR ACTIVE DUTY.** ANY CITY EMPLOYEE TO WHICH SECTION 1 APPLIES, WHILE ON ACTIVE DUTY, SHALL, WITH RESPECT TO ACTIVE DUTY SERVED ON OR AFTER SEPTEMBER 11, 2001, RECEIVE FROM THE CITY, FOR A PERIOD NOT TO EXCEED 180 CALENDAR DAYS, AS PART OF HIS OR HER COMPENSATION, BOTH OF THE FOLLOWING:

- A. THE DIFFERENCE BETWEEN THE AMOUNT OF HIS OR HER MILITARY PAY AND ALLOWANCES AND THE AMOUNT THE EMPLOYEE WOULD HAVE RECEIVED AS A CITY EMPLOYEE, INCLUDING ANY RAISES THAT WOULD HAVE BEEN OTHERWISE GRANTED DURING THE TIME THE EMPLOYEE WAS ON ACTIVE DUTY; AND
- B. ALL BENEFITS THAT HE OR SHE WOULD HAVE RECEIVED HAD HE OR SHE NOT BEEN CALLED TO ACTIVE DUTY.

**SECTION 3: EXEMPTION.** THE BENEFITS CONFERRED BY THIS RESOLUTION SHALL NOT APPLY TO ANY EMPLOYEE WHO VOLUNTARILY RETURNS TO ACTIVE DUTY.

**SECTION 4: PERIODIC REVIEW.** THE CITY COUNCIL SHALL PERIODICALLY REVIEW THE POLICY ESTABLISHED BY THIS RESOLUTION FOR THE PURPOSE OF CONSIDERING THE EXTENSION OF BENEFITS CONFERRED HEREUNDER.

#### **7.2.7 BEREAVEMENT LEAVE**

UPON REQUEST, AND WITH THE APPROVAL OF THE HUMAN RESOURCES DIRECTOR, FULL-TIME, INCLUDING PROBATIONARY, EMPLOYEES SHALL RECEIVE NECESSARY TIME OFF WITH PAY, NOT TO EXCEED THREE DAYS, OR FIVE DAYS IF EMPLOYEE MUST TRAVEL BEYOND 500 MILES, IN ANY ONE INSTANCE TO ARRANGE FOR OR ATTEND A FUNERAL OF A MEMBER OF THEIR IMMEDIATE FAMILY.

FOR PURPOSES OF THIS SECTION, IMMEDIATE FAMILY SHALL MEAN FATHER, FATHER-IN-LAW, MOTHER, MOTHER-IN-LAW, BROTHER, SISTER, WIFE, HUSBAND, CHILD, GRANDCHILD, GRANDPARENT, FORMER OR CURRENT LEGAL GUARDIAN, OR ANY FAMILY MEMBER OR REGISTERED DOMESTIC PARTNER WITH WHOM THE EMPLOYEE RESIDES.

#### **7.3 NO ACCRUAL OF BENEFITS DURING LEAVE**

SICK LEAVE, VACATION AND HOLIDAY CREDIT, WILL NOT ACCRUE DURING ANY PAY PERIOD AN EMPLOYEE IS ABSENT ON LEAVE FOR THE ENTIRE PAY PERIOD.

#### **7.4 PENDING DISCIPLINE**

IF AN EMPLOYEE WOULD HAVE BEEN PLACED ON DISCIPLINARY ACTION OR TERMINATED FOR MISCONDUCT HAD THE EMPLOYEE REMAINED ACTIVELY EMPLOYED, THE ACTION IS SUSPENDED DURING ANY (AND ALL) LEAVES (INCLUDING PDL), BUT ON THE EMPLOYEE'S RETURN TO WORK THE DISCIPLINARY ACTION MAY BE TAKEN AS IF NO LEAVE INTERVENED.

#### **7.5 FITNESS FOR DUTY MEDICAL EVALUATION POLICY**

AN EMPLOYEE WHO HAS BEEN ABSENT FROM WORK DUE TO AN INJURY, ILLNESS, OR DISABILITY OR AN EXTENDED LEAVE OF ABSENCE SHALL OBTAIN A FITNESS FOR DUTY (FFD) MEDICAL EVALUATION. FFD MEDICAL EVALUATIONS ARE CONDUCTED TO DETERMINE WHETHER AN EMPLOYEE HAS A MEDICAL CONDITION THAT IMPACTS THE EMPLOYEE'S ABILITY TO PERFORM ON THE JOB WITHOUT ANY SUBSTANTIAL RISK OF INJURY TO THE EMPLOYEE OR OTHERS.

THE DEGREE OF COMPLEXITY OF THE FFD MEDICAL EXAMINATION MAY DIFFER DEPENDING UPON THE CIRCUMSTANCES OF THE LEAVE, CHANGES IN JOB DEMANDS, AND/OR INQUIRIES WITH OR BETWEEN APPROPRIATE MANAGEMENT STAFF AND/OR THE EMPLOYEE'S PHYSICIAN. THE MEDICAL CRITERIA FOR MAKING FFD DETERMINATIONS SHALL BE THE SAME CRITERIA AS APPLIED TO PRE-PLACEMENT MEDICAL EVALUATIONS (SECTION 4).

## **8. WORK-RELATED ILLNESS OR INJURY**

WHENEVER AN EMPLOYEE SUSTAINS AN INJURY OR DISABILITY ARISING OUT OF, AND IN THE COURSE OF, CITY EMPLOYMENT AND REQUIRES MEDICAL CARE, THE EMPLOYEE SHALL OBTAIN TREATMENT ACCORDING TO THE PROVISIONS OF THE CALIFORNIA LABOR CODE, SECTION 4600 ET SEQ., AND SHALL RECEIVE COMPENSATION FOR HOURS NOT WORKED WHILE OBTAINING SUCH MEDICAL CARE. EMPLOYEES ARE REQUIRED TO PROMPTLY REPORT A WORK-RELATED INJURY/INCIDENT TO THEIR SUPERVISOR.

WHENEVER AN EMPLOYEE IS COMPELLED BY DIRECTION OF HIS/HER PHYSICIAN TO BE ABSENT FROM DUTY ON ACCOUNT OF SUCH INJURY OR DISABILITY, SUCH EMPLOYEE SHALL BE PLACED ON WORKERS' COMPENSATION LEAVE. THE EMPLOYEE SHALL RECEIVE FULL COMPENSATION FOR THE FIRST THREE CALENDAR DAYS FOLLOWING THE DAY OF THE INJURY. THEREAFTER, THE EMPLOYEE MAY ELECT TO APPLY PRO-RATED SICK LEAVE, VACATION, OR CTO IF SICK LEAVE IS EXHAUSTED, TO SUCH ABSENCE TO RECEIVE COMPENSATION THEREFORE IN AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE COMPENSATION TO WHICH HE IS ENTITLED UNDER THE WORKERS' COMPENSATION ACT AND HIS/HER REGULAR PAY, NOT TO EXCEED THE AMOUNT OF ACCRUED LEAVE. AN EMPLOYEE WHO IS RECEIVING WORKERS' COMPENSATION SHALL CONTINUE TO ACCRUE SICK LEAVE AND VACATION.

WORKERS' COMPENSATION BENEFITS BEGIN WITH THE FOURTH FULL CONSECUTIVE CALENDAR DAY OF MISSED WORK; HOWEVER, IF THE ABSENCE CONTINUES BEYOND FOURTEEN DAYS, WORKERS' COMPENSATION WILL THEN PAY THE APPLICABLE BENEFITS FOR THE FIRST THREE DAYS OF MISSED WORK. WHEN THIS OCCURS, THE EMPLOYEE WILL BE DOCKED FOR THE FIRST THREE DAYS THE CITY PREVIOUSLY PAID HIM IN AN AMOUNT EQUAL TO THE WORKERS' COMPENSATION BENEFITS RECEIVED.

AN EMPLOYEE WHO IS ON A WORKERS' COMPENSATION LEAVE OF ABSENCE FOR MORE THAN THIRTY DAYS AND WHO WAS COVERED BY LONG-TERM DISABILITY INSURANCE WHEN THE WORK-RELATED INJURY OR ILLNESS OCCURRED, MAY BE ELIGIBLE FOR DISABILITY BENEFITS. COMPENSATION TO WHICH AN EMPLOYEE IS ENTITLED FROM WORKER'S COMPENSATION AND LONG-TERM DISABILITY SHALL NOT EXCEED AN EMPLOYEE'S REGULAR PAY.

SUPERVISORS ARE REQUIRED TO COMPLETE PRESCRIBED REPORTING FORMS WHENEVER AN EMPLOYEE IS INJURED AND/OR PLACED ON WORKERS' COMPENSATION LEAVE.

### **8.1 FITNESS FOR DUTY FROM INDUSTRIAL INJURY OR ILLNESS**

THE DECISION TO RETURN AN EMPLOYEE TO WORK OR PLACE AN EMPLOYEE BACK ON THE JOB, WITH OR WITHOUT MODIFIED WORK, SHALL BE MADE BY THE CITY, INDEPENDENT OF ANY DECISION MADE IN THE WORKERS' COMPENSATION PROCESS. GENERALLY,

- A. IF THERE IS NO PERMANENT DISABILITY, NO WORK RESTRICTIONS, AND THE ABSENCE HAS NOT BEEN LONGER THAN THIRTY DAYS, THE EMPLOYEE SHALL BE RETURNED TO WORK.
- B. IF THERE IS NO PERMANENT DISABILITY BUT TEMPORARY WORK RESTRICTIONS, OR THERE HAS BEEN AN ABSENCE OF THIRTY DAYS OR MORE, A REVIEW OF THE EMPLOYEE'S MEDICAL RECORDS FROM THE WORKERS' COMPENSATION CASE AND FFD MEDICAL EVALUATION MAY BE CONDUCTED. AN EMPLOYEE SHALL BE RETURNED TO WORK IF THE WORK RESTRICTIONS ARE COMPATIBLE WITH JOB DEMANDS OR MODIFIED JOB DEMANDS, IF AVAILABLE.
- C. IF THERE IS A PERMANENT DISABILITY, PLACEMENT OF THE EMPLOYEE IN THE POSITION LAST HELD BY THE EMPLOYEE WILL BE CONSIDERED FOLLOWING AN FFD MEDICAL EVALUATION.

THE EMPLOYEE MUST OBTAIN A RELEASE TO WORK OR BE PROPERLY DISCHARGED FROM THE MEDICAL PROVIDER UTILIZED BY THE CITY PRIOR TO RETURNING TO HIS/HER JOB. IF IT IS DETERMINED THAT THE JOB DEMANDS OF THE POSITION LAST HELD BY THE EMPLOYEE ARE NOT COMPATIBLE WITH THE EMPLOYEE'S RESTRICTIONS AND THE EMPLOYEE IS WILLING TO RETURN TO WORK, PLACEMENT IN AN ALTERNATIVE POSITION, IF AVAILABLE, WILL BE CONSIDERED. THE EMPLOYEE SHALL BE RE-CLASSIFIED AS "MEDICALLY DISQUALIFIED" AND PLACED ON UNPAID LEAVE WHILE ALTERNATIVE POSITIONS ARE BEING CONSIDERED. HOWEVER, THE EMPLOYEE MAY ELECT TO USE ACCRUED LEAVE HOURS, SUCH AS VACATION, TO RECEIVE COMPENSATION. PLACEMENT OF AN EMPLOYEE IN AN ALTERNATE POSITION REQUIRES A PRE-PLACEMENT MEDICAL EVALUATION FOR THE ALTERNATIVE JOB.

IF IT IS DETERMINED THAT THE JOB DEMANDS OF THE POSITION LAST HELD BY THE EMPLOYEE ARE NOT COMPATIBLE WITH THE EMPLOYEE'S RESTRICTIONS AND THERE IS NOT AN ALTERNATIVE POSITION, OR THE EMPLOYEE'S RESTRICTIONS ARE NOT COMPATIBLE WITH AN ALTERNATIVE POSITION, OR THE EMPLOYEE IS NOT WILLING TO RETURN TO WORK, THE EMPLOYEE SHALL BE RE-CLASSIFIED AS "MEDICALLY DISQUALIFIED." THE EMPLOYEE SHALL THEN BE RETIRED FOR DISABILITY, OR BE TERMINATED FROM EMPLOYMENT DUE TO MEDICAL DISQUALIFICATION.

**9. VACATION**

CONSULT THE MOU APPLICABLE TO YOUR POSITION FOR DETAILS.

**10. HOLIDAYS**

CONSULT THE MOU APPLICABLE TO YOUR POSITION FOR DETAILS.

**11. RETIREMENT PROGRAM**

CONSULT THE MOU APPLICABLE TO YOUR POSITION FOR DETAILS.

**12. INSURANCE PROGRAMS**

CONSULT THE MOU APPLICABLE TO YOUR POSITION FOR DETAILS.

**13. UNIFORMS; TOOLS**

CONSULT THE MOU APPLICABLE TO YOUR POSITION FOR DETAILS.

## **14. IDENTIFICATION CARD/BUILDING ACCESS CARD POLICY**

THE FOLLOWING RULES GOVERN THE ISSUANCE AND USE OF IDENTIFICATION CARDS AND BUILDING ACCESS CARDS:

### **14.1 IDENTIFICATION CARDS ("I.D. CARDS") AND "BUILDING ACCESS/I.D. CARDS"**

#### **14.1.1 INTRODUCTION**

CERTAIN CITY FACILITIES ARE EQUIPPED WITH ELECTRONIC LOCKS AND A CARD READER TO PERMIT ACCESS INTO THESE BUILDINGS AND THE ROOMS THEREIN WHEN THE DOORS ARE LOCKED. DEPENDING UPON AN EMPLOYEE'S DEPARTMENT AND HIS/HER FUNCTIONS, THE EMPLOYEE'S I.D. CARD MAY ALSO SERVE AS A BUILDING ACCESS CARD. CONSEQUENTLY, SUCH DUAL-FUNCTION BUILDING ACCESS/I.D. CARDS ARE SECURITY KEYS TO IMPORTANT PUBLIC BUILDINGS. FOR THE SECURITY OF THESE AREAS, BUILDING ACCESS/I.D. CARDS SHOULD BE CAREFULLY SAFEGUARDED.

#### **14.1.2 ISSUANCE OF BUILDING ACCESS/I.D. CARDS**

DEPENDING UPON AN EMPLOYEE'S DEPARTMENT AND HIS/HER FUNCTIONS, SUCH EMPLOYEE SHALL BE ISSUED A DUAL-FUNCTION BUILDING ACCESS/I.D. CARD BY HIS/HER DEPARTMENT HEAD OR APPROPRIATE ADMINISTRATIVE OFFICIAL, SUBJECT TO APPROVAL BY THE CITY MANAGER.

#### **14.1.3 RETURNING BUILDING ACCESS/I.D. CARDS**

ALL DEPARTMENT HEADS, DESIGNEES, AND APPROPRIATE ADMINISTRATIVE OFFICIALS SHALL NOTIFY THE RESOURCES DIRECTOR IF AN EMPLOYEE'S BUILDING ACCESS AUTHORIZATION IS TO BE MODIFIED OR TERMINATED. BUILDING ACCESS/I.D. CARDS SHALL BE TURNED IN BY THE AFFECTED EMPLOYEE TO HIS/HER DEPARTMENT HEAD, DESIGNEE, OR APPROPRIATE ADMINISTRATIVE OFFICIAL AS PROPERTY OF THE CITY, TO BE RETAINED, OR MODIFIED AND REISSUED, TO THE EMPLOYEE UNDER THE FOLLOWING CONDITIONS:

- A. UPON TRANSFER TO ANOTHER DEPARTMENT;
- B. UPON REQUEST OF THE DEPARTMENT HEAD OR APPROPRIATE ADMINISTRATIVE OFFICIAL;
- C. UPON BEING GRANTED A LEAVE OF ABSENCE WITHOUT PAY FOR A PERIOD OF 30 OR MORE CALENDAR DAYS; HOWEVER, EMPLOYEES GRANTED SUCH LEAVE MAY RETAIN HIS/HER CARD IF HE/SHE IS AUTHORIZED TO HAVE ACCESS TO A BUILDING AND/OR OFFICE DURING THE LEAVE; OR
- D. UPON TERMINATION OR SUSPENSION OF EMPLOYMENT.

### **14.2 WHAT TO DO IF YOUR "I.D. CARD" OR "BUILDING ACCESS/I.D. CARD" IS LOST OR STOLEN**

**14.2.1** THE LOSS OR THEFT OF ANY CITY I.D. CARD OR ACCESS CARD MUST BE REPORTED AS SOON AS YOU DISCOVER THAT THE CARD IS MISSING.

**14.2.2** IF A CARD IS LOST DURING BUSINESS HOURS: THE EMPLOYEE MUST IMMEDIATELY NOTIFY HIS/HER SUPERVISOR OR DEPARTMENT HEAD. UPON NOTIFICATION, THE SUPERVISOR OR DEPARTMENT

HEAD MUST IMMEDIATELY REPORT THE LOSS OR THEFT TO THE RESOURCES DIRECTOR. IF THE EMPLOYEE'S SUPERVISOR OR DEPARTMENT HEAD IS OUT OF THE OFFICE, EMPLOYEES MAY DIRECTLY CONTACT THE RESOURCES DEPARTMENT. THE EMPLOYEE MUST FILL OUT THE EMPLOYEE REPORT OF LOST OR STOLEN I.D. CARD FORM STATING WHEN THE CARD WAS LOST AND AN EXPLANATION OF THE INCIDENT. THE EMPLOYEE, HIS/HER SUPERVISOR, AND THE RESOURCES DIRECTOR MUST SIGN THIS FORM. THE FORM CAN BE OBTAINED FROM THE RESOURCES DEPARTMENT.

**14.2.3** IF AN I.D. CARD OR ACCESS CARD IS LOST AFTER BUSINESS HOURS OR DURING THE WEEKEND: THE EMPLOYEE MUST IMMEDIATELY NOTIFY THE BEAUMONT POLICE DEPARTMENT DISPATCH AT (951) 769-8500. UPON NOTIFICATION, THE DISPATCHER WILL FILL OUT THE POLICE DISPATCH REPORT OF LOST OR STOLEN I.D. CARD FORM AND ALERT, BY TELEPHONE, THOSE LISTED ON THE LOST/STOLEN CALL LIST, EACH OF WHICH ARE PROVIDED BY THE RESOURCES DEPARTMENT AND LOCATED IN THE DISPATCH OFFICE. IMMEDIATELY UPON RETURNING TO WORK, THE EMPLOYEE MUST FILL OUT THE EMPLOYEE REPORT OF LOST OR STOLEN I.D. CARD FORM STATING WHEN THE CARD WAS LOST AND AN EXPLANATION OF THE INCIDENT. THE EMPLOYEE, HIS/HER SUPERVISOR, AND THE RESOURCES DIRECTOR MUST SIGN THIS FORM. THE FORM CAN BE OBTAINED FROM THE RESOURCES DEPARTMENT.

**14.3 HOW TO REPLACE YOUR LOST OR STOLEN I.D. CARDS OR BUILDING ACCESS/I.D. CARDS**

IN THE EVENT THAT AN EMPLOYEE'S I.D. CARD OR ACCESS CARD IS EITHER LOST OR STOLEN, THE CARD WILL BE REPLACED 2 TIMES, FREE OF CHARGE. UPON THE THIRD TIME, THE EMPLOYEE MAY BE CHARGED A \$10 REPLACEMENT FEE.

**14.4 HOW TO PROTECT AND ENHANCE YOUR PERSONAL SECURITY: SECURITY RULES AND REMINDERS**

AN ELECTRONIC RECORD IS MADE EACH TIME YOUR BUILDING ACCESS CARD IS USED TO OPEN A DOOR; THUS, YOU MAY BE IMPLICATED IF YOUR CARD IS USED BY AN UNAUTHORIZED INDIVIDUAL TO GAIN ACCESS. THEREFORE:

- A. YOU ARE SOLELY RESPONSIBLE FOR SAFEGUARDING YOUR CARD;
- B. DO IMMEDIATELY REPORT ITS LOSS TO YOUR SUPERVISOR;
- C. DO NOT WRITE OR ATTACH ALARM CODES OR OTHER SECURITY INFORMATION ON YOUR CARD;
- D. DO NOT LOAN YOUR CARD TO ANYONE; AND
- E. GUARD YOUR I.D. CARD OR BUILDING ACCESS CARD AS YOU WOULD YOUR OWN CREDIT CARDS, KEYS OR OTHER IMPORTANT PERSONAL PROPERTY.

**15. CREDIT UNION**

CITY EMPLOYEES ARE ELIGIBLE FOR MEMBERSHIP IN A CREDIT UNION, AND DEDUCTIONS MAY BE WITHHELD FROM THE EMPLOYEE'S PAYCHECK, UPON APPLICATION OF THE EMPLOYEE, TO BE PAID DIRECTLY TO THE CREDIT UNION. MEMBERSHIP INFORMATION IS AVAILABLE IN HUMAN RESOURCES DEPARTMENT.

**16. REIMBURSEMENT PROGRAMS**

CONSULT THE MOU APPLICABLE TO YOUR POSITION FOR DETAILS.

## **17. DISCRIMINATION AND DISCRIMINATORY HARASSMENT**

### **17.1 PURPOSE AND SCOPE**

TO PREVENT CITY EMPLOYEES FROM BEING SUBJECTED TO DISCRIMINATION OR SEXUAL HARASSMENT AND TO ENSURE FULL EQUAL EMPLOYMENT OPPORTUNITY, IN CONFORMANCE WITH TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE GUIDELINES ISSUED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT AND THE GUIDELINES ISSUED BY THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING COMMISSION.

### **17.2 POLICY**

THE CITY OF BEAUMONT IS COMMITTED TO CREATING AND MAINTAINING A WORK ENVIRONMENT THAT IS FREE OF ALL FORMS OF DISCRIMINATION AND INTIMIDATION, INCLUDING SEXUAL HARASSMENT. THE CITY WILL TAKE PREVENTATIVE, CORRECTIVE AND DISCIPLINARY ACTION FOR ANY BEHAVIOR THAT VIOLATES THIS POLICY OR THE RIGHTS AND PRIVILEGES IT IS DESIGNED TO PROTECT.

### **17.3 DEFINITIONS**

#### **17.3.1 DISCRIMINATION**

ANY ACT OR OMISSION OF AN ACT WHICH WOULD CREATE A HOSTILE WORK ENVIRONMENT, OR EXCLUDE ANY PERSON FROM EMPLOYMENT OR PROMOTIONAL OPPORTUNITIES, BECAUSE OF SEX, SEXUAL ORIENTATION, RACE, COLOR, ANCESTRY, RELIGIOUS CREED, NATIONAL ORIGIN, PHYSICAL DISABILITY (INCLUDING HIV AND AIDS), MENTAL DISABILITY, MEDICAL CONDITION, AGE, MARITAL STATUS OR DENIAL OF FAMILY CARE OR PREGNANCY DISABILITY LEAVE.

DISCRIMINATION INCLUDES, BUT IS NOT LIMITED TO, DEROGATORY COMMENTS, SLURS OR JOKES, PICTURES, CARTOONS OR POSTERS, AND ACTIONS WHICH RESULT IN AN EMPLOYEE BEING OFFENDED OR INSULTED BECAUSE OF A PROTECTED CLASSIFICATION STATUS ENUMERATED IN § 328.31 OF THIS ORDER.

#### **17.3.2 SEXUAL HARASSMENT**

SEE DEFINITIONS IN THE SEXUAL HARASSMENT SECTION OF THIS MANUAL, SECTION 18, BELOW.

#### **17.3.3 EXEMPTIONS**

DISCRIMINATION/HARASSMENT DOES NOT INCLUDE THE FOLLOWING:

- A. BONA FIDE ACTS OR OMISSION OF ACTS BASED SOLELY UPON BONA FIDE OCCUPATIONAL QUALIFICATIONS UNDER EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND CALIFORNIA FAIR EMPLOYMENT AND HOUSING COMMISSION GUIDELINES.
- B. BONA FIDE REQUESTS OR DEMANDS BY A SUPERVISOR THAT THE EMPLOYEE IMPROVE HIS/HER WORK QUALITY OR OUTPUT, THAT THE EMPLOYEE REPORT TO THE JOB SITE ON TIME, THAT THE EMPLOYEE COMPLY WITH CITY OR DEPARTMENTAL RULES OR REGULATIONS, OR ANY OTHER APPROPRIATE WORK RELATED COMMUNICATION BETWEEN SUPERVISOR AND EMPLOYEE.

## **17.4 RESPONSIBILITIES**

THIS POLICY APPLIES TO ALL CITY PERSONNEL. ALL EMPLOYEES SHALL FOLLOW THE INTENT OF THESE GUIDELINES IN A MANNER THAT REFLECTS DEPARTMENT POLICY, PROFESSIONAL LAW ENFORCEMENT STANDARDS AND THE BEST INTEREST OF THE DEPARTMENT AND ITS MISSION.

ALL EMPLOYEES SHALL PROMPTLY REPORT ANY OBSERVED OR KNOWN VIOLATIONS OF THIS POLICY TO A SUPERVISOR. EMPLOYEE(S) NOT COMFORTABLE WITH REPORTING VIOLATIONS OF THIS POLICY TO THEIR IMMEDIATE SUPERVISOR MAY BYPASS THE CHAIN OF COMMAND AND REPORT IT TO A HIGHER-RANKING SUPERVISOR. COMPLAINTS MAY ALSO BE FILED WITH THE HUMAN RESOURCES DIRECTOR.

SUPERVISORS AND MANAGERS RECEIVING INFORMATION REGARDING VIOLATION(S) OF THIS POLICY SHALL DETERMINE IF THERE IS ANY BASIS FOR THE ALLEGATION AND SHALL PROCEED WITH THE INVESTIGATION DESCRIBED IN SECTION 17.5 BELOW. **COMPLAINTS OF SEXUAL HARASSMENT SHALL BE INVESTIGATED IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN SECTION 18 OF THIS MANUAL.**

### **17.4.1 SUPERVISOR RESPONSIBILITY**

EACH SUPERVISOR AND MANAGER SHALL:

- (A) ENSURE THAT THE WORK ENVIRONMENT IS FREE FROM ALL TYPES OF UNLAWFUL DISCRIMINATION, INCLUDING SEXUAL HARASSMENT.
- (B) TAKE PROMPT, APPROPRIATE ACTION WITHIN THEIR WORK UNITS TO AVOID AND MINIMIZE THE INCIDENCE OF ANY FORM OF DISCRIMINATION.
- (C) TRAIN THEIR SUBORDINATES AS TO WHAT CONSTITUTES DISCRIMINATION AND HARASSMENT.
- (D) NOTIFY THE HUMAN RESOURCES DIRECTOR AND THE CITY MANAGER IN WRITING OF THE CIRCUMSTANCES SURROUNDING ANY REPORTED ALLEGATIONS OF DISCRIMINATION/HARASSMENT NO LATER THAN THE NEXT BUSINESS DAY.

INDIVIDUAL EMPLOYEES MAY BE HELD PERSONALLY LIABLE FOR DISCRIMINATORY ACTS, INCLUDING SEXUAL HARASSMENT.

### **17.4.2 SUPERVISOR'S ROLE**

BECAUSE OF DIFFERENCES IN INDIVIDUAL VALUES, SUPERVISORS AND MANAGERS MAY FIND IT DIFFICULT TO RECOGNIZE THAT THEIR BEHAVIOR OR THE BEHAVIOR OF OTHERS IS DISCRIMINATORY OR HARASSING. SUPERVISORS AND MANAGERS SHALL BE AWARE OF THE FOLLOWING CONSIDERATIONS:

- (A) BEHAVIOR OF SUPERVISORS AND MANAGERS SHOULD REPRESENT THE VALUES OF OUR CITY.
- (B) FALSE OR MISTAKEN ACCUSATIONS OF DISCRIMINATION AND SEXUAL HARASSMENT HAVE NEGATIVE EFFECTS ON THE CAREERS OF INNOCENT EMPLOYEES.
- (C) SUPERVISORS AND MANAGERS MUST ACT RESPONSIBLY IN THE HANDLING OF SUCH SITUATIONS.

- (D) SUPERVISORS AND MANAGERS MUST MAKE A DETERMINATION ON ANY ALLEGATIONS BASED UPON ALL AVAILABLE FACTS.

## **17.5 INVESTIGATION OF COMPLAINTS**

VARIOUS METHODS OF RESOLUTION EXIST. DURING THE PENDENCY OF ANY SUCH INVESTIGATION, THE SUPERVISOR OF THE INVOLVED EMPLOYEES SHOULD TAKE REASONABLE STEPS TO MITIGATE OR ELIMINATE ANY CONTINUING HOSTILE WORK ENVIRONMENT.

### **17.5.1 SUPERVISORY RESOLUTION**

WHENEVER POSSIBLE, EMPLOYEES WHO BELIEVE THEY ARE EXPERIENCING DISCRIMINATION AND/OR HARASSMENT ARE ENCOURAGED TO INFORM THE INDIVIDUAL THAT HIS/HER BEHAVIOR IS UNWELCOME, OFFENSIVE, UNPROFESSIONAL OR HIGHLY INAPPROPRIATE. IF THIS DOES NOT RESOLVE THE CONCERN OR IF AN EMPLOYEE FEELS UNCOMFORTABLE, THREATENED, OR HAS DIFFICULTY EXPRESSING HIS/HER CONCERN, SUPERVISORY OR MANAGEMENT ASSISTANCE OR COUNSELING SHOULD BE SOUGHT FROM A SUPERVISOR OR MANAGER ONE RANK HIGHER THAN THE ALLEGED OFFENDER.

### **17.5.2 FORMAL INVESTIGATION**

UPON BEING NOTIFIED OF ANY COMPLAINT THAT CANNOT BE SATISFACTORILY RESOLVED THROUGH THE SUPERVISORY MEANS CITED ABOVE, THE HUMAN RESOURCES DIRECTOR OR HIS OR HER DESIGNEE SHALL INITIATE A FORMAL INVESTIGATION.

THE INDIVIDUAL ASSIGNED TO INVESTIGATE THE COMPLAINT WILL HAVE FULL AUTHORITY TO INVESTIGATE ALL ASPECTS OF THE COMPLAINT. THE INVESTIGATIVE AUTHORITY INCLUDES ACCESSIBILITY TO RECORDS AND COOPERATION OF ANY EMPLOYEES INVOLVED. NO INFLUENCE WILL BE USED TO SUPPRESS ANY COMPLAINT AND (EXCEPT AS HEREIN PROVIDED) NO EMPLOYEE WILL BE SUBJECT TO RETALIATION OR REPRISAL FOR FILING A COMPLAINT, ENCOURAGING OTHERS TO FILE A COMPLAINT OR FOR OFFERING TESTIMONY OR EVIDENCE IN AN INVESTIGATION.

FORMAL INVESTIGATION OF THE COMPLAINT WILL BE CONFIDENTIAL AND WILL INCLUDE, BUT NOT BE LIMITED TO, DETAILS OF THE SPECIFIC INCIDENT, FREQUENCY AND DATES OF OCCURRENCES AND NAMES OF ANY WITNESSES.

OPTIONAL RESOLUTION - EMPLOYEES WHO BELIEVE THEY HAVE BEEN DISCRIMINATED AGAINST OR HARASSED BECAUSE OF THEIR PROTECTED STATUS DESCRIBED IN SECTION 17.3.1 OF THIS POLICY ARE ENCOURAGED TO FOLLOW THE CHAIN OF COMMAND BUT MAY ALSO FILE A COMPLAINT DIRECTLY WITH THE CHIEF OF POLICE OR THE CITY MANAGER. FURTHERMORE, THE EMPLOYEE HAS THE OPTION OF FILING A COMPLAINT WITH THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING AND/OR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

### **17.5.3 DISPOSITION OF COMPLAINTS**

ONLY ONE OF THE FOLLOWING 4 DISPOSITIONS WILL BE USED TO CLASSIFY THE DISPOSITION OF AN ALLEGATION OF HARASSMENT:

- (A) **SUSTAINED COMPLAINTS** - IF THE COMPLAINT IS SUBSTANTIATED, THIS POLICY AND PROCEDURE PROHIBITING DISCRIMINATION/HARASSMENT WILL BE REVIEWED WITH THE OFFENDER. APPROPRIATE DISCIPLINARY ACTION AND/OR TRAINING, WILL BE TAKEN PURSUANT TO THE CITY'S DISCIPLINARY PROCEDURES.
- (B) **NOT SUSTAINED COMPLAINTS** - IF THERE IS INSUFFICIENT EVIDENCE TO EITHER PROVE OR DISPROVE THE ALLEGATION(S), BOTH PARTIES TO THE COMPLAINT WILL BE INFORMED OF THE REASON(S) FOR THIS DISPOSITION.
- (C) **UNFOUNDED COMPLAINT** - IF IT IS DETERMINED THAT AN ACT REPORTED PURSUANT TO THIS POLICY/PROCEDURE DID NOT IN FACT OCCUR, A FINDING OF UNFOUNDED SHALL BE MADE.
- (D) **EXONERATED COMPLAINTS** - IF IT IS DETERMINED THAT AN ACT REPORTED PURSUANT TO THIS POLICY/PROCEDURE DID IN FACT OCCUR, BUT WAS LAWFUL AND PROPER WITHIN THE GUIDELINES ESTABLISHED HEREIN, A FINDING OF EXONERATED SHALL BE MADE.

SHOULD IT BE DETERMINED THAT THE REPORTING PARTY MALICIOUSLY FILED THE COMPLAINT KNOWING THAT IT WAS FALSE OR FRIVOLOUS AT THE TIME OF THE COMPLAINT, THAT EMPLOYEE SHALL BE SUBJECT TO THE DISCIPLINARY PROCESS UP TO, AND INCLUDING TERMINATION.

#### **17.5.4 NOTIFICATION OF DISPOSITION**

COMPLAINANT AND/OR VICTIM WILL BE NOTIFIED IN WRITING OF THE DISPOSITION OF THE INVESTIGATION AND ACTION(S) TAKEN TO REMEDY THE COMPLAINT.

#### **17.5.5 DOCUMENTATION OF COMPLAINTS**

ALL COMPLAINTS OR ALLEGATIONS SHALL BE DOCUMENTED ON FORMS AND MAINTAINED FOR A MINIMUM OF FIVE (5) YEARS.

#### **17.5.6 GRIEVANCES**

DISPUTES ARISING OUT OF THE INTERPRETATION AND ENFORCEMENT OF THIS POLICY AND PROCEDURE SHALL BE RESOLVED THROUGH THE GRIEVANCE PROCEDURE.

#### **17.5.7 QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT**

EMPLOYEES HAVING QUESTIONS ARE ENCOURAGED TO CONTACT A SUPERVISOR, MANAGER, THE CHIEF OF POLICE OR THE CITY MANAGER/HUMAN RESOURCES DIRECTOR, OR THEY MAY CONTACT THE CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING AT (800) 884-1684.

**18. POLICY PROHIBITING SEXUAL HARASSMENT**

**18.1 SEXUAL HARASSMENT VIOLATES THE LAW**

FEDERAL AND STATE LAW PROHIBITS SEXUAL HARASSMENT IN THE WORKPLACE.

SEXUAL HARASSMENT CONSISTS OF UNWELCOME SEXUAL ADVANCES, REQUESTS FOR SEXUAL FAVORS OR OTHER VERBAL OR PHYSICAL ACTS OF A SEXUAL OR SEX-BASED NATURE WHEN (1) SUBMISSION TO THAT CONDUCT IS MADE EITHER EXPLICITLY OR IMPLICITLY A TERM OR A CONDITION OF AN INDIVIDUAL'S EMPLOYMENT; (2) AN EMPLOYMENT DECISION IS BASED ON AN INDIVIDUAL'S ACCEPTANCE OR REJECTION OF THAT CONDUCT; OR (3) THAT CONDUCT INTERFERES WITH AN INDIVIDUAL'S WORK PERFORMANCE OR CREATES AN INTIMIDATING, HOSTILE OR OFFENSIVE WORKING ENVIRONMENT.

IT ALSO IS UNLAWFUL TO RETALIATE OR TAKE REPRISALS IN ANY WAY AGAINST AN EMPLOYEE WHO HAS ARTICULATED A GOOD FAITH CONCERN ABOUT SEXUAL HARASSMENT OR DISCRIMINATION AGAINST HIM OR HER OR AGAINST ANOTHER INDIVIDUAL.

EXAMPLES OF CONDUCT THAT WOULD BE CONSIDERED SEXUAL HARASSMENT OR CONSTITUTE RETALIATION ARE PRESENTED IN THE "STATEMENT OF PROHIBITED CONDUCT" BELOW. THESE EXAMPLES ARE PROVIDED TO ILLUSTRATE THE KIND OF CONDUCT PROSCRIBED BY THIS POLICY. THIS LIST IS NOT EXHAUSTIVE.

SEXUAL HARASSMENT IS UNLAWFUL, AND THE PROHIBITED CONDUCT EXPOSES NOT ONLY THE CITY, BUT ALSO THE INDIVIDUALS INVOLVED IN THAT CONDUCT, TO SIGNIFICANT LIABILITY UNDER THE LAW. ACCORDINGLY, THE CITY'S MANAGEMENT IS COMMITTED TO VIGOROUSLY ENFORCING ITS SEXUAL HARASSMENT POLICY AT ALL LEVELS WITHIN THE CITY. EMPLOYEES SHOULD TREAT OTHER EMPLOYEES WITH RESPECT AND DIGNITY IN A MANNER THAT DOES NOT OFFEND THE SENSIBILITIES OF A COWORKER.

**18.2 STATEMENT OF PROHIBITED CONDUCT**

THE CITY'S MANAGEMENT CONSIDERS THE FOLLOWING CONDUCT TO BE ILLUSTRATIVE OF SOME OF THE CONDUCT THAT VIOLATES THE CITY'S SEXUAL HARASSMENT POLICY:

**18.2.1 PHYSICAL ASSAULTS OF A SEXUAL NATURE, SUCH AS:**

- A. RAPE, SEXUAL BATTERY, MOLESTATION, OR ATTEMPTS TO COMMIT THESE ASSAULTS; AND
- B. INTENTIONAL PHYSICAL CONDUCT THAT IS SEXUAL IN NATURE, SUCH AS TOUCHING, PINCHING, PATTING, GRABBING, BRUSHING AGAINST ANOTHER EMPLOYEE'S BODY, OR POKING ANOTHER EMPLOYEE'S BODY.

**18.2.2 UNWANTED SEXUAL ADVANCES, PROPOSITIONS OR OTHER SEXUAL COMMENTS, SUCH AS:**

- A. SEXUALLY ORIENTED GESTURES, NOISES, REMARKS, JOKES, OR COMMENTS ABOUT A PERSON'S SEXUALITY OR SEXUAL EXPERIENCE DIRECTED AT OR MADE IN THE PRESENCE OF ANY EMPLOYEE WHO INDICATES OR HAS INDICATED IN ANY WAY THAT SUCH CONDUCT IS UNWELCOME IN HIS OR HER PRESENCE;

- B. PREFERENTIAL TREATMENT OR PROMISES OF PREFERENTIAL TREATMENT TO AN EMPLOYEE FOR SUBMITTING TO SEXUAL CONDUCT, INCLUDING SOLICITING OR ATTEMPTING TO SOLICIT ANY EMPLOYEE TO ENGAGE IN SEXUAL ACTIVITY FOR COMPENSATION OR REWARD; AND
- C. SUBJECTING, OR THREATS OF SUBJECTING, AN EMPLOYEE TO UNWELCOME SEXUAL ATTENTION OR CONDUCT OR INTENTIONALLY MAKING PERFORMANCE OF THE EMPLOYEE'S JOB MORE DIFFICULT BECAUSE OF THE EMPLOYEE'S SEX.

**18.2.3 SEXUAL OR DISCRIMINATORY DISPLAYS OR PUBLICATIONS ANYWHERE IN THE CITY'S WORKPLACE BY CITY EMPLOYEES, SUCH AS:**

- A. DISPLAYING PICTURES, POSTERS, CALENDARS, GRAFFITI, OBJECTS, PROMOTIONAL MATERIALS, READING MATERIALS, OR OTHER MATERIALS THAT ARE SEXUALLY SUGGESTIVE, SEXUALLY DEMEANING, OR PORNOGRAPHIC, OR BRINGING INTO THE CITY'S WORK ENVIRONMENT OR POSSESSING ANY SUCH MATERIAL TO READ, DISPLAY, OR VIEW AT WORK.

A PICTURE WILL BE PRESUMED TO BE SEXUALLY SUGGESTIVE IF IT DEPICTS A PERSON OF EITHER SEX WHO IS NOT FULLY CLOTHED OR IN CLOTHES THAT ARE NOT SUITED TO OR CUSTOMARILY ACCEPTED FOR THE ACCOMPLISHMENT OF ROUTINE WORK IN AND AROUND THE WORKPLACE AND WHO IS POSED FOR THE OBVIOUS PURPOSE OF DISPLAYING OR DRAWING ATTENTION TO PRIVATE PORTIONS OF HIS OR HER BODY.

- B. READING PUBLICLY OR OTHERWISE PUBLICIZING IN THE WORK ENVIRONMENT MATERIALS THAT ARE IN ANY WAY SEXUALLY REVEALING, SEXUALLY SUGGESTIVE, SEXUALLY DEMEANING, OR PORNOGRAPHIC; AND
- C. DISPLAYING SIGNS OR OTHER MATERIALS PURPORTING TO SEGREGATE AN EMPLOYEE BY SEX IN ANY AREA OF THE WORKPLACE (OTHER THAN RESTROOMS AND SIMILAR SEMI-PRIVATE LOCKERS AND CHANGING ROOMS).

**18.2.4 RETALIATION FOR SEXUAL HARASSMENT COMPLAINTS, SUCH AS:**

- A. DISCIPLINING, CHANGING WORK ASSIGNMENTS OF, PROVIDING INACCURATE WORK INFORMATION TO, OR REFUSING TO COOPERATE OR DISCUSS WORK-RELATED MATTERS WITH ANY EMPLOYEE BECAUSE THAT EMPLOYEE HAS COMPLAINED ABOUT OR RESISTED HARASSMENT, DISCRIMINATION, OR RETALIATION; AND
- B. INTENTIONALLY LYING ABOUT, FALSELY DENYING, EXERTING PRESSURE, OR OTHERWISE ATTEMPTING TO COVER UP CONDUCT SUCH AS THAT DESCRIBED IN ANY ITEM ABOVE.

**18.2.5 OTHER ACTS:**

- A. THE ILLUSTRATIONS STATED ABOVE ARE NOT TO BE CONSTRUED AS AN ALL-INCLUSIVE LIST OF PROHIBITED ACTS UNDER THIS POLICY.
- B. SEXUAL HARASSMENT IS UNLAWFUL AND HURTS OTHER EMPLOYEES. MOREOVER, EACH INCIDENT OF HARASSMENT CONTRIBUTES TO A GENERAL ATMOSPHERE IN WHICH ALL PERSONS WHO SHARE THE VICTIM'S SEX SUFFER THE CONSEQUENCES. SEXUALLY ORIENTED ACTS OR SEX-

BASED CONDUCT HAVE NO LEGITIMATE BUSINESS PURPOSES. ACCORDINGLY, THE EMPLOYEE WHO ENGAGES IN THAT CONDUCT SHOULD BE AND WILL BE MADE TO BEAR THE FULL RESPONSIBILITY FOR THAT UNLAWFUL CONDUCT.

### **18.3 SCHEDULE OF PENALTIES FOR MISCONDUCT**

THE FOLLOWING SCHEDULE OF PENALTIES APPLIES TO ALL VIOLATIONS OF THE CITY'S SEXUAL HARASSMENT POLICY, AS EXPLAINED IN MORE DETAIL IN THE **STATEMENT OF PROHIBITED CONDUCT**. WHEN PROGRESSIVE DISCIPLINE IS PROVIDED FOR, EACH INSTANCE OF CONDUCT VIOLATING THE POLICY MOVES THE OFFENDING EMPLOYEE THROUGH THE STEPS OF DISCIPLINARY ACTION. IN OTHER WORDS, IT IS NOT NECESSARY FOR AN EMPLOYEE TO REPEAT THE SAME PRECISE CONDUCT IN ORDER TO MOVE UP THE SCALE OF DISCIPLINE.

A WRITTEN RECORD OF EACH ACTION TAKEN PURSUANT TO THE POLICY WILL BE PLACED IN THE OFFENDING EMPLOYEE'S AND ALLEGED VICTIM'S PERSONNEL FILES. THE RECORD WILL REFLECT THE CONDUCT OR ALLEGED CONDUCT; THE NATURE, SCOPE, AND FINDINGS OF THE INVESTIGATION; AND THE WARNING GIVEN OR OTHER DISCIPLINE IMPOSED.

#### **18.3.1 ASSAULT**

ANY EMPLOYEE'S FIRST PROVEN OFFENSE OF ASSAULT OR THREAT OF ASSAULT, INCLUDING ASSAULT OF A SEXUAL NATURE, WILL RESULT IN DISMISSAL.

#### **18.3.2 OTHER ACTS OF HARASSMENT**

AN EMPLOYEE'S COMMISSION OF ACTS OF SEXUAL HARASSMENT OTHER THAN ASSAULT WILL RESULT IN NON-DISCIPLINARY ORAL COUNSELING ON THE ALLEGED FIRST OFFENSE; WRITTEN WARNING, SUSPENSION, DEMOTION, OR DISCHARGE ON THE FIRST PROVEN OFFENSE, DEPENDING ON THE NATURE OR SEVERITY OF THE MISCONDUCT; AND SUSPENSION, DEMOTION OR DISCHARGE ON THE SECOND PROVEN OFFENSE, DEPENDING ON THE NATURE OR SEVERITY OF THE MISCONDUCT.

#### **18.3.3 RETALIATION**

ALLEGED RETALIATION AGAINST A SEXUAL HARASSMENT COMPLAINANT WILL RESULT IN NON-DISCIPLINARY ORAL COUNSELING. ANY FORM OF PROVEN RETALIATION WILL RESULT IN SUSPENSION, DEMOTION OR DISCHARGE ON THE FIRST PROVEN OFFENSE, DEPENDING ON THE NATURE AND SEVERITY OF THE RETALIATORY ACTS, AND IMMEDIATE DISCHARGE ON THE SECOND PROVEN OFFENSE.

#### **18.3.4 SUPERVISORS**

A SUPERVISOR'S COMMISSION OF ACTS OF SEXUAL HARASSMENT (OTHER THAN ASSAULT) WITH RESPECT TO ANY OTHER EMPLOYEE UNDER THAT PERSON'S SUPERVISION WILL RESULT IN SUSPENSION, DEMOTION OR OTHER DISCIPLINARY ACTION, INCLUDING IMMEDIATE DISCHARGE, FOR THE ALLEGED FIRST OFFENSE OR THE FIRST PROVEN OFFENSE, DEPENDING ON THE NATURE AND SEVERITY OF THE MISCONDUCT; AND IMMEDIATE DISCHARGE FOR ANY SUBSEQUENT OFFENSE.

**18.4 PROCEDURES FOR MAKING, INVESTIGATING, AND RESOLVING SEXUAL HARASSMENT AND RETALIATION COMPLAINTS**

**18.4.1 COMPLAINTS**

THE CITY WILL PROVIDE ITS EMPLOYEES WITH CONVENIENT, CONFIDENTIAL, AND RELIABLE MECHANISMS FOR REPORTING INCIDENTS OF SEXUAL HARASSMENT AND RETALIATION. ACCORDINGLY, THE CITY DESIGNATES AT LEAST TWO EMPLOYEES IN SUPERVISORY OR MANAGERIAL POSITIONS AT THE WORKPLACE TO SERVE AS INVESTIGATIVE OFFICERS FOR SEXUAL HARASSMENT ISSUES. THE NAMES, RESPONSIBILITIES, WORK LOCATIONS, AND PHONE NUMBERS OF EACH OFFICER WILL BE ROUTINELY AND CONTINUOUSLY POSTED. IN ADDITION, COMPLAINTS MAY BE MADE TO THE HUMAN RESOURCES DIRECTOR OR THE CITY MANAGER.

THE INVESTIGATIVE OFFICERS MAY APPOINT "DESIGNEES" TO ASSIST THEM IN HANDLING SEXUAL HARASSMENT COMPLAINTS. PERSONS APPOINTED AS DESIGNEES SHALL NOT CONDUCT AN INVESTIGATION UNTIL THEY HAVE RECEIVED TRAINING EQUIVALENT TO THAT RECEIVED BY THE INVESTIGATIVE OFFICERS. THE PURPOSE OF HAVING SEVERAL PERSONS TO WHOM COMPLAINTS MAY BE MADE IS TO AVOID A SITUATION IN WHICH AN EMPLOYEE IS FACED WITH COMPLAINING TO THE PERSON, OR A CLOSE ASSOCIATE OF THE PERSON, WHO WOULD BE THE SUBJECT OF THE COMPLAINT.

COMPLAINTS OF ACTS OF SEXUAL HARASSMENT OR RETALIATION THAT ARE IN VIOLATION OF THE SEXUAL HARASSMENT POLICY WILL BE ACCEPTED IN WRITING OR ORALLY, AND ANONYMOUS COMPLAINTS WILL BE TAKEN SERIOUSLY AND INVESTIGATED. ANYONE WHO HAS OBSERVED SEXUAL HARASSMENT OR RETALIATION SHOULD REPORT IT TO A DESIGNATED INVESTIGATIVE OFFICER. A COMPLAINT NEED NOT BE LIMITED TO SOMEONE WHO WAS THE TARGET OF HARASSMENT OR RETALIATION.

ONLY THOSE WHO HAVE AN IMMEDIATE NEED TO KNOW, INCLUDING THE INVESTIGATIVE OFFICERS AND/OR HIS OR HER DESIGNEE, THE ALLEGED TARGET OF HARASSMENT OR RETALIATION, THE ALLEGED HARASSERS OR RETALIATORS, AND ANY WITNESSES WILL OR MAY FIND OUT THE IDENTITY OF THE COMPLAINANT. ALL PARTIES CONTACTED IN THE COURSE OF AN INVESTIGATION WILL BE ADVISED THAT ALL PARTIES INVOLVED IN A CHARGE ARE ENTITLED TO RESPECT, AND THAT ANY RETALIATION OR REPRISAL AGAINST AN INDIVIDUAL WHO IS AN ALLEGED TARGET OF HARASSMENT OR RETALIATION, WHO HAS MADE A COMPLAINT, OR WHO HAS PROVIDED EVIDENCE IN CONNECTION WITH A COMPLAINT IS A SEPARATE ACTIONABLE OFFENSE AS PROVIDED IN THE SCHEDULE OF PENALTIES.

**18.4.2 INVESTIGATIONS**

EACH INVESTIGATIVE OFFICER WILL RECEIVE THOROUGH TRAINING ABOUT SEXUAL HARASSMENT AND THE PROCEDURES UNDER THIS POLICY, AND WILL HAVE THE RESPONSIBILITY FOR INVESTIGATING COMPLAINTS OR HAVING AN APPROPRIATELY TRAINED AND DESIGNATED CITY INVESTIGATOR DO SO.

WHEN A COMPLAINT IS MADE, THE INVESTIGATIVE OFFICER WILL HAVE THE DUTY OF IMMEDIATELY BRINGING ALL SEXUAL HARASSMENT AND RETALIATION COMPLAINTS TO THE CONFIDENTIAL ATTENTION OF THE HUMAN RESOURCES MANAGER AND THE CITY MANAGER, AND EACH WILL MAINTAIN A FILE ON THE ORIGINAL COMPLAINT AND FOLLOW-UP INVESTIGATION.

ALL COMPLAINTS WILL BE INVESTIGATED EXPEDITIOUSLY BY A TRAINED CITY INVESTIGATIVE OFFICER OR HIS OR HER DESIGNEE. THE INVESTIGATIVE OFFICER WILL PRODUCE A WRITTEN REPORT WHICH,

TOGETHER WITH THE INVESTIGATION FILE, WILL BE SHOWN TO THE COMPLAINANT ON REQUEST WITHIN A REASONABLE TIME. THE INVESTIGATIVE OFFICER IS EMPOWERED TO RECOMMEND REMEDIAL MEASURES BASED ON THE RESULTS OF THE INVESTIGATION, AND THE CITY MANAGEMENT WILL PROMPTLY CONSIDER AND ACT ON THAT RECOMMENDATION.

#### **18.4.3 COOPERATION**

AN EFFECTIVE SEXUAL HARASSMENT POLICY REQUIRES THE SUPPORT AND EXAMPLE OF CITY PERSONNEL IN POSITIONS OF AUTHORITY. CITY AGENTS OR EMPLOYEES WHO ENGAGE IN SEXUAL HARASSMENT OR RETALIATION OR WHO FAIL TO COOPERATE WITH CITY-SPONSORED INVESTIGATIONS OF SEXUAL HARASSMENT OR RETALIATION MAY BE SEVERELY SANCTIONED BY SUSPENSION OR DISMISSAL. BY THE SAME TOKEN, OFFICIALS WHO REFUSE TO IMPLEMENT REMEDIAL MEASURES, OBSTRUCT THE REMEDIAL EFFORTS OF OTHER CITY EMPLOYEES, AND/OR RETALIATE AGAINST SEXUAL HARASSMENT COMPLAINANTS OR WITNESSES MAY BE IMMEDIATELY SANCTIONED BY SUSPENSION OR DISMISSAL.

#### **18.5 PROCEDURES AND RULES FOR EDUCATION AND TRAINING**

EDUCATION AND TRAINING FOR EMPLOYEES AT EACH LEVEL OF THE WORKFORCE ARE CRITICAL TO THE SUCCESS OF THE CITY'S SEXUAL HARASSMENT POLICY. THE FOLLOWING DOCUMENTS WILL HELP THE CITY MEET ITS GOALS IN THIS AREA: THE SEXUAL HARASSMENT POLICY, THE STATEMENT OF PROHIBITED CONDUCT, THE SCHEDULE OF PENALTIES FOR MISCONDUCT, AND PROCEDURES FOR MAKING, INVESTIGATING, AND RESOLVING SEXUAL HARASSMENT AND RETALIATION COMPLAINTS. THESE DOCUMENTS OR EDUCATIONAL POSTERS USING CONCISE MESSAGES CONVEYING THE CITY'S OPPOSITION TO WORKPLACE SEXUAL HARASSMENT WILL BE CONSPICUOUSLY AND CONTINUOUSLY POSTED THROUGHOUT THE WORKPLACE ON EACH CITY EMPLOYEE BULLETIN BOARD. THE SEXUAL HARASSMENT POLICY WILL BE SENT TO ALL EMPLOYEES UNDER A COVER LETTER FROM THE HUMAN RESOURCES MANAGER. THE LETTER WILL INDICATE THAT COPIES ARE AVAILABLE AT NO COST AND HOW THEY CAN BE OBTAINED. THE CITY'S SEXUAL HARASSMENT POLICY WILL ALSO BE INCLUDED IN THE CITY PERSONNEL HANDBOOK WHICH IS ISSUED TO EACH CITY EMPLOYEE.

EDUCATION AND TRAINING INCLUDE THE FOLLOWING COMPONENTS:

- A. **FOR ALL CITY EMPLOYEES:** AS PART OF GENERAL ORIENTATION, EACH NEWLY-HIRED EMPLOYEE WILL BE GIVEN A COPY OF THE CITY'S SEXUAL HARASSMENT POLICY AND REQUESTED TO READ AND SIGN A RECEIPT FOR THE CITY'S POLICY STATEMENT ON SEXUAL HARASSMENT SO THAT THEY ARE ON NOTICE OF THE STANDARDS OF BEHAVIOR EXPECTED.
  
- B. **FOR SUPERVISORS:** SUPERVISORS SHALL PARTICIPATE IN AT LEAST ONE 2-HOUR TRAINING CLASS EVERY TWO YEARS, EXCEPT THAT NEWLY-APPOINTED SUPERVISORS SHALL PARTICIPATE IN SUCH TRAINING WITHIN 6 MONTHS OF APPOINTMENT. SUPERVISORS WHO HAVE ATTENDED A MANAGEMENT TRAINING SEMINAR ON SEXUAL HARASSMENT WILL EXPLAIN ORALLY, AT LEAST ONCE EVERY SIX MONTHS AT STAFF OR SAFETY MEETINGS ATTENDED BY ALL EMPLOYEES, THE KINDS OF ACTS THAT CONSTITUTE SEXUAL HARASSMENT, THE CITY'S SERIOUS COMMITMENT TO ELIMINATING SEXUAL HARASSMENT IN THE WORKPLACE, THE PENALTIES FOR ENGAGING IN HARASSMENT, AND THE PROCEDURES FOR REPORTING INCIDENTS OF SEXUAL HARASSMENT.



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IDENTIFY POTENTIAL WITNESSES: \_\_\_\_\_

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THE CITY WILL UNDERTAKE EVERY EFFORT TO HANDLE THE INVESTIGATION OF YOUR COMPLAINT IN A CONFIDENTIAL MANNER. IN THAT REGARD, THE CITY WILL DISCLOSE THE CONTENTS OF YOUR COMPLAINT ONLY TO THOSE PERSONS HAVING A NEED TO KNOW OF YOUR COMPLAINT AND THE FACTUAL BASIS OF YOUR COMPLAINT. FOR EXAMPLE, TO CONDUCT ITS INVESTIGATION OF YOUR COMPLAINT, THE CITY WILL NEED TO DISCLOSE PORTIONS OF YOUR COMPLAINT TO POTENTIAL WITNESSES, INCLUDING ANYONE YOU HAVE IDENTIFIED AS HAVING KNOWLEDGE OF THE FACTS ON WHICH YOU ARE BASING YOUR COMPLAINT, AS WELL AS THE ALLEGED HARASSER. BY MAKING THIS COMPLAINT, YOU AUTHORIZE THE CITY TO DISCLOSE TO OTHERS THE INFORMATION YOU HAVE PROVIDED, AND MAY IN THE FUTURE PROVIDE, WITH RESPECT TO YOUR COMPLAINT, TO THE EXTENT THAT THE CITY FEELS IT MUST RELEASE THAT INFORMATION TO ADEQUATELY INVESTIGATE YOUR CLAIM.

NOTE THAT THE MORE INFORMATION YOU GIVE THE CITY, AND THE MORE DETAILED THAT INFORMATION, THE MORE LIKELY IT IS THAT THE CITY WILL BE ABLE TO ADDRESS YOUR COMPLAINT TO YOUR SATISFACTION. CHARGES OF SEXUAL HARASSMENT ARE TAKEN VERY SERIOUSLY BY THE CITY BOTH BECAUSE OF THE HARM CAUSED TO THE PERSON HARASSED, AND BECAUSE OF THE POTENTIAL SANCTIONS THAT MAY BE TAKEN AGAINST THE HARASSER. IT IS THEREFORE VERY IMPORTANT THAT YOU REPORT THE FACTS AS ACCURATELY AND COMPLETELY AS POSSIBLE, AND THAT YOU COOPERATE FULLY WITH THE PERSON OR PERSONS DESIGNATED TO INVESTIGATE YOUR COMPLAINT.

I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE ABOVE STATEMENTS. I HEREBY AUTHORIZE THE CITY TO DISCLOSE THE INFORMATION I PROVIDE AS IT FINDS NECESSARY IN PURSUING ITS INVESTIGATION.

DATE: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF EMPLOYEE

\_\_\_\_\_  
PRINT NAME

**19. DISCIPLINARY POLICY**

**19.1 PURPOSE**

THE CITY RESERVES THE RIGHT TO DISCIPLINE ANY CITY EMPLOYEE ON THE GROUNDS SET FORTH BELOW. WHENEVER POSSIBLE DISCIPLINARY ACTION SHALL BE PROGRESSIVE IN NATURE, DEPENDING UPON THE SEVERITY OF THE VIOLATION; SERIOUS VIOLATIONS WILL BE ADDRESSED WITH LITTLE, OR NO, PROGRESSIVE DISCIPLINE. DISCIPLINARY ACTION INCLUDES COUNSELING LETTERS, LETTERS OF REPRIMAND, SUSPENSION, DEMOTION, AND DISMISSAL.

**19.2 APPLICABILITY**

THIS POLICY APPLIES TO ALL CITY EMPLOYEES. HOWEVER, NEW EMPLOYEES WHO ARE ON PROBATION MAY BE TERMINATED WITHOUT CAUSE.

**19.3 GROUND FOR DISCIPLINARY ACTION**

ANY OF THE FOLLOWING SHALL CONSTITUTE CAUSE FOR DISCIPLINE:

**A. ATTENDANCE**

1. LEAVING WORK DURING ASSIGNED DUTY HOURS WITHOUT PERMISSION.
2. TARDINESS
3. ABSENT FROM WORK WITHOUT PERMISSION.
4. IMPROPER USE OF LEAVE.

**B. DISCRIMINATION AND HARASSMENT**

5. DISCRIMINATION AGAINST A CO-WORKER OR MEMBER OF THE PUBLIC BECAUSE OF AGE, RACE, COLOR, CREED, RELIGION, SEX, SEXUAL ORIENTATION, NATIONAL ORIGIN, ANCESTRY, MARITAL STATUS, PHYSICAL OR MENTAL DISABILITY OR MEDICAL CONDITION, AND/OR ANY OTHER PROTECTED CATEGORY.
6. HARASSING A CO-WORKER OR MEMBER OF THE PUBLIC BECAUSE OF AGE, RACE, COLOR, CREED, RELIGION, SEX, SEXUAL ORIENTATION, NATIONAL ORIGIN, ANCESTRY, MARITAL STATUS, PHYSICAL OR MENTAL DISABILITY OR MEDICAL CONDITION, AND/OR ANY OTHER PROTECTED CATEGORY.
7. SEXUAL HARASSMENT.

**C. DRUGS AND ALCOHOL**

8. BEING INTOXICATED OR UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE WHILE ON DUTY, OR OFF-DUTY IN UNIFORM OR ON CITY PROPERTY OR IN CITY VEHICLES.

9. USING, POSSESSING, PROVIDING, OR SELLING A CONTROLLED SUBSTANCE IN ANY QUANTITY WHILE ON DUTY, OR OFF-DUTY IN UNIFORM OR ON CITY PROPERTY OR IN CITY VEHICLES.
10. POSSESSING DRUG PARAPHERNALIA OR OPEN CONTAINERS OF ALCOHOLIC BEVERAGES WHILE ON DUTY, OR OFF-DUTY IN UNIFORM OR ON CITY PROPERTY OR IN CITY VEHICLES.
11. UNDER THE INFLUENCE OF PRESCRIPTION DRUGS WHILE ON DUTY, OR OFF-DUTY IN UNIFORM OR ON CITY PROPERTY OR IN CITY VEHICLES, WHICH IMPAIR WORK PERFORMANCE OR NORMAL BEHAVIOR.

**D. SAFETY**

12. VIOLATING SAFETY RULES.
13. FAILING TO WEAR REQUIRED SAFETY EQUIPMENT.
14. TAMPERING WITH SAFETY EQUIPMENT.
15. FAILING TO REPORT ANY ON-THE-JOB OR WORK-RELATED ACCIDENT OR INJURY WITHIN 24 HOURS.
16. FAILING TO MAINTAIN GOOD PHYSICAL CONDITION SUFFICIENT TO SAFELY PERFORM WORK-RELATED DUTIES.
17. ENGAGING IN RECKLESS BEHAVIOR THAT ENDANGERS YOUR OWN LIFE OR SAFETY OR THAT OF A CO-WORKER OR MEMBER OF THE PUBLIC.
18. THREATENING VIOLENCE, ENGAGING IN HORSEPLAY OR FIGHTING, WHILE ON DUTY, OR OFF-DUTY IN UNIFORM OR ON CITY PROPERTY.
19. SMOKING IN RESTRICTED AREAS.

**E. SECURITY**

20. UNAUTHORIZED ACCESS TO CONFIDENTIAL INFORMATION OR RECORDS.
21. UNAUTHORIZED RELEASE OF CONFIDENTIAL INFORMATION OR RECORDS.
22. UNAUTHORIZED ACCESS INTO SECURED CITY OFFICES, CITY BUILDINGS, OR BOTH.
23. PROVIDING UNAUTHORIZED ACCESS INTO CITY OFFICES OR CITY BUILDINGS TO THIRD PARTIES, WHETHER CO-WORKERS OR MEMBERS OF THE PUBLIC.
24. NEGLIGENTLY MISPLACING SECURITY ACCESS CODES, KEYS, ELECTRONIC KEYS OR CARDS THAT PROVIDE ACCESS TO SECURED CITY OFFICES OR CITY BUILDINGS.
25. LOITERING ON CITY PROPERTY.

**F. CITY EQUIPMENT AND VEHICLES**

26. USING CITY TELEPHONE, FACSIMILE OR COMPUTER EQUIPMENT FOR PERSONAL USE OR GAIN.
27. USING CITY EQUIPMENT OR CITY VEHICLES FOR PERSONAL USE OR GAIN.
28. UNAUTHORIZED POSSESSION OF, LOSS OF, OR DAMAGE TO, CITY PROPERTY.
29. VIOLATING THE CALIFORNIA VEHICLE CODE WHILE OPERATING A CITY VEHICLE.
30. POSSESSION OF AN UNAUTHORIZED WEAPON, FIREARM OR EXPLOSIVE WHILE ON DUTY, OR OFF-DUTY IN UNIFORM OR ON CITY PROPERTY.
31. OPERATING CITY VEHICLES OR EQUIPMENT, OR PRIVATELY-OWNED VEHICLES ON CITY BUSINESS, WITHOUT A CURRENT DRIVER'S LICENSE.
32. INVOLVEMENT IN A PREVENTABLE TRAFFIC ACCIDENT WHILE ON DUTY.

**G. WORK PERFORMANCE**

33. DISCOURTEOUS OR DISRESPECTFUL TREATMENT OF ANY MEMBER OF THE PUBLIC OR ANY CO-WORKER.
34. UNAUTHORIZED SLEEPING WHILE ON DUTY.
35. INTENTIONAL, NEGLIGENT OR RECKLESS BEHAVIOR RESULTING IN SPOILAGE OR WASTE OF CITY PROPERTY.
36. INSUBORDINATION OR DEFIANCE TOWARDS A SUPERVISOR.
37. INCOMPETENCE.
38. INEFFICIENCY, DELAY, FAILURE OR NEGLIGENCE IN THE PERFORMANCE OF WORK ASSIGNMENTS.
39. DISOBEDIENCE.
40. DISPARAGING REMARKS THAT DISCREDIT A CO-WORKER OR DISRUPT OR SUBVERT THE GOOD ORDER, EFFICIENCY AND DISCIPLINE OF THE CITY OR ANY DEPARTMENT THEREOF.
41. SABOTAGE OF CITY PROPERTY, EQUIPMENT, VEHICLES OR WORK PRODUCT.
42. PARTICIPATING IN A STRIKE, WORK STOPPAGE, WORK SLOWDOWN OR OTHER CONCERTED ACTIVITY THAT IS DETRIMENTAL TO CITY OPERATIONS AND CONSTITUTES A THREAT TO PUBLIC HEALTH OR SAFETY.
43. CONDUCT THAT IS UNBECOMING A CITY EMPLOYEE WHICH TENDS TO DISCREDIT THE CITY, WHETHER ON DUTY, OFF-DUTY IN UNIFORM OR ON CITY PROPERTY.

44. THE CONVICTION OF EITHER A MISDEMEANOR OR A FELONY WHERE THE CONVICTION HAS A NEXUS (AS REASONABLY DETERMINED BY THE CITY IN ITS SOLE DISCRETION) WITH THE EMPLOYEE'S DUTIES, WHICH MAY REQUIRE A JOB TRANSFER IN ADDITION TO DISCIPLINARY ACTION. THE CONVICTION SHALL BE CONCLUSIVE EVIDENCE OF THE MISCONDUCT HAVING OCCURRED FOR DISCIPLINARY PURPOSES. A PLEA OR VERDICT OF GUILTY, OR A CONVICTION SHOWING A PLEA OF NOLO CONTENDERE IS DEEMED TO BE A CONVICTION FOR DISCIPLINARY PURPOSES.
45. THREATENING, INTIMIDATING OR COERCING CO-WORKERS OR MEMBERS OF THE PUBLIC WHILE ON DUTY, OR WHILE OFF-DUTY IN UNIFORM OR ON CITY PROPERTY.
46. INTERFERING WITH INVESTIGATIONS CONDUCTED BY THE CITY, ITS MANAGEMENT OR DESIGNATED AGENTS OF THE CITY.
47. OBSCENE OR ABUSIVE LANGUAGE TOWARDS A CO-WORKER OR A MEMBER OF THE PUBLIC WHILE ON DUTY, OR WHILE OFF-DUTY IN UNIFORM OR ON CITY PROPERTY.
48. UNSATISFACTORY OR CARELESS WORK.
49. THE INABILITY OR REFUSAL TO IMPROVE WORK PERFORMANCE IN ACCORDANCE WITH WRITTEN OR VERBAL DIRECTION AFTER A REASONABLE TRIAL PERIOD.
50. REFUSING TO COMPLY WITH REASONABLE WORK ASSIGNMENTS MADE BY A SUPERVISOR.
51. FAILING TO TAKE REASONABLE ACTION WHILE ON DUTY OR WHEN REQUIRED BY LAW.
52. FOMENTING DISCORD.

H. **ETHICAL BEHAVIOR**

53. FAILURE OF ANY EMPLOYEE TO REPORT ANY ACTIVITIES ON HIS/HER PART (OR THE PART OF ANY OTHER EMPLOYEE) WHERE SUCH ACTIVITIES MAY RESULT IN CRIMINAL PROSECUTION OR RESULT IN DISCIPLINE UNDER THIS POLICY.
54. FAILURE OF ANY EMPLOYEE TO REPORT OFFICIAL CONTACTS BY ANY LAW ENFORCEMENT AGENCY.
55. CONCEALING OR ATTEMPTING TO CONCEAL DEFECTIVE WORK.
56. THE EXERCISE OF AUTHORITY FOR ANY IMPROPER PURPOSE.
57. MAKING FALSE, MISLEADING OR MALICIOUS STATEMENTS TO A SUPERVISOR OR WHICH HARM OR DESTROY THE REPUTATION, AUTHORITY OR OFFICIAL STANDING OF A CO-WORKER.
58. FALSIFYING RECORDS (INCLUDING TIMESHEETS), OR MAKING MISLEADING ENTRIES OR STATEMENTS, OR FAILING TO DISCLOSE MATERIAL FACTS, OR DESTROYING OR MUTILATING ANY CITY RECORD OR OTHER DOCUMENT.

59. USING A BADGE, UNIFORM, IDENTIFICATION CARD OR OTHER CITY PROPERTY FOR PERSONAL GAIN OR OTHER IMPROPER PURPOSE.
60. RECEIVING OR ACCEPTING A REWARD, FEE, GIFT, GRATUITY OR BRIBE FROM ANY PERSON RELATED TO THE PERFORMANCE OF THE EMPLOYEE'S DUTIES.
61. DISHONESTY.
62. ATTEMPTED OR ACTUAL THEFT OF CITY PROPERTY OR THE PROPERTY OF OTHERS.
63. ASSOCIATION WITH PERSONS THE RESULT OF WHICH HARMS OR DESTROYS THE REPUTATION, AUTHORITY OR OFFICIAL STANDING OF THE EMPLOYEE, A CO-WORKER OR THE CITY, OR WHICH MAY HAVE A DETRIMENTAL IMPACT ON CLOSE WORKING RELATIONSHIPS FOR WHICH PERSONAL LOYALTY AND CONFIDENCE ARE NECESSARY, OR WHICH IMPEDES THE PERFORMANCE OF THE EMPLOYEE'S DUTY OR INTERFERES WITH THE REGULAR OPERATION OF THE EMPLOYEE'S DEPARTMENT.
64. ENGAGING IN GOSSIP OR RUMOR MONGERING OR OTHER BEHAVIOR WHICH CREATES DISCORD AND DISHARMONY IN THE WORKPLACE.
65. ENGAGING IN POLITICAL ACTIVITIES WHILE ON DUTY.
66. THE UNAUTHORIZED POSSESSION, REMOVAL OR USE OF CITY PROPERTY, EQUIPMENT OR RECORDS OR THE PROPERTY OF CO-WORKERS.
67. UNAUTHORIZED SELLING, LOANING OR GIVING AWAY CITY PROPERTY OR EQUIPMENT OR RECORDS TO A MEMBER OF THE PUBLIC.
68. MISAPPROPRIATION OR MISUSE OF PUBLIC FUNDS.

I. **SUPERVISION OBLIGATIONS**

69. FAILURE OF A SUPERVISOR TO ENSURE THAT SUBORDINATES COMPLY WITH THE WRITTEN RULES, REGULATIONS, POLICIES AND PROCEDURES OF THE CITY OR ANY DEPARTMENT THEREOF.
70. FAILURE OF A SUPERVISOR TO REPORT MISCONDUCT OF A SUBORDINATE TO HIS/HER SUPERVISOR OR TO DOCUMENT SUCH MISCONDUCT.
71. DISCRIMINATORY TREATMENT OF SUBORDINATES.

J. **VIOLATION OF SPECIFIC POLICIES**

72. VIOLATION OF WRITTEN RULES, REGULATIONS, POLICIES OR PROCEDURES OF THE CITY OR A DEPARTMENT, BUREAU OR OFFICE THEREOF, OR OF ANY WRITTEN DIRECTIVE OF A SUPERVISOR. EXAMPLES INCLUDE THE CITY'S DRUG AND ALCOHOL POLICY, THE SEXUAL HARASSMENT POLICY, OR ANY OF THE LEAVE POLICIES (FMLA, JURY, BEREAVEMENT, SICK, VACATION, ETC.).

#### **19.4 ADMINISTERING DISCIPLINE**

THE TYPE OF DISCIPLINE IMPOSED SHALL BE REASONABLY COMMENSURATE WITH THE VIOLATION(S). ALTHOUGH DISCIPLINE WILL BE ADMINISTERED PROGRESSIVELY WHEREVER POSSIBLE, FROM TIME-TO-TIME VIOLATIONS ARE SO SEVERE THAT ANYTHING LESS THAN (FOR EXAMPLE) TERMINATION WITHOUT PRIOR DISCIPLINARY ACTION, MAY BE APPROPRIATE. THE DETERMINATION OF WHETHER DISCIPLINE SHALL BE PROGRESSIVE OR NOT SHALL BE MADE ON CASE-BY-CASE BASIS, BY MANAGEMENT IN ITS SOLE DISCRETION. DISCIPLINE MAY BE IMPOSED IN THE FOLLOWING FORMS:

19.4.1 WARNINGS, WHICH INCLUDES COUNSELING LETTERS AND LETTERS OF REPRIMAND;

19.4.2 UNPAID SHORT-TERM AND LONG-TERM SUSPENSIONS WITHOUT PAY;

19.4.3 DEMOTIONS; AND

19.4.4 TERMINATION OF EMPLOYMENT.

#### **19.5 WARNINGS**

WARNINGS MAY BE ORAL OR WRITTEN. WRITTEN WARNINGS INCLUDE THE FOLLOWING:

##### **19.5.1 COUNSELING LETTERS**

NORMALLY ISSUED BY THE IMMEDIATE SUPERVISOR OR THE DEPARTMENT HEAD, SUCH LETTERS INFORM THE EMPLOYEE OF THE NATURE OF THE VIOLATION AND CORRECTIVE ACTION THAT SHOULD BE TAKEN. SUCH LETTERS MAY ALSO INCLUDE THE SPECIFICATION OF OBJECTIVES TO BE ATTAINED AND A TIMETABLE FOR ATTAINMENT. IN THE EVENT THE EMPLOYEE OBJECTS TO THE LETTER, THE EMPLOYEE HAS A RIGHT TO RESPOND IN WRITING WITHIN 30 DAYS OF THE DATE OF THE COUNSELING LETTER, WHICH RESPONSE SHALL BE ATTACHED TO THE ORIGINAL LETTER AND PLACED IN THE EMPLOYEE'S FILE UNTIL THE NEXT EMPLOYEE EVALUATION, AT WHICH TIME THE LETTER WILL BE RETURNED TO THE EMPLOYEE IF NO FURTHER DISCIPLINARY ACTION IS WARRANTED.

##### **19.5.2 LETTERS OF REPRIMAND**

LIKE COUNSELING LETTERS, LETTERS OF REPRIMAND SHALL INFORM THE EMPLOYEE OF THE NATURE OF THE VIOLATION, OF CORRECTIVE ACTION TO BE TAKEN, OF OBJECTIVES TO BE ATTAINED AND A TIMETABLE THEREFORE. HOWEVER, UNLIKE COUNSELING LETTERS, LETTERS OF REPRIMAND SHALL BE MAINTAINED IN THE EMPLOYEE'S PERSONNEL FILE. OBJECTIONS OR COMPLAINTS CONCERNING A LETTER OF REPRIMAND SHALL BE ADDRESSED THROUGH THE GRIEVANCE PROCESS BY THE AFFECTED EMPLOYEE.

#### **19.6. SUSPENSIONS WITHOUT PAY**

SUSPENSIONS MAY EITHER BE SHORT-TERM OR LONG-TERM:

##### **19.6.1 SHORT-TERM SUSPENSIONS**

SUCH SUSPENSIONS ARE THREE DAYS OR LESS IN DURATION. IN THE EVENT THE EMPLOYEE OBJECTS AND DESIRES A FURTHER HEARING ON THE MATTER, IT SHALL BE ADDRESSED THROUGH THE GRIEVANCE

PROCESS, PROVIDED THAT THE EMPLOYEE INITIATES THE GRIEVANCE WITHIN 24 HOURS AFTER NOTICE OF THE SUSPENSION. DURING THE PERIOD OF TIME THAT THE MATTER IS UNDER CONSIDERATION THROUGH THE GRIEVANCE PROCESS, THE SUSPENSION WILL BE SUSPENDED.

**19.6.2 LONG-TERM SUSPENSION**

SUCH SUSPENSIONS CONSIST OF FOUR OR MORE WORKDAYS, AND SHALL ONLY BE IMPOSED UPON CONCLUSION OF THE DISCIPLINARY PROCEDURE DESCRIBED IN PARAGRAPH 11 BELOW.

**19.7. DEMOTIONS**

FOR DISCIPLINARY PURPOSES, AN EMPLOYEE MAY BE DEMOTED FROM HIS/HER POSITION IN ONE CLASS TO A POSITION IN ANOTHER CLASS HAVING A LOWER SALARY RANGE. DEMOTIONS SHALL ONLY BE IMPOSED UPON CONCLUSION OF THE DISCIPLINARY PROCEDURE DESCRIBED IN PARAGRAPH 11, BELOW. A DEMOTION FOR DISCIPLINARY PURPOSES ALSO PLACES THE EMPLOYEE ON PROBATION FOR A PERIOD OF TIME. WHILE ON PROBATION, AND IN THE EVENT OF FURTHER VIOLATION OF CITY RULES AND REGULATIONS, THE EMPLOYEE IS SUBJECT TO POSSIBLE TERMINATION.

**19.8. INVOLUNTARY TERMINATION**

INVOLUNTARY TERMINATION OF EMPLOYMENT SHALL ONLY BE IMPOSED UPON CONCLUSION OF THE DISCIPLINARY PROCEDURE DESCRIBED IN PARAGRAPH 11, BELOW. EMPLOYEES ON PROBATION MAY BE TERMINATED WITHOUT CAUSE, WHICH IS NOT SUBJECT TO THE GRIEVANCE PROCESS, NOR IS IT SUBJECT TO THE DISCIPLINARY PROCEDURES OF PARAGRAPHS 11 AND 12 OF THIS POLICY.

**19.9. OTHER FORMS OF DISCIPLINE**

THE CITY IS NOT PRECLUDED FROM TAKING OTHER CORRECTIVE MEASURES INTENDED TO MODIFY BEHAVIOR AND/OR SUSTAIN ITS NORMS.

**19.10. INVESTIGATIONS**

WITH REGARD TO POLICE OFFICERS, VIOLATIONS SHALL BE INVESTIGATED IN ACCORDANCE WITH THE POLICE DEPARTMENT'S PERSONNEL COMPLAINT PROCEDURE (POLICY MANUAL, SECTION 1019).

**19.11. DISCIPLINARY PROCEDURES**

BEFORE IMPOSING A LONG-TERM SUSPENSION, DEMOTION OR TERMINATION, THE EMPLOYEE SHALL BE ENTITLED TO THE FOLLOWING SO-CALLED SKELLY RIGHTS:

**19.11.1 SERVICE OF WRITTEN NOTICE**

THE AFFECTED EMPLOYEE SHALL BE SERVED WITH A WRITTEN NOTICE OF INTENT TO DISCIPLINE. THE NOTICE SHALL DESCRIBE THE VIOLATION(S), THE PROPOSED DISCIPLINE TO BE IMPOSED, THE REASONS FOR THE PROPOSED DISCIPLINE, A STATEMENT ADVISING THE EMPLOYEE OF HIS/HER RIGHT TO REQUEST A SKELLY HEARING WITHIN TWO WORK DAYS AFTER SERVICE OF THE NOTICE, AND COPIES OF ANY CHARGES AND MATERIALS UPON WHICH THE PROPOSED DISCIPLINE IS BASED, WHICH COPIES SHALL BE ATTACHED TO THE NOTICE OF INTENT.

### **19.11.2 SERVICE OF THE NOTICE OF INTENT TO DISCIPLINE**

THE NOTICE OF INTENT TO DISCIPLINE SHALL BE SERVED WHENEVER POSSIBLE PERSONALLY, OR BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE EMPLOYEE. ATTACHED TO THE NOTICE SHALL BE A PROOF OF SERVICE, THE ORIGINAL OF WHICH SHALL BE KEPT IN THE EMPLOYEE'S PERSONNEL FILE.

### **19.11.3 REQUEST FOR HEARING**

THE PROPOSED DISCIPLINARY ACTION SHALL NOT BE IMPOSED UNTIL THE END OF THE SECOND FULL BUSINESS DAY FOLLOWING THE DAY THE NOTICE OF INTENT WAS PERSONALLY SERVED, OR AT THE END OF THE FIFTH FULL BUSINESS DAY FOLLOWING THE DAY THE NOTICE OF INTENT WAS MAILED. DURING THAT PERIOD, THE EMPLOYEE'S SALARY SHALL BE CONTINUED TO BE PAID, AND HE/SHE MAY BE TERMINATED AT THE END OF THE SECOND (OR FIFTH, AS THE CASE MAY BE) BUSINESS DAY IF NO SKELLY HEARING HAS BEEN REQUESTED BY THE AFFECTED EMPLOYEE. IN THE EVENT A HEARING IS REQUESTED, THE EMPLOYEE SHALL CONTINUE TO BE PAID UNTIL A FINAL DECISION IS MADE.

### **19.11.4 THE SKELLY HEARING**

IF THE EMPLOYEE REQUESTS A HEARING, IT SHALL BE CONDUCTED BY A NEUTRAL THIRD PARTY, SUCH AS THE DEPARTMENT HEAD, THE HUMAN RESOURCES MANAGER, THE ASSISTANT CITY MANAGER, THE CHIEF OF POLICE OR HIS/HER DESIGNEE, OR THE CITY MANAGER OR HIS/HER DESIGNEE. THE HEARING SHALL BE CONDUCTED AS SOON AS POSSIBLE AFTER IT IS REQUESTED, USUALLY NO LATER THAN TWO BUSINESS DAYS FOLLOWING THE REQUEST. THE HEARING IS TO BE CONDUCTED INFORMALLY FOR THE PURPOSE OF GIVING THE EMPLOYEE AN OPPORTUNITY TO PROVIDE AN EXPLANATION OR MITIGATION, OR TO CORRECT MISTAKES OF FACT. NEITHER THE NEUTRAL THIRD PARTY NOR THE EMPLOYEE SHALL BE REPRESENTED BY COUNSEL OR BY UNION REPRESENTATIVES (UNLESS A LABOR AGREEMENT PROVIDES OTHERWISE). NORMALLY, SUCH HEARINGS ARE CONCLUDED WITHIN A SHORT PERIOD OF TIME; HOWEVER, THE AFFECTED EMPLOYEE SHOULD BE GIVEN SUCH ADDITIONAL TIME AS MAY BE REASONABLY NECESSARY TO PRODUCE NEW INFORMATION OR TO SUBSTANTIATE HIS/HER EXPLANATION OR MITIGATION. THE HEARING MAY BE CONTINUED TO A LATER TIME IN THE SAME DAY OR THE NEXT DAY OR SUCH OTHER DAY AS MAY REASONABLY BE NECESSARY FOR SUCH PURPOSE. THE NEUTRAL THIRD PARTY SHALL ISSUE HIS/HER DECISION WITHIN TWO BUSINESS DAYS AFTER THE CONCLUSION OF THE HEARING, EITHER APPROVING, DISAPPROVING OR MODIFYING THE INTENDED DISCIPLINE. THE RESULTING DECISION SHALL BE IMPLEMENTED IMMEDIATELY.

## **19.12 BINDING ARBITRATION**

PERMANENT EMPLOYEES WHO RECEIVE A LONG-TERM SUSPENSION OR ARE DEMOTED OR TERMINATED MAY, AFTER THE SKELLY HEARING, APPEAL THE DISCIPLINE BY SUBMITTING IT TO BINDING ARBITRATION. ARBITRATION SHALL BE CONDUCTED BY DISPUTE RESOLUTION SERVICE, INC. OF THE RIVERSIDE COUNTY BAR ASSOCIATION ("DRS, INC."), OR ITS SUCCESSOR, IN ACCORDANCE WITH ITS RULES IN EFFECT AT THE TIME OF THE COMMENCEMENT OF THE ARBITRATION PROCEEDING, AND AS SET FORTH HEREIN. THE ARBITRATOR MUST DECIDE EACH AND EVERY DISPUTE IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, AND ALL OTHER APPLICABLE LAWS. LIMITED DISCOVERY MAY BE CONDUCTED IN THE ARBITRATION PROCEEDING UPON A SHOWING OF GOOD CAUSE AND THE APPROVAL OF THE ARBITRATOR. UNLESS THE EMPLOYEE AND THE CITY STIPULATE TO THE CONTRARY, PRIOR TO THE APPOINTMENT OF THE ARBITRATOR, ALL DISPUTES SHALL FIRST BE SUBMITTED TO NON-BINDING MEDIATION, CONDUCTED BY DRS, INC. IN ACCORDANCE WITH ITS RULES AND PROCEDURES FOR

SUCH MEDIATION. THE CITY SHALL PAY ALL FEES CHARGED BY DRS, INC. FOR SUCH MEDIATION AND ARBITRATION PROCEEDINGS.

**19.13 DISCIPLINARY ACTIONS IN EMERGENCY SITUATIONS**

UNDER EMERGENCY CIRCUMSTANCES, WHERE THE HEALTH AND SAFETY OF CO-WORKERS OR THE PUBLIC IS THREATENED, AN EMPLOYEE MAY BE IMMEDIATELY DISCIPLINED WITHOUT PRIOR NOTICE AND HEARING. IN SUCH A CASE, THE AFFECTED EMPLOYEE'S SUPERVISOR SHALL PROMPTLY DOCUMENT THE CIRCUMSTANCES WHICH JUSTIFIED THE IMMEDIATE DISCIPLINARY ACTION. AFTER THE EMERGENCY HAS PASSED, THE SUPERVISOR SHALL INITIATE THE SKELLY PROCEDURES, COMMENCING WITH PARAGRAPH 11, ABOVE.

**20. GRIEVANCE PROCEDURE**

**20.1. PURPOSE**

WHEN AN EMPLOYEE HAS A COMPLAINT OR PROBLEM CONCERNING HIS/HER JOB, AND THE COMPLAINT OR PROBLEM CANNOT BE RESOLVED BY INFORMAL DISCUSSION WITH HIS/HER IMMEDIATE SUPERVISOR, THEY MAY BE BROUGHT TO THE ATTENTION OF MANAGEMENT THROUGH THE GRIEVANCE PROCEDURE.

**20.2. MATTERS EXCLUDED FROM THE GRIEVANCE PROCEDURE**

CERTAIN MATTERS AND ISSUES ARE NOT A PROPER SUBJECT OF THE GRIEVANCE PROCESS. IMPROPER MATTERS OR ISSUES ARE THOSE THAT FALL INTO TWO CATEGORIES:

- A. MATTERS THAT HAVE THEIR OWN APPEAL PROCESS, SUCH AS DISCIPLINARY ACTION; AND
- B. MATTERS AND ISSUES THAT ARE SOLELY WITHIN THE DISCRETION OF MANAGEMENT, SUCH AS STAFF REORGANIZATIONS AND REDUCTIONS IN THE WORKFORCE (BUDGETARY LAYOFFS).

**20.3. TIME LIMIT FOR PURSUING GRIEVANCES**

TO ENSURE TIMELY RESOLUTION OF GRIEVANCES, THEY SHALL BE PURSUED WITHIN 10 BUSINESS DAYS AFTER THE EMPLOYEE BECAME AWARE OF THE GRIEVANCE, OR REASONABLY SHOULD HAVE BEEN AWARE OF IT. ALL OTHER GRIEVANCES SHALL BE DEEMED UNTIMELY AND MAY BE REJECTED UNLESS THE CITY MANAGER, IN HIS/HER SOLE DISCRETION, DETERMINES THAT THERE IS GOOD CAUSE FOR THE LATE FILING OF A GRIEVANCE.

**20.4. GRIEVANCE PROCEDURE**

THERE ARE FOUR STEPS TO THE GRIEVANCE PROCEDURE:

**STEP 1: INFORMAL DISCUSSION WITH IMMEDIATE SUPERVISOR.** EMPLOYEE(S) SHALL FIRST TAKE THEIR GRIEVANCE UP INFORMALLY WITH HIS/HER IMMEDIATE SUPERVISOR. IF THE GRIEVANCE IS NOT RESOLVED BY INFORMAL DISCUSSION, THE EMPLOYEE(S) MAY FORMALLY SUBMIT, IN WRITING, THE GRIEVANCE TO HIS/HER IMMEDIATE SUPERVISOR. THE EMPLOYEE(S) SHALL BRIEFLY DESCRIBE THE GRIEVANCE AND, WHEN POSSIBLE, A SUGGESTED SOLUTION. THE IMMEDIATE SUPERVISOR SHALL FORWARD THE GRIEVANCE WITHIN TWO WORKING DAYS TO THE DEPARTMENT HEAD.

**STEP 2: DEPARTMENT HEAD.** THE DEPARTMENT HEAD SHALL MEET WITH THE EMPLOYEE(S) WITHIN THREE WORKING DAYS AFTER RECEIVING THE WRITTEN GRIEVANCE AND SHALL DELIVER HIS/HER ANSWER IN WRITING TO THE EMPLOYEE(S) WITHIN TWO WORKING DAYS THEREAFTER. THE EMPLOYEE(S) SHALL HAVE THE RIGHT TO PRESENT THE GRIEVANCE TO THE DEPARTMENT HEAD WITH OR WITHOUT A REPRESENTATIVE.

**STEP 3: HUMAN RESOURCES DIRECTOR OR ASSISTANT CITY MANAGER.** IF THE GRIEVANCE IS NOT RESOLVED IN STEP 2, THE EMPLOYEE(S) MAY SUBMIT IT IN WRITING TO THE HUMAN RESOURCES DIRECTOR (OR ASSISTANT CITY MANAGER) WITHIN THREE WORKING DAYS AFTER THE DEPARTMENT HEAD'S ANSWER IS RECEIVED BY THE EMPLOYEE(S). THE HUMAN RESOURCES DIRECTOR (OR ASSISTANT CITY MANAGER) SHALL MEET WITH THE EMPLOYEE(S) WITHIN THREE WORKING DAYS AFTER HAVING

RECEIVED THE WRITTEN GRIEVANCE AND SHALL DELIVER HIS/HER RESPONSE TO THEM IN WRITING WITHIN THREE WORKING DAYS AFTER SUCH MEETING.

**STEP 4: CITY MANAGER.** IF THE GRIEVANCE IS NOT RESOLVED IN STEP 3, THE EMPLOYEE(S) MAY SUBMIT IT IN WRITING TO THE CITY MANAGER WITHIN THREE WORKING DAYS AFTER THE DECISION OF THE HUMAN RESOURCES MANAGER/ASSISTANT CITY MANAGER IS RECEIVED. THE CITY MANAGER SHALL MEET WITH THE EMPLOYEE(S) WITHIN FIVE WORKING DAYS AFTER HAVING RECEIVED THE GRIEVANCE AND SHALL DELIVER HIS OR HER RESPONSE IN WRITING WITHIN FIVE WORKING DAYS AFTER SUCH MEETING, OR SUBSEQUENT MEETING(S), IF ANY. THE DECISION OF THE CITY MANAGER SHALL BE BINDING AND CONCLUSIVE ON ALL PARTIES.

**21. DRUG AND ALCOHOL FREE WORKPLACE**

**21.1 POLICY STATEMENT**

IT IS THE INTENT OF THE CITY OF BEAUMONT TO MAINTAIN A WORKPLACE THAT IS FREE OF DRUGS AND ALCOHOL AND TO DISCOURAGE DRUG AND ALCOHOL ABUSE BY ITS EMPLOYEES. THE CITY HAS A VITAL INTEREST IN MAINTAINING SAFE AND EFFICIENT WORKING CONDITIONS FOR ITS EMPLOYEES. SUBSTANCE ABUSE IS INCOMPATIBLE WITH HEALTH, SAFETY, EFFICIENCY, AND SERVICE TO THE PUBLIC. EMPLOYEES WHO ARE UNDER THE INFLUENCE OF A DRUG OR ALCOHOL ON THE JOB COMPROMISE THE CITY'S INTERESTS, ENDANGER THEIR OWN HEALTH AND SAFETY AND THE HEALTH AND SAFETY OF OTHERS, AND CAN CAUSE A NUMBER OF OTHER WORK-RELATED PROBLEMS, INCLUDING ABSENTEEISM AND TARDINESS, SUBSTANDARD JOB PERFORMANCE, INCREASED WORKLOADS FOR CO-WORKERS, BEHAVIOR THAT DISRUPTS OTHER EMPLOYEES, DELAYS IN THE COMPLETION OF JOBS, AND DISRUPTION OF SERVICE TO THE PUBLIC.

**21.2 PROHIBITION AGAINST ALCOHOL AND DRUGS**

WHILE ON PAID DUTY TIME, ON CITY PROPERTY, OR WHILE OFF DUTY IN A CITY UNIFORM, INCLUDING IN CITY VEHICLES OR WHILE OPERATING CITY EQUIPMENT, EMPLOYEES SHALL NOT CONSUME OR POSSESS ALCOHOLIC BEVERAGES OR CONSUME OR POSSESS CONTROLLED SUBSTANCES. EMPLOYEES SHALL NOT WORK OR BE AT WORK WHILE UNDER THE INFLUENCE OF ANY CONTROLLED SUBSTANCE (AS DEFINED HEREIN), WITHOUT WRITTEN AUTHORIZATION FROM A QUALIFIED PHYSICIAN AND THE EMPLOYEE'S SUPERVISOR.

THE UNLAWFUL MANUFACTURE, DISTRIBUTION, DISPENSING, POSSESSION, OR CONSUMPTION OF ANY CONTROLLED SUBSTANCE IS PROHIBITED ON THE JOB, IN THE CITY'S WORKPLACE, OR WHILE SUBJECT TO DUTY (I.E., STANDBY).

IN ADDITION TO PROHIBITED ACTS ALREADY PROVIDED FOR, THE FOLLOWING ACTS ARE PROHIBITED AND SUBJECT AN EMPLOYEE TO DISCIPLINE IN ACCORDANCE WITH THESE POLICIES AND PROCEDURES:

- A. THE USE OR POSSESSION OF ALCOHOL OR IMPAIRING DRUGS, INCLUDING ILLEGAL DRUGS AND DRUGS WITHOUT A PRESCRIPTION DURING WORKING HOURS OR WHILE SUBJECT TO DUTY, ON BREAKS, DURING MEAL PERIODS, OR AT ANY TIME WHILE ON CITY PROPERTY;
- B. REPORTING TO WORK OR BEING SUBJECT TO DUTY WHILE HIS/HER ABILITY TO PERFORM JOB DUTIES IS IMPAIRED DUE TO ON- OR OFF-DUTY ALCOHOL OR DRUG USE;
- C. DIRECTLY OR THROUGH A THIRD PARTY, SELLING OR PROVIDING DRUGS OR ALCOHOL TO ANY PERSON, INCLUDING ANY EMPLOYEE, WHILE EITHER OR BOTH EMPLOYEES ARE SUBJECT TO BEING CALLED TO DUTY;
- D. REPORTING FOR DUTY OR REMAIN ON DUTY IN A SAFETY-SENSITIVE CAPACITY WHILE HAVING A BLOOD ALCOHOL LEVEL OF 0.02 OR GREATER;
- E. PERFORMING SAFETY-SENSITIVE FUNCTIONS WITHIN 4 HOURS AFTER USING ALCOHOL OR USING ALCOHOL FOR 8 HOURS AFTER AN ACCIDENT OR UNTIL TESTED, WHICHEVER IS FIRST;
- F. REFUSING TO SUBMIT TO DRUG AND/OR ALCOHOL TESTING (SUCH REFUSAL IS DEEMED TO BE A POSITIVE TEST);

- G. FAILING TO ADVISE THE IMMEDIATE SUPERVISOR WHEN OTHER EMPLOYEE(S) HAVE ACTUAL KNOWLEDGE THAT AN EMPLOYEE IS IN VIOLATION OF THIS POLICY.

### **21.3 NEGLIGENT ENFORCEMENT**

SUPERVISOR/DEPARTMENT MANAGER NEGLIGENCE IN ENFORCING THIS POLICY MAY RESULT IN DISCIPLINARY MEASURES IMPOSED ON THE SUPERVISOR/DEPARTMENT MANAGER. ANY SUPERVISOR/DEPARTMENT MANAGER WHO KNOWINGLY ALLOWS AN EMPLOYEE TO OPERATE A CITY VEHICLE, EQUIPMENT, OR MACHINERY WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, INCLUDING PRESCRIPTION MEDICATIONS WHICH MAY IMPAIR THE EMPLOYEE'S REFLEXES OR JUDGMENT, OR ALLOWS AN EMPLOYEE TO POSSESS, USE, OR DISTRIBUTE ALCOHOL OR ANY ILLEGAL DRUG WHILE ON DUTY, ON OR OFF CITY PROPERTY, IS SUBJECT TO DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION.

### **21.4 DEFINITIONS**

FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING SHALL BE DEFINED AS:

- A. **"ABUSE OF ANY LEGAL DRUG"** MEANS THE USE OF ANY LEGAL DRUG, INCLUDING PRESCRIPTION DRUGS, (A) FOR ANY PURPOSE OTHER THAN THE PURPOSE FOR WHICH IT WAS PRESCRIBED OR MANUFACTURED; OR (B) IN A QUANTITY, FREQUENCY, OR MANNER THAT IS CONTRARY TO THE INSTRUCTIONS OR RECOMMENDATIONS OF THE PRESCRIBING PHYSICIAN OR MANUFACTURER.
- B. **"CONTROLLED SUBSTANCE"** DENOTES ANY SUBSTANCE WHICH COULD POTENTIALLY IMPAIR THE EMPLOYEE'S ABILITY TO EFFECTIVELY AND SAFELY PERFORM THE FUNCTIONS OF HIS/HER DUTIES, INCLUDING, BUT NOT LIMITED TO: ALCOHOL, COCA LEAVES, COCAINE, MARIJUANA, OPIUM AND OPIATES, AMPHETAMINES, METHAMPHETAMINE, LYSERGIC ACID (L.S.D.), ETC. AS OUTLINED BELOW, CERTAIN PRESCRIPTION DRUGS AND MEDICATIONS SHALL ALSO BE CLASSIFIED AS CONTROLLED SUBSTANCES.
- C. **"CONVICTION"** IS A FINDING OF GUILT (INCLUDING A PLEA OF NO CONTEST), AN IMPOSITION OF SENTENCE, OR BOTH, BY ANY JUDICIAL BODY CHARGED WITH THE RESPONSIBILITY TO DETERMINE VIOLATIONS OF THE FEDERAL OR STATE CRIMINAL DRUG STATUTES.
- D. **"REASONABLE SUSPICION"** INCLUDES A SUSPICION THAT IS BASED ON SPECIFIC PERSONAL OBSERVATIONS, SUCH AS AN EMPLOYEE'S MANNER, DISPOSITION, MUSCULAR MOVEMENT, APPEARANCE, BEHAVIOR, SPEECH, OR BREATH ODOR; INFORMATION OBTAINED FROM A RELIABLE PERSON WITH PERSONAL KNOWLEDGE; AN ACCIDENT INVOLVING CITY PROPERTY, WHERE IT APPEARS THE EMPLOYEE'S CONDUCT IS AT FAULT; PHYSICAL ALTERCATION, VERBAL ALTERCATION, OR UNUSUAL BEHAVIOR. SEE ALSO SECTION 21.7 FOR FURTHER DEFINITIONS.

REASONABLE SUSPICION MAY ALSO BE BASED ON AN EMPLOYEE'S POSSESSION OF DRUGS, ALCOHOL, OR PARAPHERNALIA IN THE WORKPLACE OR ON OR IN CITY PROPERTY, FACILITIES AND VEHICLES.

- E. **"SAFETY-SENSITIVE FUNCTIONS"** INCLUDE OPERATION OR MAINTENANCE OF A COMMERCIAL MOTOR VEHICLE, OPERATION OF MOTORIZED LANDSCAPE MAINTENANCE EQUIPMENT, OPERATION OR MAINTENANCE OF TRACTORS AND OTHER HEAVY EQUIPMENT, SUPERVISING AN EMPLOYEE WHO PERFORMS A SAFETY-SENSITIVE FUNCTION, AND ANY FUNCTION WHICH INVOLVES SOME SPECIAL AND OBVIOUS PHYSICAL OR ETHICAL DEMAND, AND THE COMPROMISE OF THE EMPLOYEE'S ABILITY TO MEET

SUCH DEMANDS COULD HAVE AN IMMEDIATE, DISASTROUS, CONSEQUENCE UPON PUBLIC SAFETY OR SECURITY, OR ON THE SAFETY OR SECURITY OF THE EMPLOYEE HIMSELF OR HIS/HER CO-WORKERS.

#### **21.5 PRESCRIPTION DRUGS**

THE USE OF PRESCRIPTION DRUGS WHICH WOULD NOT ALTER AN EMPLOYEE'S WORK PERFORMANCE IS ACCEPTABLE, IF PRESCRIBED IN WRITING BY A QUALIFIED PHYSICIAN. EMPLOYEES MUST NOTIFY THEIR SUPERVISOR BEFORE BEGINNING WORK WHEN TAKING DRUGS (PRESCRIPTION OR NON-PRESCRIPTION) WHICH MAY INTERFERE WITH THE SAFE AND EFFECTIVE PERFORMANCE OF THEIR DUTIES. IN THE EVENT THERE IS A QUESTION REGARDING AN EMPLOYEE'S ABILITY TO PERFORM ASSIGNED DUTIES SAFELY AND EFFECTIVELY WHILE USING SUCH DRUGS, A WRITTEN CLEARANCE FROM A QUALIFIED PHYSICIAN SHALL BE REQUIRED BEFORE THE EMPLOYEE IS ALLOWED TO RESUME THE EMPLOYEE'S REGULAR DUTIES. ABUSE OF ANY LEGAL DRUG IS PROHIBITED AND SHALL CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION, INCLUDING TERMINATION.

#### **21.6 PRE-EMPLOYMENT TESTING**

TOWARD REACHING THIS GOAL OF A DRUG AND ALCOHOL FREE WORKPLACE, THE CITY MAY CONDUCT PRE-EMPLOYMENT DRUG OR ALCOHOL TESTING OF APPLICANTS FOR CITY POSITIONS. PRE-EMPLOYMENT DRUG OR ALCOHOL TESTS SHALL APPLY ONLY TO NON-CITY EMPLOYEES; CITY EMPLOYEES WHO APPLY FOR ANOTHER CITY POSITION SHALL NOT BE SUBJECT TO PRE-EMPLOYMENT DRUG OR ALCOHOL TESTS. ANY APPLICANT WHO TESTS POSITIVE SHALL BE DISQUALIFIED FROM CONSIDERATION FOR EMPLOYMENT FOR A PERIOD OF SIX MONTHS.

#### **21.7 REASONABLE SUSPICION TESTING**

THE CITY ALSO RESERVES THE RIGHT TO REQUIRE THAT AN EMPLOYEE UNDERGO TESTING IF A SUPERVISOR OR DEPARTMENT MANAGER HAS A REASONABLE SUSPICION THAT THE EMPLOYEE IS UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, AS DEFINED IN THIS SECTION. REASONABLE SUSPICION SHALL, WHENEVER POSSIBLE, BE EVALUATED BASED ON PERSONAL OBSERVATIONS BY THE DEPARTMENT MANAGER OR A SUPERVISOR WHO IS FAMILIAR WITH THE EMPLOYEE'S NORMAL BEHAVIOR. INFORMATION WHICH IS OBTAINED FROM A RELIABLE PERSON WITH PERSONAL KNOWLEDGE OF THE EMPLOYEE MAY ALSO BE UTILIZED IN APPROPRIATE CIRCUMSTANCES. REASONABLE SUSPICION OR CAUSE MEANS THAT A TRAINED SUPERVISOR BELIEVES THAT THE MANNER, DISPOSITION, MUSCULAR MOVEMENT, APPEARANCE, BEHAVIOR, SPEECH, OR BREATH ODOR OF AN ON-DUTY EMPLOYEE IS INDICATIVE OF THE USE OF DRUGS OR ALCOHOL.

THE DETERMINATION THAT A REASONABLE SUSPICION EXISTS TO REQUIRE AN EMPLOYEE TO UNDERGO A DRUG OR ALCOHOL TEST MUST BE BASED ON SPECIFIC, OBJECTIVE, AND CONTEMPORANEOUS FACTS CONCERNING THE MANNER, DISPOSITION, MUSCULAR MOVEMENT, APPEARANCE, BEHAVIOR, SPEECH, OR BODY ODORS OF THE EMPLOYEE. THE DETERMINATION MUST ALSO BE BASED ON THE SUPERVISOR'S DIRECT OBSERVATIONS OF THE BEHAVIORS AND NOT ON HEARSAY. THE SUPERVISOR(S) WITNESSING THE IMPAIRMENT MUST DOCUMENT THE SPECIFIC OBSERVATIONS UPON WHICH THE REASONABLE SUSPICION IS BASED.

WHERE THERE IS A REASONABLE SUSPICION THAT THE EMPLOYEE IS UNDER THE INFLUENCE OF DRUGS OR ALCOHOL, THE SUPERVISOR SHALL ARRANGE FOR THE EMPLOYEE TO BE TRANSPORTED TO THE TESTING FACILITY AND THEN DRIVEN HOME. THE EMPLOYEE SHALL NOT BE PERMITTED TO TRANSPORT HIM/HERSELF.

IN THE EVENT THAT AN EMPLOYEE SUSPECTS THAT THE EMPLOYEE'S SUPERVISOR IS UNDER THE INFLUENCE OF DRUGS OR ALCOHOL, THE EMPLOYEE MAY SUBMIT A WRITTEN OR ORAL COMPLAINT WHICH CONTAINS DETAILED INFORMATION REGARDING THE ALLEGATION OF ALCOHOL OR SUBSTANCE ABUSE TO THE SUPERVISOR'S SUPERIOR.

#### **21.8 RANDOM TESTING**

- A. **APPLICABILITY:** ALL CITY EMPLOYEES WHO PERFORM SAFETY-SENSITIVE FUNCTIONS SHALL SUBMIT TO RANDOM ALCOHOL AND CONTROLLED SUBSTANCE TESTING. THE HUMAN RESOURCES DIRECTOR SHALL PROVIDE DEPARTMENT MANAGERS AND SUPERVISORS WITH NAMES OF SAFETY-SENSITIVE EMPLOYEES SELECTED TO BE TESTED, THE DATE AND TIME OF THE TEST, THE TYPE OF TEST TO BE CONDUCTED, AND THE COLLECTION SITE LOCATION. UP TO 50% OF CITY SAFETY-SENSITIVE EMPLOYEES ARE REQUIRED TO BE RANDOMLY TESTED ANNUALLY.
- B. **SELECTION PROCEDURE:** THE SAFETY-SENSITIVE EMPLOYEES TO BE TESTED SHALL BE RANDOMLY SELECTED FROM THE ENTIRE GROUP OF SAFETY-SENSITIVE EMPLOYEES. EACH SAFETY-SENSITIVE EMPLOYEE WILL HAVE AN EQUAL CHANCE OF BEING TESTED EACH TIME SELECTIONS ARE MADE. THE SELECTED SAFETY-SENSITIVE EMPLOYEES SHALL PROCEED IMMEDIATELY TO THE COLLECTION SITE FOR TESTING.
- C. **TIMING OF RANDOM TESTING:** A SAFETY-SENSITIVE EMPLOYEE SUBJECT TO RANDOM TESTING SHALL ONLY BE TESTED WHILE PERFORMING A SAFETY-SENSITIVE FUNCTION, JUST BEFORE THE PERFORMANCE OF SUCH A FUNCTION, OR JUST AFTER THE PERFORMANCE OF A SAFETY-SENSITIVE FUNCTION.

#### **21.9 POST-ACCIDENT TESTING**

FOR PURPOSES OF THIS POLICY, AN "ACCIDENT" IS DEFINED AS AN INCIDENT INVOLVING A VEHICLE IN WHICH ONE OR MORE OF THE FOLLOWING OCCURS: LOSS OF HUMAN LIFE; BODILY INJURY TO PERSONS; DISABLING DAMAGE TO ANY OF THE VEHICLES INVOLVED; OR ISSUANCE OF A TRAFFIC CITATION TO THE CITY EMPLOYEE FOLLOWING ANY TYPE OF VEHICLE COLLISION.

THE FOLLOWING CRITERIA APPLY WHEN CONDUCTING DRUG AND ALCOHOL TESTS DUE TO AN ACCIDENT:

- A. A BREATH ALCOHOL TEST MUST BE ADMINISTERED AS SOON AS POSSIBLE. IF NOT WITHIN TWO HOURS FOLLOWING THE ACCIDENT, THE SUPERVISOR OR DEPARTMENT MANAGER MUST PREPARE AND MAINTAIN RECORDS STATING WHY TESTING WAS NOT COMPLETED. AT THAT TIME, EVERY EFFORT SHOULD BE MADE TO ENSURE THAT A BREATH ALCOHOL TEST IS PERFORMED WITHIN 8 HOURS FOLLOWING THE ACCIDENT. IF TESTING HAS NOT OCCURRED WITHIN 8 HOURS, ATTEMPTS TO TEST SHOULD BE DISCONTINUED, AND THE SUPERVISOR OR DEPARTMENT MANAGER MUST RECORD WHY HE/SHE WAS UNABLE TO ADMINISTER THE REQUIRED TEST.
- B. A DRUG-SCREENING TEST MUST BE INITIATED WITHIN 32 HOURS FOLLOWING AN ACCIDENT. IF THE TEST IS NOT ADMINISTERED AS REQUIRED, THE SUPERVISOR OR DEPARTMENT MANAGER MUST DOCUMENT THE REASONS TESTING WAS NOT PERFORMED.
- C. THE EMPLOYEE MUST REMAIN READILY AVAILABLE FOR TESTING OR HE/SHE WILL BE DEEMED TO HAVE REFUSED THE TEST (SEE PARAGRAPH 21.2.F). THIS RULE DOES NOT REQUIRE THE DELAY OF NECESSARY MEDICAL ATTENTION FOR INJURED PERSONS FOLLOWING THE ACCIDENT, NOR PROHIBIT THE EMPLOYEE FROM LEAVING THE SCENE TO OBTAIN ASSISTANCE OR NECESSARY EMERGENCY MEDICAL CARE.

- D. AN EMPLOYEE SUBJECT TO POST-ACCIDENT TESTING MAY NOT USE ALCOHOL WITHIN 8 HOURS FOLLOWING THE ACCIDENT OR BEFORE AN ALCOHOL TEST, WHICHEVER COMES FIRST.

#### **21.10 DRUG TESTING**

URINE SPECIMENS SHALL BE SCREENED FOR THE FOLLOWING SUBSTANCES:

- A. AMPHETAMINES/METHAMPHETAMINE (I.E., SPEED AND CRYSTAL)
- B. COCAINE;
- C. OPIATES (E.G., CODEINE, HEROIN, AND MORPHINE)
- D. PHENCYCLIDINE (PCP); AND
- E. THC (MARIJUANA).

THE TESTING IS A TWO-STAGE PROCESS. IF THE INITIAL SCREENING IS POSITIVE FOR ONE OR MORE OF THE ABOVE DRUGS, THEN A CONFIRMATION TEST IS PERFORMED FOR EACH IDENTIFIED DRUG USING STATE-OF-THE-ART GAS CHROMATOGRAPHY/MASS SPECTROMETRY (GC/MS) ANALYSIS TO ENSURE THAT OVER-THE-COUNTER MEDICATIONS ARE NOT REPORTED AS POSITIVE TESTS.

#### **21.11 ALCOHOL TESTING**

THE INITIAL TEST SHALL BE A BREATH TEST BY MEANS OF AN EVIDENTIAL BREATH TESTING (EBT) DEVICE. AN ALCOHOL TESTING FORM SHALL BE COMPLETED BY THE EMPLOYEE AND A CERTIFIED BREATH ALCOHOL TECHNICIAN (BAT) TO ENSURE THE RESULTS ARE PROPERLY RECORDED. TWO BREATH TESTS ARE REQUIRED TO DETERMINE IF THE EMPLOYEE HAS A PROHIBITED ALCOHOL CONCENTRATION. A SCREENING TEST IS CONDUCTED FIRST. ANY RESULT LESS THAN 0.02 ALCOHOL CONCENTRATION IS CONSIDERED A NEGATIVE TEST, AND NO FURTHER TESTING IS REQUIRED.

IF THE ALCOHOL CONCENTRATION IS 0.02 OR GREATER, A SECOND OR CONFIRMATION TEST SHALL BE CONDUCTED. WHEN A CONFIRMATION TEST IS REQUIRED, THE EBT EQUIPMENT SHALL PRINT THE SCREENING AND CONFIRMATION TEST NUMBERS IN SEQUENTIAL ORDER. THE DEVICE SHALL ALSO PRINT THE RESULT, DATE, AND TIME OF BOTH TESTS, ALONG WITH THE NAME AND SERIAL NUMBER OF THE EBT EQUIPMENT IN ORDER TO ENSURE THE RELIABILITY OF THE RESULTS. ANY ACTION TAKEN WILL BE BASED ON THE CONFIRMATION TEST RESULT.

#### **21.12 EMPLOYEE CONSENT**

BEFORE A DRUG OR ALCOHOL TEST IS ADMINISTERED, THE EMPLOYEE WILL BE ASKED TO SIGN A CONSENT FORM AUTHORIZING THE TEST AND PERMITTING RELEASE OF THE TEST RESULTS TO THE APPROPRIATE CITY REPRESENTATIVE. THE CONSENT FORM SHALL PROVIDE A SPACE TO ACKNOWLEDGE THAT THE EMPLOYEE BEING TESTED HAS BEEN ADVISED OF THE DRUG AND ALCOHOL TESTING POLICY.

#### **21.13 REFUSAL TO CONSENT**

EMPLOYEES WHO REFUSE TO SUBMIT TO A DRUG OR ALCOHOL TEST IMMEDIATELY SHALL BE SENT HOME. AN EMPLOYEE'S REFUSAL TO SUBMIT TO DRUG OR ALCOHOL TESTING MAY ALSO RESULT IN DISCIPLINARY ACTION, UP TO AND INCLUDING TERMINATION. REFUSAL TO CONSENT SHALL INCLUDE, BUT IS NOT LIMITED TO:

- A. FAILURE TO PROVIDE ADEQUATE BREATH FOR ALCOHOL TESTING, WITHOUT VALID MEDICAL EXPLANATION, AFTER BEING NOTIFIED OF THE REQUIREMENT FOR BREATH TESTING;
- B. FAILURE TO PROVIDE AN ADEQUATE URINE SAMPLE FOR TESTING, WITHOUT A GENUINE INABILITY TO PROVIDE A SPECIMEN (AS DETERMINED BY MEDICAL EVALUATION), AFTER BEING NOTIFIED OF THE REQUIREMENT FOR URINE TESTING; AND
- C. ENGAGING IN CONDUCT THAT CLEARLY OBSTRUCTS THE TESTING PROCESS.

**21.14 SEARCHES**

SUBJECT TO THE "POLICE OFFICER BILL OF RIGHTS," CITY LOCKERS, DESKS, CABINETS, VEHICLES, COMPUTER FILES, AND COMPUTER DISKETTES ARE THE PROPERTY OF THE CITY AND ARE SUBJECT TO SEARCH WITHOUT THE EMPLOYEE'S CONSENT BY CITY MANAGEMENT AT ANY TIME WITH OR WITHOUT NOTICE. REFUSAL TO COOPERATE WITH A SEARCH MAY RESULT IN A DISCIPLINARY ACTION, UP TO AND INCLUDING TERMINATION. UNLESS THE SUPERVISORS ARE DIRECTED OTHERWISE BY THE HUMAN RESOURCES DIRECTOR, EMPLOYEES WILL BE GIVEN THE OPPORTUNITY TO BE PRESENT WHEN THE SEARCH IS CONDUCTED.

**21.15 CONSEQUENCES OF POSITIVE TEST RESULTS**

IF DRUG AND/OR ALCOHOL TEST RESULTS ARE POSITIVE, THE EMPLOYEE MAY BE DISCIPLINED, UP TO AND INCLUDING TERMINATION. IF THE EMPLOYEE IS NOT TERMINATED:

- A. IF THE ALCOHOL CONCENTRATION LEVEL IS GREATER THAN 0.02 BUT LESS THAN 0.04, THE EMPLOYEE MAY NOT RETURN TO WORK FOR A MINIMUM OF 24 HOURS AND UNTIL ANOTHER BREATH ALCOHOL TEST IS ADMINISTERED AND THE RESULT IS LESS THAN A 0.02 CONCENTRATION.

THE EMPLOYEE'S SUPERVISOR OR OTHER AUTHORIZED MANAGER SHALL MAKE ARRANGEMENTS FOR ALTERNATIVE TRANSPORTATION WHEN TEST RESULTS ARE POSITIVE FOR DRUGS OR AN ALCOHOL CONCENTRATION OF 0.02 OR GREATER.

- B. IF THE ALCOHOL CONCENTRATION LEVEL IS GREATER THAN 0.04 OR A DRUG-SCREENING TEST IS POSITIVE FOR ANY OF THE PROHIBITED CONTROLLED SUBSTANCES, THE EMPLOYEE WILL NOT BE PERMITTED TO RETURN TO WORK UNTIL:
  1. HE/SHE UNDERGOES MEDICAL EVALUATION AND, WHERE NECESSARY, REHABILITATION; AND
  2. THE EMPLOYEE HAS SUCCESSFULLY COMPLIED WITH ANY REQUIRED REHABILITATION; AND
  3. THE EMPLOYEE UNDERGOES A RETURN-TO-DUTY TEST WITH A RESULT OF A BLOOD ALCOHOL CONCENTRATION OF LESS THAN 0.02 IF THE EMPLOYEE INITIALLY TESTED POSITIVE FOR ALCOHOL, AND/OR WITH A NEGATIVE TEST RESULT FOR CONTROLLED SUBSTANCES IF THE EMPLOYEE INITIALLY TESTED POSITIVE FOR CONTROLLED SUBSTANCES.

**NOTE:** IF AN EMPLOYEE TESTS POSITIVE, THE CITY IS NOT REQUIRED TO PROVIDE REHABILITATION, PAY FOR TREATMENT OR, IN THE CASE OF A TERMINATED OR DEMOTED EMPLOYEE, REINSTATE THE EMPLOYEE.

**21.16 FITNESS FOR DUTY TESTING**

A FITNESS-FOR-DUTY TEST SHALL BE REQUIRED BEFORE RETURNING TO WORK. THE TEST RESULTS MUST BE NEGATIVE.

**21.17 FOLLOW-UP TESTING FOR SAFETY-SENSITIVE POSITIONS**

ANY SAFETY-SENSITIVE EMPLOYEE WILL BE SUBJECT TO UNANNOUNCED FOLLOW-UP TESTING UPON RETURNING TO DUTY. A MINIMUM OF SIX UNANNOUNCED TESTS WILL BE PERFORMED OVER THE FOLLOWING TWELVE-MONTH PERIOD. FOLLOW-UP TESTING MAY BE EXTENDED FOR UP TO SIXTY MONTHS FOLLOWING RETURN-TO-DUTY. THE SAME CRITERIA USED FOR THE FITNESS-FOR-DUTY TESTING WILL BE USED FOR ANY FOLLOW-UP TESTING. SUCH TESTING SHALL NOT BE SUBJECT TO THE RANDOM TESTING SELECTION PROCEDURES. MOREOVER, FOLLOW-UP TESTING MAY INCLUDE TESTS FOR OTHER SUBSTANCES BEYOND THE EMPLOYEE'S INITIAL POSITIVE TEST OF DRUG AND/OR ALCOHOL USE IF THE SUPERVISOR, DEPARTMENT HEAD OR HUMAN RESOURCES DIRECTOR HAS REASON TO BELIEVE THAT ADDITIONAL TESTING IS WARRANTED. IF FOLLOW-UP TESTING IS REQUIRED, THE EMPLOYEE ASSUMES FULL RESPONSIBILITY FOR PAYING THE FOLLOW-UP TESTING EXPENSES.

**21.18 DRUG AND ALCOHOL REHABILITATION**

IF AN EMPLOYEE VOLUNTARILY REQUESTS TIME OFF TO ENROLL IN A DRUG OR ALCOHOL REHABILITATION PROGRAM, THE EMPLOYEE MAY REQUEST A PERSONAL LEAVE OF ABSENCE PURSUANT TO SECTION 7.2.3 OF THIS MANUAL, OR IF THE LEAVE IS TAKEN IN CONNECTION WITH A SERIOUS MEDICAL CONDITION, AS CERTIFIED BY A PHYSICIAN, THEN THE EMPLOYEE MAY REQUEST A MEDICAL LEAVE PURSUANT TO SECTION 7.2.1. IN EITHER EVENT, THE PURPOSE OF THE LEAVE MUST BE FOR VOLUNTARY PARTICIPATION IN A BONA FIDE REHABILITATION PROGRAM, NOT SIMPLY TIME OFF TO "SELF CURE". FOLLOWING SUCH REHABILITATION LEAVE, THE EMPLOYEE IS ENTITLED TO RE-EMPLOYMENT, WITHOUT RESTRICTION.

**EXCEPTION:** IF AN EMPLOYEE REQUESTS LEAVE FOR DRUG OR ALCOHOL REHABILITATION AFTER HE/SHE IS CAUGHT IN A VIOLATION OF THIS POLICY, THE CITY IS NOT OBLIGATED TO GRANT A LEAVE OF ABSENCE FOR REHABILITATION. IF A LEAVE IS GRANTED, HOWEVER, THEN THE EMPLOYEE SHALL SIGN A "LAST CHANCE" AGREEMENT GOVERNING THE EMPLOYEE'S RETURN TO DUTIES AFTER SUCCESSFUL COMPLETION OF REHABILITATION. IN ADDITION, THE EMPLOYEE SHALL BE SUBJECT TO DISCIPLINARY ACTION AS THE RESULT OF BEING CAUGHT VIOLATING THIS POLICY.

**21.19 TESTING RECORDS**

RECORDS SHALL BE MAINTAINED ON TEST RESULTS, PREVENTION PROGRAMS, POLICIES, TRAINING, DRUG USE AND ALCOHOL MISUSE, REFUSALS TO SUBMIT TO TESTING, EMPLOYEE EVALUATIONS, AND ANNUAL SUMMARY OF THE CITY TESTING PROGRAM. THE RETENTION PERIOD FOR THE RECORDS IS AS FOLLOWS:

- A. **FIVE-YEAR RETENTION PERIOD:** PERTAINS TO THE RESULTS OF ALCOHOL TESTS OF 0.02 OR HIGHER, CONFIRMED POSITIVE DRUG TESTS, DOCUMENTATION OF ANY EMPLOYEE WHO HAS REFUSED TO SUBMIT TO A REQUIRED DRUG OR ALCOHOL TEST, EMPLOYEE ASSESSMENTS AND REFERRALS.

- B. **TWO-YEAR RETENTION PERIOD:** PERTAINS TO RECORDS DOCUMENTING THE COLLECTION PROCESS FOR THE DRUG AND ALCOHOL TESTS AND TRAINING OF SUPERVISORS.
- C. **ONE-YEAR RETENTION PERIOD:** PERTAINS TO ANY ALCOHOL TEST RESULTS WHICH ARE LESS THAN 0.02 AND THE DOCUMENTATION OF ANY NEGATIVE OR CANCELED DRUG TEST.

ALL RECORDS ARE CONFIDENTIAL. THE RECORDS SHALL BE KEPT IN A SEPARATE FILE AND WILL NOT BE MADE A PART OF THE EMPLOYEE'S PERSONNEL FILE. AN EXCEPTION TO THIS IS WHEN DISCIPLINARY ACTION RESULTS FROM THE INCIDENT. WHEN THERE IS DISCIPLINARY ACTION, DISCIPLINARY NOTICES AND RELATED DOCUMENTS WILL BE PLACED IN THE EMPLOYEE'S PERSONNEL FILE.

THE RESULT OF ANY TESTING DONE PURSUANT TO THIS POLICY SHALL BE USED FOR EMPLOYMENT PURPOSES ONLY AND SHALL NOT BE RELEASED FOR USE IN THE CRIMINAL JUSTICE SYSTEM, UNLESS BY COURT ORDER.

#### **21.20 ACCESS TO RECORDS**

THE FOLLOWING AGENCIES SHALL HAVE ACCESS TO ALL TEST RESULTS WITHOUT THE VERBAL OR WRITTEN CONSENT OF COVERED EMPLOYEES:

- A. THE CITY OF BEAUMONT IN PROCEEDINGS INITIATED EITHER BY THE CITY OR THE EMPLOYEE AS A RESULT OF TESTING;
- B. THE DEPARTMENT OF TRANSPORTATION AND THE CALIFORNIA HIGHWAY PATROL OR ANY STATE OR LOCAL OFFICIAL WITH REGULATORY AUTHORITY OVER THE CITY OR ANY OF ITS EMPLOYEES; AND
- C. THE NATIONAL TRANSPORTATION SAFETY BOARD WHEN CONDUCTING AN INVESTIGATION OF AN ACCIDENT WHERE DRUG AND/OR ALCOHOL TESTING WAS PERFORMED.

**22. MISCELLANEOUS POLICIES**

**22.1 EMPLOYEE'S HOME ADDRESS AND STATUS OF DRIVER'S LICENSE—DUTY TO UPDATE**

**22.1.1** ALL CITY EMPLOYEES SHALL NOTIFY HIS/HER DEPARTMENT HEAD, AND THE DEPARTMENT HEAD SHALL ENSURE THAT THE HUMAN RESOURCES DEPARTMENT IS IMMEDIATELY UPDATED ON ANY CHANGE IN THEIR RESIDENTIAL ADDRESS, TELEPHONE NUMBER(S) AND OTHER PERSONAL INFORMATION.

**22.1.2** THE POSSESSION OF A VALID CALIFORNIA DRIVER'S LICENSE IS A REQUIREMENT FOR MANY CITY EMPLOYMENT POSITIONS. CONVICTIONS OF CERTAIN OFFENSES MAY RESTRICT OR PROHIBIT AN EMPLOYEE'S ABILITY TO DRIVE CITY VEHICLES OR OPERATE CITY EQUIPMENT. THEREFORE, ALL SUCH EMPLOYEES SHALL PROMPTLY NOTIFY THE HUMAN RESOURCES DEPARTMENT OF ANY CHANGE IN THE STATUS OF THEIR DRIVER'S LICENSES.

**22.1.3** THESE CHANGES WILL BE REPORTED IN WRITING DIRECTLY TO THE HUMAN RESOURCES DIRECTOR. THE CHANGES WILL BE RECORDED IN THE EMPLOYEE'S PERSONNEL FILE WITH A COPY SENT TO APPROPRIATE SUPERVISORS AND THE CITY OF BEAUMONT FINANCE DEPARTMENT.

**22.1.4** VIOLATION OF THIS POLICY WILL RESULT IN DISCIPLINARY ACTION, INCLUDING TERMINATION.

**22.2 PERSONAL APPEARANCE, GROOMING AND DRESS CODE**

**22.2.1 PURPOSE AND SCOPE**

CITY EMPLOYEES SHALL MAINTAIN THEIR PERSONAL HYGIENE AND APPEARANCE TO PROJECT A PROFESSIONAL IMAGE APPROPRIATE FOR THEIR ASSIGNMENT. VIOLATION OF THIS POLICY WILL RESULT IN DISCIPLINARY ACTION, INCLUDING TERMINATION.

**22.2.2 GROOMING STANDARDS**

THE FOLLOWING GENERAL APPEARANCE STANDARDS SHALL APPLY TO ALL EMPLOYEES. SPECIFIC GROOMING STANDARDS MAY BE ESTABLISHED WITHIN DEPARTMENTS:

**A. HAIR**

HAIRSTYLES SHALL BE NEAT IN APPEARANCE AND OF A NATURAL COLOR.

**B. MUSTACHES**

A SHORT AND NEATLY TRIMMED MUSTACHE MAY BE WORN. MUSTACHES SHALL NOT EXTEND BELOW THE CORNERS OF THE MOUTH OR BEYOND THE NATURAL HAIRLINE OF THE UPPER LIP.

**C. SIDEBURNS**

SIDEBURNS SHALL NOT EXTEND BELOW THE BOTTOM OF THE OUTER EAR OPENING (THE TOP OF THE EARLOBES) AND SHALL BE TRIMMED AND NEAT.

### **22.2.3 TATTOOS**

WHILE ON DUTY OR REPRESENTING THE CITY IN ANY OFFICIAL CAPACITY, EVERY REASONABLE EFFORT SHOULD BE MADE TO CONCEAL TATTOOS OR OTHER BODY ART.

### **22.2.4 BODY PIERCING**

NO BODY PIERCING SHALL BE VISIBLE WHILE ANY EMPLOYEE IS ON DUTY OR REPRESENTING THE CITY IN ANY OFFICIAL CAPACITY.

## **22.3 CELL PHONES, TEXT MESSAGING, PAGERS, BLACKBERRIES, PERSONAL COMMUNICATION DEVICES (PDAs)**

### **22.3.1 PURPOSE AND SCOPE**

THIS POLICY ESTABLISHES PROCEDURES FOR THE USE OF CITY-ISSUED AND PERSONAL COMMUNICATION DEVICES, INCLUDING CELL PHONES. VIOLATION OF THIS POLICY WILL RESULT IN DISCIPLINARY ACTION, INCLUDING TERMINATION.

### **22.3.2 CITY-ISSUED COMMUNICATION DEVICES (CELL PHONES, PAGERS, ETC.)**

CITY CELL PHONES ARE ISSUED FOR THE PURPOSE OF GIVING EMPLOYEES A MEANS OF CONTACT WITH SUPERVISORS, CO-WORKERS AND THE PUBLIC.

### **22.3.3 USE OF CITY COMMUNICATION DEVICES, INCLUDING CELL PHONES AND PAGERS**

#### **A. GENERALLY:**

1. CITY CELL PHONE USAGE, INCOMING AND OUTGOING, VOICE AND TEXTING SHOULD BE RESTRICTED TO ESSENTIAL OR EMERGENCY CITY BUSINESS WHILE ON DUTY. INAPPROPRIATE CELL PHONE CONVERSATIONS OR TEXTING MAY JEOPARDIZE, EMBARRASS OR REFLECT POORLY ON THE CITY.
- 2.
2. CITY CELL PHONES AND TEXTING DEVICES SHOULD ONLY BE USED BY THE EMPLOYEE TO WHOM THE CELL PHONE IS ASSIGNED.

#### **B. USE IN MOTOR VEHICLES:**

1. EMPLOYEES SHOULD REFRAIN FROM OPERATING CELLULAR TELEPHONES, pagers, texting devices, LAPTOP COMPUTERS, HAND-HELD TWO-WAY RADIOS AND ANY OTHER DEVICE THAT MAY CAUSE VEHICLE OPERATOR DISTRACTION WHILE OPERATING A CITYOWNED OR PRIVATELY-OWNED VEHICLE IN THE COURSE OF CONDUCTING CITY BUSINESS.
2. EMPLOYEES SHALL MAKE EVERY ATTEMPT TO PROPERLY PARK THEIR VEHICLE OR USE A HANDS-FREE DEVICE WHEN USING SUCH EQUIPMENT.

THE FOLLOWING ACTIONS ARE REQUIRED:

1. IF YOU NEED TO MAKE A CALL or text FROM YOUR MOTOR VEHICLE, DO SO WHEN THE VEHICLE IS SAFELY STOPPED, OUT OF THE FLOW OF TRAFFIC AND IN A DESIGNATED PARKING AREA.
2. IF YOU RECEIVE A CALL or text message WHILE DRIVING, DO NOT ANSWER THE PHONE. ALLOW THE VOICE MAIL SERVICE PROVIDED BY THE CELL PHONE CARRIER TO ANSWER THE CALL. WHEN IT IS SAFE TO DO SO, PULL OVER TO THE SIDE OF THE ROAD, OUT OF THE FLOW OF TRAFFIC AND IN A DESIGNATED PARKING AREA. RETRIEVE YOUR MESSAGES AND RETURN THE CALLS and messages AS NEEDED BEFORE RESUMING DRIVING.

Exceptions:

PUBLIC SAFETY EMPLOYEES (POLICE AND FIRE) ARE EXEMPTED FROM THIS POLICY WHEN USING ELECTRONIC DEVICES IN COMPLIANCE WITH STATE LAW OR IN EMERGENCY SITUATIONS PER THEIR DEPARTMENTAL POLICIES.

- C. PERSONAL CALLS: WHILE ON DUTY, OTHER THAN SUPERVISOR APPROVED BREAKS, CITY CELL PHONES AND TEXT MESSAGING DEVICES MAY BE USED FOR URGENT PERSONAL CALLS AND MESSAGES ONLY SUCH AS:
1. ILLNESS/INJURY OF FAMILY MEMBER(s);
  2. UNANTICIPATED CHANGES IN WORK SCHEDULE;
  3. EMERGENCY CHILD CARE ISSUES; AND
- D. LIMITATION ON CELL PHONE AND TEXTING USE: CITY ISSUED CELL PHONES AND TEXT MESSAGE DEVICES USED FOR OFF-DUTY PERSONAL BUSINESS IS AUTHORIZED WITH THE UNDERSTANDING THAT USE CHARGES WHICH EXCEED THE MONTHLY ALLOTMENT SHALL BE REIMBURSED TO THE CITY.

**22.3.4 USE OF PERSONAL CELL PHONES**

USE OF PERSONAL CELL PHONES AND ALL OTHER PERSONAL COMMUNICATION DEVICES (PAGERS, BLACKBERRIES AND OTHER TEXTING DEVICES) ARE PROHIBITED WHILE ON DUTY, EXCEPT FOR THE REASONS SPECIFIED IN SECTION 22.3.3.C, ABOVE.

**22.3.5 NO PRIVACY RIGHTS**

WARNING: ALL COMMUNICATIONS, INCLUDING EMAIL AND TEXT MESSAGES, SENT AND RECEIVED ON CITY EQUIPMENT, INCLUDING CELL PHONES, PAGERS, BLACKBERRIES, LAPTOP COMPUTERS AND OTHER

PERSONAL COMPUTERS, AND OTHER TEXTING DEVICES AND PERSONAL COMMUNICATIONS DEVICES, ARE THE CITY'S PROPERTY AND ARE SUBJECT TO MONITORING. ALL COMMUNICATIONS, WHETHER VOICE OR TEXT, SHALL NOT BE DEEMED PRIVATE OR CONFIDENTIAL, SHALL BE DEEMED PUBLIC RECORDS AND MAY BE READ OR MONITORED.

EMPLOYEES USING CITY-ISSUED COMMUNICATIONS DEVICES WHICH UTILIZE THIRD PARTY SERVICE PROVIDERS WITH ELECTRONIC COMMUNICATION SERVICES, COMPUTER STORAGE OR PROCESSING SERVICES SHALL SIGN A WRITTEN RELEASE ON A FORM PROVIDED BY THE CITY AUTHORIZING THE CITY TO OBTAIN COMMUNICATIONS TRANSMITTED VIA THE COMMUNICATIONS SERVICES PROVIDER.

## **22.4 E-MAIL USE**

### **22.4.1 POLICY STATEMENT**

THE E-MAIL SYSTEM IS OWNED BY THE CITY AND SHOULD BE USED FOR BUSINESS PURPOSES ONLY. ALL NON-WORK-RELATED USES OF E-MAIL SHALL BE KEPT TO A MINIMUM. VIOLATION OF THIS POLICY MAY RESULT IN DISCIPLINARY ACTION, INCLUDING TERMINATION.

### **22.4.2 NO RIGHT OF PRIVACY**

ALL E-MAIL IS CONSIDERED PUBLIC RECORDS AND, THEREFORE, THE PROPERTY OF THE CITY. E-MAIL IS NOT PERSONAL TO THE EMPLOYEE. NO EMPLOYEE SHOULD EXPECT ANY PRIVACY IN ANY MESSAGE HE/SHE CREATES, RECEIVED, SENDS OR DELETES. THE CITY RESERVES THE RIGHT TO ACCESS, AUDIT AND DISCLOSE, FOR ANY REASON OR NO REASON, ALL MESSAGES TRANSMITTED OVER ITS E-MAIL SYSTEM, PLACED INTO STORAGE OR DELETED.

IF A COMMUNICATION MUST BE PRIVATE, ANOTHER METHOD TO COMMUNICATE THE MESSAGE SHALL BE USED, NOT THE E-MAIL SYSTEM.

### **22.4.3 PROHIBITED USE OF E-MAIL**

- A. SENDING DEROGATORY, DEFAMATORY, OBSCENE, DISRESPECTFUL, SEXUALLY SUGGESTIVE, HARASSING OR ANY OTHER INAPPROPRIATE MESSAGES ON THE E-MAIL SYSTEM WILL RESULT IN DISCIPLINARY ACTION.
- B. E-MAIL MESSAGES ADDRESSED TO "EVERYONE" ARE ONLY TO BE USED FOR CITY BUSINESS-RELATED ITEMS THAT ARE OF PARTICULAR INTEREST TO ALL USERS AND MUST BE APPROVED BY A SUPERVISOR. PERSONAL ADVERTISEMENTS ARE PROHIBITED.
- C. IT IS A VIOLATION OF THIS POLICY TO TRANSMIT A MESSAGE UNDER ANOTHER USER'S NAME. USERS ARE STRONGLY ENCOURAGED TO LOG OFF THE NETWORK WHEN THE COMPUTER IS UNATTENDED. THIS ADDED SECURITY MEASURE WILL PREVENT THE MISUSE BY OTHERS OF AN INDIVIDUAL'S E-MAIL, NAME AND/OR PASSWORD.

### **22.4.4 MANAGEMENT OF E-MAIL**

BECAUSE THE E-MAIL SYSTEM IS NOT DESIGNED FOR LONG-TERM RETENTION OF MESSAGES, E-MAIL THAT AN EMPLOYEE DESIRES TO SAVE OR THAT BECOMES PART OF AN OFFICIAL RECORD SHOULD BE PRINTED.

USERS OF E-MAIL ARE SOLELY RESPONSIBLE FOR THE MANAGEMENT OF THEIR MAILBOXES. MESSAGES SHOULD BE PURGED MANUALLY BY THE USER AT LEAST ONCE PER WEEK. ALL MESSAGES IN EXCESS OF ONE MONTH WILL BE DELETED AT REGULAR INTERVALS FROM THE SERVER COMPUTER.

**22.5 TELEPHONE, COMPUTER, FAX AND COPY MACHINE USE**

ALL TELEPHONES, COMPUTERS, FAX MACHINES AND COPY MACHINES ARE OWNED BY THE CITY AND SHALL BE USED FOR BUSINESS PURPOSES ONLY. ALL NON-WORK-RELATED USES OF SUCH OFFICE EQUIPMENT IS STRICTLY PROHIBITED. VIOLATION OF THIS POLICY WILL RESULT IN DISCIPLINARY ACTION, INCLUDING TERMINATION.

EXCEPTION: CITY TELEPHONES MAY BE USED FOR PERSONAL CALLS SUCH AS:

- A. ILLNESS/INJURY OF FAMILY MEMBER(S);
- B. UNANTICIPATED CHANGES IN WORK SCHEDULE;
- C. EMERGENCY CHILD CARE ISSUES; AND
- D. OTHER EMERGENCIES, AS APPROVED BY THE EMPLOYEE'S SUPERVISOR.

**22.6 COMPUTER SOFTWARE**

THE CITY LICENSES THE USE OF ITS COMPUTER SOFTWARE FROM A NUMBER OF OUTSIDE COMPANIES. THE CITY DOES NOT OWN THE SOFTWARE OR ITS RELATED DOCUMENTATION AND, UNLESS AUTHORIZED BY THE SOFTWARE DEVELOPER, THE CITY DOES NOT HAVE THE RIGHT TO REPRODUCE IT. IN ACCORDANCE WITH THE FEDERAL COPYRIGHT ACT, THE REPRODUCTION OF SOFTWARE IS SUBJECT TO CIVIL AND CRIMINAL PENALTIES, INCLUDING FINES AND IMPRISONMENT. THEREFORE:

- A. EMPLOYEES SHALL NOT COPY OR DUPLICATE, OR PERMIT ANYONE ELSE TO COPY OR DUPLICATE, COMPUTER SOFTWARE, DOCUMENTATION OR OTHER INFORMATION FURNISHED BY AN OUTSIDE COMPANY EXCEPT FOR PURPOSES OF BACK-UP RETENTION AND/OR MAINTENANCE FUNCTIONS AS RECOMMENDED BY THE SOFTWARE OWNER.

EXCEPTION: EMPLOYEES MAY COPY FOR THEIR OWN USE, SOLELY IN THE SCOPE OF EMPLOYMENT WITH THE CITY, OPERATION, TRAINING AND OTHER MANUALS AND MATERIALS OR PORTIONS THEREOF, AND ONLY AFTER OBTAINING AUTHORIZATION FROM THE CITY'S INFORMATION SERVICES MANAGER.

- B. ONLY AUTHORIZED CITY EMPLOYEES OR INDEPENDENT CONTRACTORS WILL BE PERMITTED TO USE COMPUTER SOFTWARE.
- C. COMPUTER SOFTWARE SHALL ONLY BE USED INTERNALLY FOR DUTIES RELATING TO CITY BUSINESS.
- D. COMPUTER SOFTWARE SHALL BE USED ONLY IN ACCORDANCE WITH THE LICENSING AGREEMENT WITH THE OUTSIDE COMPANY PROVIDING THE SOFTWARE.

EMPLOYEES SHALL NOTIFY THE INFORMATION SERVICES MANAGER IMMEDIATELY OF ANY UNAUTHORIZED POSSESSION, USE OR KNOWLEDGE OF ANY CITY-LICENSED COMPUTER SOFTWARE BY ANY PERSON NOT AUTHORIZED TO HAVE SUCH POSSESSION OR USE.

**22.7 USE OF CITY SEAL OR CITY OR DEPARTMENT EMBLEMS**

ALL OFFICIAL SEALS, EMBLEMS OR LOGOS, INCLUDING PATCHES, BADGES AND BUSINESS CARDS, OF THE CITY OR OF ANY OF ITS DEPARTMENTS, INCLUDING THE POLICE AND FIRE DEPARTMENTS, ARE THE PROPERTY OF THE CITY. SUCH SEALS, EMBLEMS AND LOGOS SHALL NOT BE REPRODUCED, DUPLICATED, SOLD, TRADED OR GIVEN AWAY WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE CITY MANAGER.

**22.8 CITY EMERGENCIES; DISASTER SERVICE WORKERS**

FROM TIME-TO-TIME THE CITY MAY BE THE SUBJECT OF A STATE OF EMERGENCY OR DISASTER, WHETHER NATURAL OR MANMADE. AS PROVIDED IN SECTION 4.3.7 ABOVE, ALL CITY EMPLOYEES ARE DEEMED TO BE DISASTER SERVICE WORKERS AS AN ELEMENT OF THEIR JOB CLASSIFICATIONS.

IN THE EVENT OF A DISASTER OR OTHER EMERGENCY AS MAY BE DECLARED BY THE CITY COUNCIL OR THE CITY MANAGER, ALL CITY EMPLOYEES, AS DISASTER SERVICE WORKERS, SHALL PROMPTLY PRESENT THEMSELVES FOR SERVICE DURING SUCH PERIOD OF DISASTER OR EMERGENCY, OR OTHERWISE MAKE THEMSELVES AVAILABLE FOR SERVICE. UPON NOTIFICATION OF THE EXISTENCE OF DISASTER OR EMERGENCY, ALL EMPLOYEES SHALL IMMEDIATELY CONTACT THEIR SUPERVISORS FOR FURTHER INSTRUCTIONS. FAILING TO DO SO WILL RESULT IN DISCIPLINARY ACTION, INCLUDING TERMINATION.

**22.9 NEWS MEDIA RELATIONS**

FROM TIME-TO-TIME THE CITY, ITS OFFICIALS AND EMPLOYEES ARE CONTACTED BY REPRESENTATIVES OF THE NEWS MEDIA, INCLUDING PRESS, RADIO AND TELEVISION. THE ULTIMATE AUTHORITY AND THE INDIVIDUAL RESPONSIBLE FOR THE RELEASE OF INFORMATION TO THE MEDIA ON BEHALF OF THE CITY IS THE CITY MANAGER. ANY MEDIA REQUESTS FOR INFORMATION ON BEHALF OF THE CITY SHALL BE REFERRED TO THE CITY MANAGER, OR HIS OR HER DESIGNEE. AT NO TIME SHALL A CITY EMPLOYEE MAKE ANY COMMENT OR RELEASE ANY INFORMATION TO THE MEDIA ON BEHALF OF THE CITY WITHOUT PRIOR APPROVAL FROM THE CITY MANAGER OR HIS OR HER DESIGNEE.

**22.9.1 MEDIA ACCESS**

AUTHORIZED AND BONA FIDE MEMBERS OF THE MEDIA SHALL BE PROVIDED ACCESS TO SCENES OF DISASTERS AND EMERGENCIES SUBJECT TO THE FOLLOWING CONDITIONS:

- A. THE MEDIA REPRESENTATIVE SHALL PRODUCE VALID PRESS CREDENTIALS WHICH SHALL BE PROMINENTLY DISPLAYED AT ALL TIMES WHILE IN AREAS OTHERWISE CLOSED TO THE PUBLIC;
- B. MEDIA REPRESENTATIVES MAY BE DENIED ACCESS TO EMERGENCY OPERATIONS IN SITUATIONS WHERE SUCH ACCESS WOULD REASONABLY APPEAR TO INTERFERE WITH EMERGENCY OPERATIONS; PROVIDED, HOWEVER, THAT EVERY REASONABLE EFFORT SHOULD BE MADE TO PROVIDE REPRESENTATIVES WITH ACCESS TO A COMMAND POST AT A LOCATION NEAREST TO THE EMERGENCY OPERATION.

### **22.9.2 RESTRICTED INFORMATION**

INFORMATION RELEASED TO THE MEDIA SHALL ONLY BE THAT WHICH IS AUTHORIZED BY THE CALIFORNIA PUBLIC RECORDS ACT (GOVERNMENT CODE, SECTION 6254). WHEN IN DOUBT, CONSULT THE CITY ATTORNEY.

### **22.10 RESTRICTIONS ON EMPLOYEE ASSOCIATION/UNION ACTIVITIES**

THE FOLLOWING RESTRICTIONS SHALL APPLY TO ALL EMPLOYEE ORGANIZATION/ASSOCIATION/UNION ACTIVITIES:

- A. ACCESS TO CITY WORK LOCATIONS AND THE USE OF CITY PAID TIME, FACILITIES, EQUIPMENT AND OTHER RESOURCES BY EMPLOYEE ORGANIZATIONS AND THOSE REPRESENTING THEM SHALL BE AUTHORIZED ONLY TO THE EXTENT PROVIDED FOR IN MEMORANDA OF UNDERSTANDING AND THIS SECTION OF THE PERSONNEL MANUAL;
- B. SHALL BE LIMITED TO LAWFUL ACTIVITIES THAT PERTAIN DIRECTLY TO THE EMPLOYER-EMPLOYEE RELATIONSHIP AND NOT SUCH INTERNAL EMPLOYEE ORGANIZATION BUSINESS AS SOLICITING MEMBERSHIP, CAMPAIGNING FOR OFFICE, AND ORGANIZATION MEETINGS AND ELECTIONS, AND SHALL NOT INTERFERE WITH THE EFFICIENCY, SAFETY AND SECURITY OF CITY OPERATIONS; AND
- C. SHALL BE LIMITED TO ONE CITY EMPLOYEE AT A TIME WHILE SUCH EMPLOYEE IS ON DUTY.

### **22.11 WORKPLACE VIOLENCE**

#### **22.11.1 GENERALLY**

THE CITY WILL NOT TOLERATE ANY THREATS OF VIOLENCE MADE IN THE WORKPLACE, EITHER IMPLIED OR DIRECT. THE CITY WILL NOT TOLERATE ANY THREATS OF VIOLENCE MADE TOWARD ANYONE IN THE WORKPLACE AT ANY TIME. IT IS A VIOLATION OF THIS POLICY TO USE THREATS IN AN ATTEMPT TO INTIMIDATE, PREVENT WORK FROM BEING COMPLETED, OR IN ANY WAY INTERFERE WITH PROVIDING A SAFE WORKPLACE.

THE CITY RECOGNIZES THAT INDIVIDUALS WILL EXPERIENCE DIFFICULTIES RELATED TO THEIR WORK, THEIR RELATIONSHIPS WITH CO-WORKERS, SUPERVISORS, MANAGERS, OR MEMBERS OF THE PUBLIC. THE CITY OFFERS AN EMPLOYEE ASSISTANCE PROGRAM FOR ALL EMPLOYEES TO RECEIVE SUPPORT IN HANDLING ANY DIFFICULTIES THAT MAY ARISE. THE CITY ALSO PROVIDES A GRIEVANCE PROCESS IF THE DIFFICULTIES ARE DUE TO ISSUES OF HARASSMENT, DISCRIMINATION, OR OTHER UNFAIR TREATMENT.

THIS POLICY PROVIDES GUIDELINES FOR CITY EMPLOYEES ON HOW TO PROCEED IF AND WHEN A THREAT IS MADE. THE GUIDELINES WILL CLARIFY THE ROLES AND RESPONSIBILITIES OF ALL PARTIES INVOLVED WITH HANDLING THE THREAT.

#### **22.11.2 DEFINITIONS**

- A. **VIOLENCE**: ANY ACT THAT IS COMMITTED WITH THE RESULT OF PHYSICAL OR PSYCHOLOGICAL HARM TO ANOTHER INDIVIDUAL. THIS ALSO INCLUDES ANY ACT OF DESTRUCTION OF PROPERTY BELONGING TO THE CITY OR ITS EMPLOYEES.

B. **THREAT:** A DIRECT OR IMPLIED EXPRESSION OF INTENT TO INFLECT PHYSICAL HARM AND/OR ACTIONS THAT A REASONABLE PERSON WOULD PERCEIVE AS A THREAT TO PHYSICAL SAFETY OR PROPERTY. THE FOLLOWING ARE SOME EXAMPLES OF BEHAVIORS THAT MAY BE CONSIDERED THREATS, TAKING INTO CONSIDERATION THE EMPLOYEE'S HISTORY ALONG WITH THE TONE OF VOICE, BODY LANGUAGE, AND BEHAVIOR OF THE EMPLOYEE WHEN THE THREAT WAS MADE AND THE CONTEXT OF THE DISCUSSION:

- VERBAL THREATS, WHICH INCLUDE DESCRIPTIONS OF WHAT THE VIOLENT PERSON PLANS TO DO;
- THREATENING CONDUCT, SUCH AS INTIMIDATING OTHERS, SHOWING OFF OR ACTUALLY BRANDISHING A WEAPON;
- BIZARRE STATEMENTS OR ACTIONS THREATENING PHYSICAL HARM, OFTEN STEMMING FROM A PERCEIVED WORK INJUSTICE;
- OBSESSIONS, SUCH AS NURSING A GRUDGE AGAINST A CO-WORKER OR SUPERVISOR; OR
- JOKES ABOUT PHYSICAL ACTS OF VIOLENCE.

### **22.11.3 MANDATORY REPORT**

WHEN ANY EMPLOYEE BECOMES AWARE OF A THREAT, IMPLIED OR DIRECT, TO SELF OR OTHERS, THE EMPLOYEE SHALL IMMEDIATELY NOTIFY HIS/HER SUPERVISOR OR THE HUMAN RESOURCES DIRECTOR, WHO SHALL NOTIFY THE THREATENED EMPLOYEE AND CONDUCT AN INVESTIGATION.

## **22.12 NO-WEAPONS POLICY**

### **22.12.1 PROHIBITION**

THE CITY PROHIBITS ALL PERSONS (EXCEPT POLICE OFFICERS, ETC.; SEE SECTION 22.12.3) WHO ENTER CITY PROPERTY (WHICH INCLUDES ALL VEHICLES AND ALL FACILITIES UNDER THE CONTROL OF OR USED BY THE CITY) FROM CARRYING A HANDGUN, FIREARM, KNIFE, OR WEAPON OF ANY KIND ONTO THE PROPERTY, REGARDLESS OF WHETHER THE PERSON IS LICENSED TO CARRY THE WEAPON OR NOT. THIS INCLUDES THE POSSESSION OF SUCH WEAPONS IN AN EMPLOYEE'S VEHICLE, LOCKER, DESK, ETC.

ALL CITY EMPLOYEES (EXCEPT POLICE OFFICERS, ETC.; SEE SECTION 22.12.3) ARE ALSO PROHIBITED FROM CARRYING A WEAPON WHILE IN THE COURSE AND SCOPE OF PERFORMING THEIR JOB FOR THE CITY, WHETHER THEY ARE ON CITY PROPERTY AT THE TIME OR NOT AND WHETHER THEY ARE LICENSED TO CARRY A WEAPON OR NOT. EMPLOYEES MAY NOT CARRY A WEAPON WHILE PERFORMING ANY TASK ON THE CITY'S BEHALF.

### **22.12.2 SCOPE**

THIS POLICY APPLIES TO ALL CITY EMPLOYEES, CONTRACT AND TEMPORARY EMPLOYEES, VISITORS ON CITY PROPERTY, AND CUSTOMERS AND CONTRACTORS ON CITY PROPERTY, REGARDLESS OF WHETHER THEY ARE LICENSED TO CARRY A CONCEALED WEAPON OR NOT. THE ONLY EXCEPTIONS TO THIS POLICY

ARE POLICE OFFICERS, SECURITY GUARDS, OR OTHER PERSONS WHO HAVE BEEN GIVEN WRITTEN CONSENT BY THE CITY TO CARRY A WEAPON ON THE PROPERTY.

### **22.12.3 DEFINITION**

PROHIBITED WEAPONS INCLUDE ANY FORM OF WEAPON OR EXPLOSIVE RESTRICTED UNDER LOCAL, STATE, OR FEDERAL REGULATION. THIS INCLUDES ALL FIREARMS, ILLEGAL KNIVES, OR OTHER WEAPONS COVERED BY THE LAW. IF AN EMPLOYEE HAS A QUESTION ABOUT WHETHER AN ITEM IS COVERED BY THIS POLICY, HE/SHE SHOULD CALL THE HUMAN RESOURCES DIRECTOR. EMPLOYEES ARE RESPONSIBLE FOR MAKING SURE THAT ANY POTENTIALLY COVERED ITEM IN THEIR POSSESSION IS NOT PROHIBITED BY THIS POLICY.

### **22.12.4 MANDATORY REPORT**

IF ANY EMPLOYEE BECOMES AWARE OF ANYONE VIOLATING THIS POLICY, HE/SHE SHALL REPORT IT TO HIS/HER IMMEDIATE SUPERVISOR OR THE HUMAN RESOURCES DIRECTOR IMMEDIATELY.

## **22.13 AUTOMOBILE USAGE AND ACCIDENTS**

### **22.13.1 POLICY**

IT IS THE POLICY OF THE CITY TO PROVIDE VEHICLES FOR BUSINESS USE. IN INSTANCES WHERE A CITY VEHICLE IS NOT AVAILABLE, EMPLOYEES WILL BE REIMBURSED FOR USING THEIR PRIVATE VEHICLES DURING THE COURSE OF BUSINESS AS SET FORTH BELOW.

### **22.13.2 REQUIREMENTS**

- A. **DRIVER'S LICENSES:** EMPLOYEES WHO DRIVE CITY VEHICLES MUST POSSESS A VALID DRIVER'S LICENSE, BE APPROVED TO OPERATE SUCH VEHICLES BY HUMAN RESOURCES, AND PARTICIPATE IN DMV'S "PULL NOTICE" PROGRAM. EMPLOYEES HOLDING JOBS DESIGNATED AS REQUIRING DRIVING FOR BUSINESS AS A CONDITION OF EMPLOYMENT MUST BE ABLE TO MEET THE DRIVER APPROVAL STANDARDS OF THIS POLICY AT ALL TIMES. THE DRIVING REQUIREMENTS ARE SPELLED OUT IN EACH JOB DESCRIPTION. IN ADDITION, SUCH EMPLOYEES MUST INFORM THEIR SUPERVISOR(S) OF ANY CHANGES THAT MAY AFFECT THEIR ABILITY TO MEET THE STANDARDS OF THIS POLICY. THE CITY OBTAINS, ON A REGULAR BASIS, MOTOR VEHICLE RECORDS OF ALL EMPLOYEES.
- B. **CITY VEHICLES; RENTALS; PRIVATE VEHICLES:** CITY VEHICLES WILL BE ASSIGNED TO THOSE DEPARTMENTS WHICH HAVE DEMONSTRATED A CONTINUING NEED FOR THEM. ADDITIONAL VEHICLES ARE MAINTAINED FOR USE AS NEEDED. EMPLOYEES TRAVELING OUT OF TOWN ON CITY BUSINESS, SUBJECT TO MANAGEMENT APPROVAL, MAY ALSO BE AUTHORIZED TO USE RENTAL CARS. OPTIONAL INSURANCE ON RENTAL VEHICLES SHOULD NOT BE OBTAINED.

EMPLOYEES WHO NEED TRANSPORTATION IN THE COURSE OF THEIR NORMAL WORK MAY BE ASSIGNED A CITY VEHICLE FOR THEIR USE. ALL OTHER EMPLOYEES NEEDING TRANSPORTATION FOR CITY BUSINESS MAY USE VEHICLES ASSIGNED TO THE DEPARTMENT OR DRAWN FROM THE MOTOR POOL. AS A LAST ALTERNATIVE, WHEN NO CITY VEHICLES ARE AVAILABLE, EMPLOYEES MAY USE THEIR OWN VEHICLES FOR BUSINESS PURPOSES, PROVIDED EVIDENCE OF INSURANCE

HAS BEEN RECEIVED AND APPROVED BY THE CITY AND WITH THE PRIOR APPROVAL OF THE HUMAN RESOURCES DIRECTOR.

- C. RESPONSIBILITY FOR VEHICLE AND TICKETS: EMPLOYEES WHO DRIVE A VEHICLE ON CITY BUSINESS MUST EXERCISE DUE DILIGENCE TO DRIVE SAFELY AND MAINTAIN THE SECURITY OF THE VEHICLE AND ITS CONTENTS. EMPLOYEES ARE RESPONSIBLE FOR ANY DRIVING INFRACTIONS OR FINES AS A RESULT OF THEIR DRIVING.
- D. REIMBURSEMENT FOR EXPENSES: EMPLOYEES DRIVING ON CITY BUSINESS MAY CLAIM REIMBURSEMENT FOR PARKING FEES AND TOLLS ACTUALLY INCURRED. IN ADDITION, EMPLOYEES MAY ALSO CLAIM REIMBURSEMENT FOR OUT-OF-POCKET EXPENSES DUE TO VEHICULAR ACCIDENTS THAT OCCUR WHILE CONDUCTING CITY BUSINESS WHILE USING THEIR OWN PRIVATE VEHICLE. EMPLOYEES MAY CLAIM UP TO \$500 PER ACCIDENT. EMPLOYEES DRIVING CITY VEHICLES MAY CLAIM REIMBURSEMENT FOR GASOLINE AND OTHER EXPENSES DIRECTLY INCURRED FOR BUSINESS PURPOSES.

EMPLOYEES WHO USE THEIR PERSONAL VEHICLE FOR APPROVED BUSINESS PURPOSES WILL RECEIVE A MILEAGE ALLOWANCE EQUAL TO THE INTERNAL REVENUE SERVICE STANDARD MILEAGE RATE. THIS ALLOWANCE IS TO COMPENSATE FOR THE COST OF GASOLINE, MAINTENANCE, AND USAGE. REIMBURSEMENTS SHALL NOT BE APPROVED IF THE EMPLOYEE HAS NOT COMPLIED WITH THE ABOVE INSURANCE REQUIREMENTS OR IF A CITY VEHICLE WAS AVAILABLE AND THE EMPLOYEE FAILED TO USE IT.

- E. PROOF OF INSURANCE: EMPLOYEES WHO DRIVE THEIR OWN VEHICLE ON CITY BUSINESS MUST, ON AN ANNUAL BASIS, PROVIDE THE HUMAN RESOURCES MANAGER WITH A CERTIFICATE VERIFYING THAT THEY HAVE INSURANCE COVERAGE. BEFORE ANY EMPLOYEE CAN OBTAIN REIMBURSEMENT, THE EMPLOYEE MUST HAVE THE PRIOR APPROVAL FROM HIS/HER SUPERVISOR AND HAVE A CURRENT INSURANCE CERTIFICATE ON FILE WITH THE HUMAN RESOURCES.
- F. SAFETY WHILE DRIVING: EMPLOYEES ARE NOT PERMITTED, UNDER ANY CIRCUMSTANCES, TO OPERATE A CITY VEHICLE, OR A PERSONAL VEHICLE FOR CITY BUSINESS, WHEN ANY PHYSICAL OR MENTAL IMPAIRMENT CAUSES THE EMPLOYEE TO BE UNABLE TO DRIVE SAFELY. THIS PROHIBITION INCLUDES, BUT IS NOT LIMITED TO, CIRCUMSTANCES IN WHICH THE EMPLOYEE IS TEMPORARILY UNABLE TO OPERATE A VEHICLE SAFELY OR LEGALLY BECAUSE OF ILLNESS, MEDICATION, OR INTOXICATION.
- G. ACCIDENTS AND THEFT: EMPLOYEES MUST REPORT ANY ACCIDENT, THEFT, OR DAMAGE INVOLVING A CITY VEHICLE, OR A PERSONAL VEHICLE USED FOR CITY BUSINESS, TO THE HUMAN RESOURCES DIRECTOR AND THE CITY MANAGER, REGARDLESS OF THE EXTENT OF DAMAGE OR LACK OF INJURIES. EMPLOYEES ARE EXPECTED TO COOPERATE FULLY WITH AUTHORITIES IN THE EVENT OF AN ACCIDENT. HOWEVER, THEY SHOULD NOT MAKE ANY STATEMENTS OTHER THAN IN REPLY TO QUESTIONS OF INVESTIGATING OFFICERS.
- H. PAY: TIME SPENT BY NON-EXEMPT EMPLOYEES IN DRIVING A CITY OR PERSONAL VEHICLE ON CITY BUSINESS DURING NORMAL WORKING HOURS IS CONSIDERED HOURS WORKED FOR PAY PURPOSES.

### **22.13.3 DISCIPLINARY ACTION FOR ACCIDENTS**

EMPLOYEES WHO DRIVE CITY AND PERSONAL VEHICLES ON CITY BUSINESS OR CARPOOLING ARE EXPECTED TO MAINTAIN A GOOD DRIVING RECORD. IF AN EMPLOYEE WHO'S JOB REQUIRES DRIVING AS A CONDITION OF EMPLOYMENT HAS A CHARGEABLE ACCIDENT IN A CITY VEHICLE, OR PERSONAL VEHICLE WHILE CONDUCTING CITY BUSINESS, THE EMPLOYEE IS SUBJECT TO DISCIPLINARY ACTION. IF AN EMPLOYEE OPERATES ANY CITY VEHICLE (INCLUDING HEAVY EQUIPMENT) WHILE PHYSICALLY OR MENTALLY IMPAIRED, THE EMPLOYEE IS SUBJECT TO IMMEDIATE SUSPENSION OR TERMINATION. THIS PROHIBITION INCLUDES, BUT IS NOT LIMITED TO, INSTANCES WHERE AN EMPLOYEE IS TEMPORARILY UNABLE TO OPERATE A VEHICLE SAFELY OR LEGALLY DUE TO ILLNESS, MEDICATION, OR INTOXICATION.

### **22.14 NO SMOKING POLICY**

EMPLOYEES SHALL NOT SMOKE IN ANY CITY FACILITY OR VEHICLE, OR WHILE ON DUTY IN CITY UNIFORMS, EXCEPT DURING DESIGNATED LUNCH AND REST BREAKS. A VIOLATION OF THIS "NO SMOKING" POLICY SHALL RESULT IN DISCIPLINARY ACTION.

