

RESOLUTION NO. 42-19

ATTACHMENT A

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CITY OF WHEATLAND PERSONNEL RULES

SECTION 1. AUTHORITY FOR AND COVERAGE OF THE PERSONNEL RULES

A. Authority and Administration

The City of Wheatland City Council authorizes the City Manager to administer, implement and enforce these ~~P~~ersonnel ~~R~~ules and ~~P~~olicies ("~~R~~ules"). The City Manager, in his or her discretion, may delegate any of his or her authority set forth in these Rules, as he or she may deem appropriate. As referenced in the "Amendment" section below, any change, addition, or deletion to these Rules is subject to the meet and confer process.

B. Coverage

These Rules apply to all City employees, except that nothing in these Rules regarding disciplinary rights and disciplinary processes applies to those who serve in an at-will capacity (as defined below), or at the pleasure of the Council, or by contract. Nothing in these Rules gives those who serve at-will, or at the pleasure of the Council, or by contract, the right to continued employment or employment for a definite period of time, as the employment relationship may be terminated at any time, by either party, with or without notice, and with or without cause, unless the employee has a written employment agreement signed by the City Manager and approved by the City Council that expressly provides otherwise. As referenced in the "Amendment" section below, any change, addition, or deletion to these Rules is subject to the meet and confer process.

C. No Contract Created

Nothing in these Rules is intended to create or creates any contractual right in City employment.

D. Conflicts with Other Provisions

If a provision of these Rules actually conflicts with any provision of an applicable collective bargaining agreement/memorandum of understanding (including, for example, the Memorandum Of Understanding Between The City Of Wheatland And The Police Officers Association, the Memorandum Of Understanding Between The City Of Wheatland And The General Employees' Association, and the Memorandum Of Understanding Between The City Of Wheatland And The Wheatland Sergeants Association, written employment agreement, City ordinance, or state or federal law, the collective bargaining agreement/memorandum of understanding, written employment agreement, City ordinance, or state or federal law shall control. In all other cases, these Rules apply.

E. Violation of the Personnel Rules

A violation of any Rule contained herein shall be grounds for discipline, up to and including termination from City employment.

F. Delegation of Authority

Any of the City's management staff may delegate any of the responsibilities listed in these Rules to any other appropriate management staff member, regardless of whether the Rule at issue specifically authorizes the delegation of the matter.

G. Severability

If any court finds any section, subsection, sentence clause or phrase of these Rules to be inconsistent with the law, such finding(s) shall not affect the validity of the remaining portion of these Rules.

H. Purpose

The purpose of these Rules is to establish policies, procedures and guidelines governing City personnel, employment and related matters. These Rules supersede and replace all previous employee handbooks, personnel policies, practices and guidelines, except for any written collective bargaining agreement/memorandum of understanding or employment contracts.

I. Amendments

These Personnel Rules may be amended at any time by the City Council subject to the meet and confer process. The City Council reserves full discretion to add to, modify, or delete provisions of these Rules and other employment policies, procedures, work rules or benefits, at any time and without advance notice. No one other than the City Council has the authority to modify or amend these Rules or enter into any employment contract. Any such modification or agreement must be in writing, approved by the Council, and, for employment contracts, signed by the affected employee and the City Manager. Employees will be notified of modifications to these Rules before the effective date.

SECTION 2. DEFINITIONS

The terms used in these rules shall have the meanings defined below:

1. **"Administrative Services Director"**: The employee or officer designated by the City Manager to administer the City personnel, employment, recruitment and hiring systems. The Administrative Services Director or his or her designee also is responsible for administering the complaint procedures set forth in these Rules, and authorizing and/or conducting investigations. If the City Manager has not designated someone to serve as Administrative Services Director, then the City Manager shall be the Administrative Services Director.
2. **"Advancement"**: A salary increase within the limits of a pay range established for a class.
3. **"Allocation"**: The assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibilities exercised.
4. **"Appointing Authority"**: The City officer or body that has the final authority to make decisions about appointment to City employment. The City Council is the

appointing authority with respect to the City Manager and any contract staff or consultant serving under a consultant services, professional services or other agreement above a certain dollar amount. The City Manager is the appointing authority for all other City employment positions as well as any contract staff or consultant serving under a consultant services, professional services or other agreement below a certain dollar amount.

5. “At-Will”: “At-will” refers to any City employee who 1) is not included in the competitive service; or 2) serves at the pleasure of the Council or another City employee or appointee; or 3) can be terminated at any time with or without cause, with or without notice, and without the opportunity to appeal. At-will employees can be dismissed from City employment by the appointing authority at any time, with or without cause, with or without notice, and without right of procedural due process, appeal, grievance or hearing. Employees who move from a “regular” employment status to an at-will position will be required to sign a notification and acknowledgment of at-will employment as a condition of employment in the new position. A list of the employment categories that are at-will and are not at-will is located in Section 5(B) below.

4.6. “Classification”: All positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.

5.7. “Competitive Service”: All positions of employment in the service of the City, except department heads, employees who have not yet successfully completed the probationary period, part-time employees, temporary or seasonal employees, volunteers (as defined in Section 5 below), and those other positions excluded from the competitive service by Wheatland Municipal Code section 2.16.040, subsections A to J.

6.8. “Days”: Means calendar days unless otherwise stated.

7.9. “Demotion”: The movement of an employee from one classification to another classification having a lower maximum base rate of pay.

8.10. “Department Head”: The employment positions of Chief Building Official, Administrative Services Director, City Engineer, Community Development Director, Police Chief, Public Works Director, and (if employed by City) Fire Chief.

9.11. “Disciplinary Action”: The discharge, demotion, reduction in pay, reprimand, or suspension of an employee for punitive reasons and not for any non-punitive reasons.

10.12. “Eligible”: A person whose name is on an employment list.

11.13. “Employment List”:

- a. Open employment list: A list of names of persons who have taken an open - competitive examination for a class in the competitive service and have qualified.
- b. Promotional employment list: A list of names of persons who have taken a promotional examination for a class in the competitive service and have qualified.

12.14. “Examination”:

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- a. Open-competitive examination: An examination for a particular class which is open to all persons meeting the qualifications for the class.
- b. Promotional examination: An examination for a particular class which is open only to employees meeting the qualifications for the class.
- c. Continuous examination: An open competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores, for a period of not more than one year.

13.15. “Lay-Off”: The separation of employees from the active work force due to lack of work or funds, or to the abolition of positions by the City Council for the above reasons or due to organization changes.

14.16. “Probationary Period” or “Introductory Period”: Unless otherwise specified by a labor MOU, a twelve-month period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position. The probationary period for peace officers employed in the City Police Department shall also be 12 months. Employees in a Probationary Period or Introductory Period are at-will employees.

15.17. “Promotion”: The movement of an employee from one classification to another classification having a higher maximum base rate of pay.

16.18. “Provisional Appointment”: An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available Eligibles. In no instance shall a provisional appointment exceed six months without prior approval of the City Manager or his or her designee.

17.19. “Reinstatement”: The restoration without examination of a former regular employee or probationary employee, who left City employment in good standing, to a classification in which the employee formerly served as a regular probationary or non - probationary employee.

18.20. “Relief of Duty”: The temporary assignment of an employee to a status of leave with pay.

19.21. “Supervisor”: A department head or other employee having immediate jurisdiction over another employee and who has the authority to make certain decisions about the terms and conditions of employment of employees under his or her supervision. The City Manager is the supervisor of the other department heads.

20.22. “Suspension”: The temporary separation from service of an employee without pay for disciplinary purposes.

21.23. “Transfer”: A change of an employee from one position to another position.

22.24. “Working Day”: Any day the City Administrative Offices are open for business.

23.25. “Work Week”: The work week begins on Monday at 12:01 a.m. and ends on Sunday at 12:00 a.m. unless otherwise stated in an MOU

SECTION 3. EQUAL EMPLOYMENT OPPORTUNITY/NON-DISCRIMINATION POLICY

A. Policy

It is the policy of the City of Wheatland to provide equal employment opportunity to all applicants and employees. The City strictly prohibits discrimination on the basis of race, color, religion, religious creed (including religious dress and religious grooming), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity (including transgender identity and transitioning), gender expression and sex stereotyping, national origin, ancestry, citizenship, age (40 and over), physical or mental disability, legally protected medical condition or information (including genetic information), family care or medical leave status, military caregiver status, military status, veteran status, marital status, domestic partner status, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or holding or presenting a driver’s license issued under section 12801.9 of the Vehicle Code, or any other basis protected by local, state, or federal laws.

This Policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, disciplinary action, and social and recreational programs. It is the responsibility of every manager and employee to conscientiously follow this policy. Any employee having any questions regarding this policy should discuss them with the Administrative Services Director.

B. Reasonable Accommodations

The City will also make reasonable accommodations that are necessary to comply with the state and federal disability discrimination laws. This means that the City will make reasonable

accommodations for the known physical or mental disability or known medical condition of an applicant or employee, consistent with its legal obligation to do so.

As part of its commitment to make reasonable accommodations, the City also wishes to participate in a timely, good faith, interactive process with the disabled applicant or employee to determine effective reasonable accommodations, if any, that can be made in response to a request for accommodations. Applicants and employees are invited to identify reasonable accommodations that can be made to assist them to perform the essential functions of the position they seek or occupy. They should contact the Administrative Services Director as soon as possible to request the opportunity to participate in a timely interactive process. By working together in good faith, the City hopes to implement any reasonable accommodations that are appropriate and consistent with its legal obligations.

Consistent with the law, the City also makes reasonable accommodations for: pregnant employees who request an accommodation for pregnancy, childbirth, or related medical conditions; for employees who are victims of domestic violence, sexual assault, or stalking; and for applicants and employees who need accommodations for their religious beliefs and practices that eliminates the conflict between the religious practice and the job requirement at issue.

The City prohibits sexual harassment as well as harassment on the basis of each protected category listed above. For information, please refer to Section 4 of these Rules.

The following definitions are summaries of applicable legal authorities, including applicable federal and state laws, regulations, case law, etc., provided solely to assist employees in the understanding of equal employment opportunity, the interactive process and reasonable accommodations. To the extent any definition differs from applicable legal authorities, those applicable legal authorities will control.

1. **Disability** – An individual has a disability if he or she has a physical or mental disability that limits one or more major life activities. A “disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs, or conditions that are mild, which do not limit a major life activity, as determined on a case-by-case basis. These excluded conditions have little or no residual effects, such as the common cold; seasonal or common influenza; minor cuts, sprains, muscle aches, soreness, bruises, or abrasions; non-migraine headaches, and minor and non-chronic gastrointestinal disorders.
2. **Essential Function** – fundamental job duties of the employment position the applicant or employee with a disability holds or desires. A job function may be considered essential for several reasons, including, but not limited to:
 - a. the reason the position exists is to perform that function;
 - b. there is a limited number of employees who can perform that function; or

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- c. the function is highly specialized so that the incumbent is hired for his/her expertise or ability to perform that particular function.

3. **Mental Disability** – any psychological or mental disorder or condition that limits a major life activity. “Mental disability” includes, but is not limited to, emotional or mental illness, intellectual or cognitive disability (formerly referred to as “mental retardation”), organic brain syndrome, or specific learning disabilities, autism spectrum disorders, schizophrenia, and chronic or episodic conditions such as clinical depression, bipolar disorder, post-traumatic stress disorder, and obsessive compulsive disorder.
4. **Physical Disability** – any anatomical loss, cosmetic disfigurement, physiological disease, disorder or condition that does both of the following: (1) affects one or more of the following body systems: neurological, immunological, affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, circulatory, skin or endocrine; and (2) limits a major life activity.
5. **Qualified Employee or Applicant** - an applicant or employee who has the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.
6. **Reasonable Accommodation** – modifications or adjustments that are effective in enabling an applicant with a disability to have an equal opportunity to be considered for a desired job, or effective in enabling an employee to perform the essential functions of the job the employee holds or desires, or effective in enabling an employee with a disability to enjoy equivalent benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities. Reasonable accommodations may include, but are not limited to the following. Reasonable accommodations may include, but are not limited to the following. Reasonable accommodations may include, but are not limited to the following, provided the reasonable accommodation does not cause an undue hardship on the City:
- a. making existing facilities readily accessible to and usable by persons with disabilities.

- b. modifying work schedules, reassignment to a vacant position, a leave of absence; or
- c. acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

7. **Undue Hardship** - an action requiring significant difficulty or expense when considered in light of factors such as: (1) the nature and cost of the accommodation needed; (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility; (3) the overall financial resources of the City, the overall size of the business of a covered City with respect to the number of employees, and the number, type, and location of its facilities; (4) the type of operations, including the composition, structure, and functions of the workforce of the City; (5) the geographic separateness or administrative or fiscal relationship of the facility or facilities.

C.D. General Procedures regarding the Interactive Process for Existing Employees

- 1.——It is the responsibility of the employee to inform the supervisor that an

Generally, employees who request reasonable accommodation or who Generally, employees who request reasonable accommodation or who Generally, employees who request reasonable accommodation or who Generally, employees who request reasonable accommodation or who Generally, employees who request reasonable accommodation or who Generally, employees who request reasonable accommodation or who Generally, employees who request reasonable accommodation or who Generally, employees who request reasonable accommodation or who

- ii.b. Employees must provide the medical provider with a job description specifying the essential job functions so the provider can verify that an accommodation is needed.

- jj.c. After receiving the certification from the medical provider, the City will generally arrange to meet with the employee, and his or her representatives, for an interactive discussion, to work in good faith to fully consider all potential reasonable accommodations, alternative available jobs for which employee qualifies, and whether employee qualifies for disability retirement or family medical leave.

——An employee or applicant who alleges a denial of a reasonable

An employee or applicant who alleges a denial of a reasonable accommodation or the interactive process may file a complaint pursuant to the Complaint Procedure following in Section 4 of these Personnel Rules.

E. Retaliation Prohibition

California law and the City also prohibit retaliation against any employee for making a good faith complaint of discrimination or for cooperating, assisting, testifying, or participating in any of the discrimination Internal or External Complaint Procedures below. Claims of retaliation are taken seriously and are subject to the same Internal and External Complaint Procedures below.

F. Internal and External Complaint Procedures

The Internal and External Complaint Procedures applicable to Anti-Harassment in Section 4 below apply with equal force to this policy. **POLICY AGAINST HARASSMENT AND RETALIATION**

A. Policy Against Harassment and Related Retaliation

1. Prohibition of Harassment

The City is committed to providing a workplace free of unlawful harassment. This includes sexual harassment (which includes harassment based on pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions) and harassment based on gender, gender identity (including transgender identity and transitioning), gender expression, and sex stereotyping, as well as harassment based on such factors as race, color, religion, religious creed (including religious dress and religious grooming), national origin, ancestry, citizenship, age (40 and over), physical or mental disability, legally-protected medical condition or information (including genetic information), family care or medical leave status, military caregiver status, military status, veteran status, marital status, domestic partner status, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or holding or presenting a driver's license issued under section 12801.9 of the Vehicle Code, or any other basis protected be federal, state, or local laws.

All such harassment is unlawful and will not be tolerated, whether it be harassment of employees or applicants by employees (whether a supervisor, manager, or co-worker), elected officials, or non-employees with whom the City has a business, service or professional relationship, like the public, vendors and clients. Similarly, the City will not tolerate harassment by its employees of elected officials and non-employees with whom the City has a business, service or professional relationship, like the public, vendors and clients.

2.—Prohibition Against Retaliation

California law and the City also prohibit retaliation against any employee for making a good faith complaint of harassment or for cooperating, assisting, testifying, or participating in any of the harassment Internal or External Complaint Procedures below. Claims of retaliation are taken seriously and are subject to the same Internal and External Complaint Procedures below.

4.—Sexual Harassment:

Sexual harassment (including pregnancy, perceived pregnancy, childbirth, breastfeeding, Sexual harassment (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions, gender identity, gender expression, sex stereotype, sexual orientation, gender and transgender harassment) is defined as unwanted sexual advances, or visual, written, verbal or physical conduct of a sexual nature that creates an intimidating, offensive, or hostile working environment or that interferes with an employee's work performance. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment or promotion; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the unwelcomed comments or conduct based on sex unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser. Furthermore, sexually harassing conduct need not be motivated by sexual desire. The following is a partial list of violations:

- a. Unwanted sexual advances, propositions or requests for sexual favors;
- b. Offering employment benefits in exchange for sexual favors;
- c. Making or threatening reprisals after a negative response to sexual advances;
- d. Visual conduct: leering, making sexual gestures, displaying of suggestive objects, posters, photographs, cartoons, or drawings;

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e. Verbal conduct: making or using derogatory comments, epithets, slurs, jokes, verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, foul or obscene language, conversation containing sexual comments;

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f. Written conduct: suggestive or obscene letters, emails, drawings, notes or invitations;

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g. Physical conduct: unwanted touching, assault, impeding or blocking movements, and violating someone's "personal space"; and

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h. Retaliation for reporting harassment or threatening to report harassment.

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4. Other Types of Harassment:

Harassment can take many forms beyond sexual harassment. Harassment on the basis of race, color, religion, religious creed (including religious dress and religious grooming), national origin, ancestry, citizenship, age, physical or mental disability, legally protected medical condition or information (including genetic information), family care or medical leave status, military caregiver status, military status, veteran status, marital status, domestic partner status, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state, or federal laws, is also prohibited and will not be tolerated by the City. Such harassment includes but is not limited to the following when based upon an employee's protected status as noted above:

i.a. **Verbal** — includes epithets, jokes, comments or slurs that identify a person on the basis of his or her protected classification, intimate or other nicknames, comments on appearance -- including dress or physical features -- or stories that tend to disparage those with a protected classification.

b. **Visual** — includes gestures, posters, notices, bulletins, cartoons, photography, drawings or computer images communicated through the internet and email systems that tend to disparage those with a protected classification or that depict inappropriate content.

c. **Written** — includes suggestive or obscene letters, emails, drawings, notes or invitations;

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ii. **Physical** — includes the following conduct taken because of an individual's protected classification: assault, impeding or blocking movement, physically interfering with normal work or movement, pinching, grabbing, patting, propositioning, leering, making express or implied job threats or promises in return for submission of physical acts, mimicking, stalking, or taunting.

Guidelines for Identifying Harassment and Retaliation

Guidelines for Identifying Harassment and Retaliation

Guidelines for Identifying Harassment and Retaliation

To help clarify what constitutes a violation of this Policy, use the following guidelines:

- a. Harassment includes any conduct which would be “unwelcome” to an individual of the recipient’s protected classification and which is taken because of the recipient’s protected classification.
- b. — It is no defense that the recipient appears to have voluntarily “consented” to
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It is no defense that the recipient appears to have voluntarily “consented” to
- d.c. — Simply because no one has complained about a joke, gesture, picture, physical contact or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
- e.d. — Even visual, verbal, and/or physical conduct between two individuals who appear to welcome it can constitute harassment of a third party who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
- f.e. — Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient’s same protected classification would find it offensive.
- g. — A single act can violate this Policy and provide grounds for discipline.
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10.6. Confidentiality

The City recognizes that confidentiality is important to all parties involved in a harassment investigation. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to

the extent possible.

An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview while the investigation is pending, except as otherwise directed by a supervisor or a department director. Any individual who discusses the content of an investigatory interview while the investigation is pending will be subject to discipline.

The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

11.7. Internal Complaint Procedure

The City's complaint procedure provides for an immediate, thorough, objective and confidential investigation of any claim of unlawful or prohibited harassment and/or retaliation, appropriate disciplinary action against one found to have engaged in prohibited harassment and/or retaliation, and appropriate remedies for any victim of harassment and/or retaliation. A claim of harassment may exist even if the employee has not suffered an adverse employment action. If you believe you have been harassed and/or retaliated on the job, or if you are aware of the harassment and/or retaliation of others, you

must report the conduct immediately and according to the following procedure so that the issue can be resolved quickly and fairly.

- a. Step One - Reporting to Management: You must provide a written or
Step One - Reporting to Management: You must provide a written or
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Step One - Reporting to Management: You must provide a written or
Step One - Reporting to Management: You must provide a written or
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- c.b. Interim Relief: Supervisors, managers, department heads, Administrative Services Director, and/or other City management employees who receive a complaint of harassment/retaliation or who observe harassing/retaliatory conduct must immediately inform the Administrative Services Director or other appropriate City official, in writing as soon as possible so that an investigation may be initiated, and if necessary, take action to diffuse volatile circumstances. If the and if necessary, take action to diffuse volatile circumstances. If the and if necessary, take action to diffuse volatile circumstances. If the complaint involves the Administrative Services Director, the person receiving the complaint must notify the City Manager. If the complaint involves the City Manager, the person receiving the complaint must notify the Mayor or City Attorney. The complaint must otherwise be kept confidential. Any supervisors, managers, department heads, Administrative Services Director, and/or other City management

employees who fail to comply with this paragraph will be subject to disciplinary action, up to and including termination of employment.

d.c. Investigation: The Administrative Services Director or his or her designee will immediately either direct or undertake an effective, discrete, thorough and objective investigation of the allegations at issue. All complaints will be investigated in the manner that the City deems appropriate. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigation will provide all parties appropriate due process and will reach reasonable conclusions based on the evidence collected. The City will document the timely, thorough, and objective investigation of the harassment and/or retaliation allegations to ensure reasonable progress is being made in the investigation. The City will inform the employee who initiated the complaint of the progress of the investigation upon request of that employee. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview, and that retaliation against those who report alleged harassment or who participate in the complaint procedure is prohibited.

e.d. Investigation Into Unreported Potential Violations: The City takes a proactive approach to the problems of harassment and retaliation and will conduct an investigation if its officers, officials, supervisors or managers become aware that harassment may be occurring, regardless of whether the recipient or a third party reports a potential violation of this Policy.

f.e. Remedial and Disciplinary Action: If the investigation concludes that harassment or retaliation in violation of this Policy has occurred, the City will notify the offended and offending parties of the general conclusion(s) of the investigation and will take effective remedial action that is designed to end the violation(s) and that is commensurate with the circumstances. Remedial action may include, for example: training, referral to counseling, or disciplinary action including but not limited to verbal or written warning, suspension, transfer, demotion, and termination of employment, depending on the circumstances. With regard to acts of harassment by elected officials, clients or vendors, corrective action will be taken after consultation with the appropriate management personnel. Any employee determined to be responsible for violating this Policy will be subject to appropriate disciplinary action, up to and including termination. Disciplinary action may also be taken against any supervisor or manager who condones or ignores potential violations of this Policy or otherwise fails to take appropriate action to enforce this Policy. The employee who initiated the complaint will be notified when the investigation has been completed and will be informed of the general

outcome of the investigation, i.e., whether the complaint has been substantiated or unsubstantiated. However, the employee is not entitled to know the corrective action, if any, imposed on the accused harasser as that information is protected by the accused harasser's right to privacy.

g.8. External Complaint Procedure: Applicants, employees, officers, officials and contractors have the option to report harassment or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process. Contact information for the DFEH can be obtained at www.dfeh.ca.gov. Contact information for the EEOC can be obtained at www.eeoc.gov. Additionally, the nearest DFEH and EEOC offices are listed in the government section of the telephone book, online, or employees can check the equal employment opportunity posters that are located on City bulletin boards for office locations and telephone numbers.

12.9. Individual Responsibilities

- a. **Individual Employee:** Conduct him or herself consistently with the anti-harassment and anti-retaliation policy described here; Report any act he or she believes in good faith constitutes harassment or retaliation as defined here, to the appropriate party; Maintain the confidentiality of any investigation the City conducts under this Policy by not disclosing the substance of any investigatory interview, except as directed; and cooperate fully with the City's investigation into alleged violations of this Policy, by responding fully and truthfully to all questions posed during the investigation.

Management and Supervisory Employees: In addition to the responsibilities listed above for individual employees, management and supervisory personnel are responsible to help prevent harassment, discrimination and retaliation in their departments or areas of responsibility by: Being familiar with this Policy and modeling behavior that is consistent

Any questions about this Policy should be directed to the Administrative Services Director.

GENERAL PROVISIONS FOR EMPLOYMENT STATUS, CLASSIFICATION GENERAL PROVISIONS FOR EMPLOYMENT STATUS, CLASSIFICATION

A. General

City employees are either part of the competitive service or not included in the competitive service. (See section 2(E); Wheatland Municipal Code section 2.16.040.) Employees not included in the competitive service are at-will employees and may be disciplined or discharged by the appointing authority at any time, with or without cause, with or without prior notice, and without appeal rights (unless otherwise provided by law or a written employment agreement approved by the City Council). No one other than the City Manager has the authority to alter this

arrangement, to enter into an agreement for employment for a specified period of time, or to make any agreement contrary to this at-will status. Any such agreement must be in writing, must be signed by the City Manager, and must express a clear and unambiguous intent to alter the at-will nature of the employment relationship.

B. City Employment Defined

- 1. FLSA-Exempt Employee:** An employee who meets one or more of the duties test exemptions from overtime under the FLSA (e.g. executive, administrative, professional, computer employee) and who is paid on a salary basis, meaning that he or she is compensated in a predetermined amount that is not reduced, regardless of the quality or quantity of work actually performed, except as required by the City's principles of public accountability for partial-day absences as noted in Section 15 below.
- 2. FLSA Overtime-Eligible Employee:** An employee who is entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis. An employee who is assigned to an FLSA-exempt position on an acting or temporary basis only will remain overtime eligible.
- 3. At-Will Employee:** "At-will" refers to any City employee who 1) is not included in the competitive service; or 2) serves at the pleasure of the Council or another City employee or appointee; or 3) can be terminated at any time with or without cause, with or without notice, and without the opportunity to appeal. At-will employees can be dismissed from City employment by the appointing authority at any time, with or without cause, with or without notice, and without right of procedural due process, appeal, grievance or hearing. Employees who move from a "regular" employment status to an at-will position will be required to sign a notification and acknowledgment of at-will employment as a condition of employment in the new position.
Probationary Employee: An employee who is serving a Probationary Period, as
- 4. Regular Full-Time Employee:** An employee in the competitive service, except for peace officers, regularly scheduled to work 40 hours per week. For peace officers, a Regular Full-Time employee is an employee regularly scheduled to work 36 hours per week. Regular Full-Time Employees are hired for an indefinite term in a budgeted position, and have successfully completed the Probationary Period for the position he or she holds. (See Wheatland Municipal Code section 2.16.040(I).) A Regular Full-Time employee may only be terminated from City employment for cause and has associated procedural due process, appeal and grievance rights. Regular Full Time Employees are not at-will employees.
- 5. Regular Part-Time Employee:** An employee in the competitive service who is assigned to work more than 20 hours per week but less than 40 hours per week. Regular Part-Time Employees are hired for an indefinite term in a budgeted

position, and have successfully completed the Probationary Period for the position he or she holds. (See Wheatland Municipal Code section 2.16.040(I).) A Regular Part-Time employee may only be terminated from City employment for cause and has associated procedural due process, appeal and grievance rights. Regular Part-Time Employees are not at-will employees.

7. Part-Time Employee: A non-regular employee who is assigned to work less than
Part-Time Employee: A non-regular employee who is assigned to work less than

9.7. Temporary or Seasonal Employee: An employee who is assigned to work on a particular project or for a job of limited or indefinite duration is a seasonal or temporary employee. A temporary or seasonal employee: 1) does not hold regular status; 2) does not serve a probationary period; 3) can be dismissed at-will from City employment at any time without right of procedural due process, appeal, grievance or hearing; and 4) is not entitled to earn, accrue, or participate in any City employee benefit plans, or paid or unpaid leaves (except for benefits mandated by law). A temporary or seasonal employee is an at-will employee.

10.8. Contractor : A person with whom the City contracts for services for a particular project. Unless otherwise agreed to by the City Manager, a contractor: 1) is not an employee; 2) does not hold regular (or any other employment) status; 3) does not serve a probationary period; 4) has no right of procedural due process, appeal, grievance or hearing; and 4) is not entitled to earn, accrue, or participate in any City employee benefit plans, or paid or unpaid leaves . A contract employee is not an employee.

C. Classification

- 1. Preparation of Plan:** The Administrative Services Director, or a person or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions in the competitive service and shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions in the competitive service defined by class specifications, including the title. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under similar working conditions to all positions in the same class.
- 2. Adoption, Amendment, and Revision of Plan:** The classification plan shall be adopted by the City Council and may be amended from time to time. During the process of consideration, any employee organization affected shall be advised. Amendments and revisions of the plan may be suggested by any interested party, including any employee organization, and shall be submitted to the City Manager.

3. **Allocation of Positions:** Following the adoption of the classification plan and consultation with any employee organization affected, the Administrative Services Director shall allocate every position in the competitive service to one of the classes established by the plan.
4. **New Positions:** A new position shall not be created and filled until the classification plan has been amended to provide therefor and an appropriate employment list established for such positions.
5. **Reclassification:** Positions, the assigned duties of which have been materially changed by the City so as to necessitate reclassification, whether new or already created, shall be allocated by the Administrative Services Director to a more appropriate class. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to effect a change in salary in the absence of a significant change in assigned duties and responsibilities.

D. **Applications and Applicants**

1. **Announcement:** All examinations for classes in the competitive service shall be publicized by such methods as the City Manager or the Administrative Services Director deem appropriate. The announcement shall specify the title and pay of the position for which the examination is announced; the nature of the work to be performed and the essential functions of the position; prior work experience or preparation desirable for the performance of the work of the class; the manner of making application, including the type of examination; and other pertinent information.
2. **Application Forms:** Applications shall be made as prescribed on the examination announcement. Application forms shall require information covering training, experience, and other pertinent information, and may include references and fingerprints. All applications must be signed by the person applying.
3. **Disqualification:** Applications not meeting the minimum qualifications required for the position will be rejected. Applications may also be rejected for any of the following reasons: (1) the applicant has submitted an incomplete or untimely application, (2) the applicant has a disability that renders him/her unable to perform the essential functions of the position sought, with or without reasonable accommodations (3) the applicant has practiced or attempted to practice any deception or fraud in (3) the applicant has practiced or attempted to practice any deception or fraud in (3) the applicant has practiced or attempted to practice any deception or fraud in (3) the applicant has practiced or attempted to practice any deception or fraud in the application, , or (4) for any material cause which in the judgment of the appointing authority , or (4) for any material cause which in the judgment of the appointing authority may render the applicant

unsuitable for the position, including a prior resignation from the City, termination from the City or a significant disciplinary action.

E. Probationary Period (Introductory Period)

- 1. Regular Appointment Following Probationary Period:** All original and promotional appointments shall be tentative and subject to a probationary period of not less than twelve (12) months actual service (unless otherwise specified). The probationary period for peace officer employees shall also be at least 12 months. The appointing authority may extend such probationary period up to six additional months. Successful completion of the probationary period does not entitle an employee to continued employment for any particular length of time.
- 2. Objective of Probationary Period:** The probationary period shall be regarded as a part of the selection process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to his or her position.
- 3. Rejection of Probationer:** During the probationary period, an employee may be rejected at any time by the appointing authority without cause and without the right of appeal. Notification of rejection by the appointing authority shall be served on the probationer.
- 4. Rejection Following Promotion:** Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing authority to file a statement that the employee's services have been satisfactory, shall be reinstated to the position from which the employee was promoted (if vacant) unless charges are filed and the employee is discharged in the manner provided in the Personnel Ordinance and these rules for positions in the competitive service. If there is no vacancy in such position, the employee may request to be placed on a re-employment list.

SECTION 55. SECTION 6. EMPLOYEE MOVEMENT WITHIN THE COMPETITIVE SERVICE: TRANSFER, PROMOTION, DEMOTION, SUSPENSION, RESIGNATION, REINSTATEMENT, AND JOB ABANDONMENT

A. Transfer

No person shall be transferred to a position for which that person does not possess the minimum qualifications. Upon notice to the Administrative Services Director, an employee may be transferred by the appointing authority or designee at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties, and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both department heads must consent thereto unless the City Manager orders the transfer. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the Personnel Rules.

B. Promotion

Insofar as consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service after a promotional examination has been given and a promotional list established.

If, in the opinion of the Administrative Services Director, it is in the best interests of the municipal service, a vacancy in the position may be filled by an open-competitive examination instead of promotional examination, in which event the Administrative Services Director shall arrange for an open-competitive examination and for the preparation and certification of an open-competitive employment list.

C. Demotion

The appointing authority may demote an employee whose ability to perform the required duties falls below standard, or for disciplinary purposes. Upon request of the employee, and with the consent of the appointing authority, demotion also may be made to a vacant position. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications. Disciplinary demotion action shall be in accordance with Section 13 below.

D. Suspension

An employee may be suspended at any time for a disciplinary purpose. Suspension without pay shall not exceed thirty calendar days, nor shall any employee be penalized by suspension for more than thirty calendar days in any fiscal year. Intended suspension action shall be reported immediately to the Administrative Services Director, and shall be taken in accordance with Section 13.

E. Suspension of FLSA-Exempt Employees

Except for a violation of a major safety rule, exempt employees may not be subject to suspensions other than in full workweek increments or full work day increments. FLSA-exempt employees who believe they have been disciplined in violation of this policy may contact the Administrative Services Director who will conduct an investigation and take appropriate action.

F. Resignation

An employee wishing to leave the competitive service in good standing shall file with the appointing authority a written resignation stating the effective date and reasons for leaving at least two weeks before leaving the service, unless such time limit is waived by the appointing authority. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Administrative Services Director by the appointing authority. Failure to give notice as required by this rule shall be cause for denying future employment by the City.

G. Reinstatement

With the approval of the appointing authority, a regular employee or probationary employee who has completed at least twelve (12) months of probationary service and who has resigned with a good record may be reinstated within two years of the effective date of resignation, to a vacant position (for which the former employee remains qualified) in the same or comparable class. Upon reinstatement, the employee shall be subject to the probationary period prescribed for the class. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on the specific recommendation of the appointing authority at time of reinstatement or as required by law. If reinstated within one year, and if the employee has a balance of sick leave prior to separation that was not cashed out, that balance of sick leave will be reinstated.

H. Job Abandonment

An employee is deemed to have resigned if the employee is absent for three consecutive workdays without prior authorization and without notification during the period of the absence. Only regular employees will receive notice of intent to terminate, an opportunity to respond, and final notice of termination for job abandonment. An employee separated for job abandonment may be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee has any right to evidentiary appeal for separation due to job abandonment.

SECTION 56. SECTION 7. PERSONNEL FILES

A. File Maintenance

The Administrative Services Director maintains a personnel file for each City employee. Personnel files are the property of the City, and access to files is restricted as stated in this section. Nothing in this section should be construed to contradict any provision of an existing law or contract, including but not limited to, the Firefighters Procedural Bill of Rights Act and the Public Safety Officers Procedural Bill of Rights Act.

B. File Content

The personnel file contains documents that: 1) relate to employee performance; 2) relate to the employee's application and hiring; 3) reflect changes in payroll rate, etc.; 4) relate to employee discipline; and 5) assist the City in personnel administration.

C. Employee's Responsibility to Notify City of Changes

Each employee is responsible for promptly notifying the department head of any changes in relevant personal information, including change of name, mailing address, telephone number, emergency contacts, and number and names of dependents.

D. **Medical Information**

“Medical information” means any information that identifies the employee and pertains to his or her medical history, mental or physical condition, or treatment. All employee medical information shall be kept in separate, confidential files.

E. **Access to Personnel Files**

1. **City Employees** A current or former City employee may review his or her personnel file at reasonable times and intervals, within 30 days of the City’s receipt of the request to review the personnel file. An employee who wishes to review his or her file must contact the department head or designee to arrange for an appointment. The review will be conducted in the presence of a department designee.
Upon a written request for a current or former City employee, the City will also provide a copy of the personnel file, at a charge not to exceed the actual cost of reproduction, within 30 days of the City’s receipt of the request.
2. **Employee Representatives** An employee representative may inspect an employee’s personnel file without the employee only if the employee has provided written consent.
3. **City Management or Confidential Personnel** City management personnel may access employee personnel files as needed for legitimate personnel administration purposes. Confidential personnel may access personnel files as required by their job duties. Those who access personnel files as part of their job duties are required to maintain the confidentiality of personnel file information.
4. **Confidential Material** Notwithstanding any of the above, neither an employee nor an employee representative may have access to: a) documents that pertain to pending investigations regarding the employee’s conduct; or b) references and related information given in confidence as part of the City employment application or promotion. The City will not disclose employee medical information, except to City management personnel with a legitimate personnel need for access, without prior written authorization from the employee, or except as required by law, subpoena, or Court order.

F. **Reference Requests**

All requests for employee references shall be referred to the Administrative Services Director. Information will be released as authorized in writing by the employee or former employee. If there is no written authorization, the City will release only the following information: the employee’s term of employment and job title.

G. **Destruction of Personnel Records**

Personnel records, including employment applications, shall be destroyed only in accordance with the City's retention schedule and applicable state and federal law.

SECTION 57. SECTION 8. PERFORMANCE EVALUATIONS

A. Frequency

The City will attempt to conduct periodic performance evaluations for employees. A supervisor has authority to evaluate a subordinate's performance as often as the supervisor deems appropriate, and at least one time each year as is practicable under the circumstances.

B. Process

The evaluation of an employee's performance is an ongoing process. Evaluations must be documented in writing. The supervisor(s) will review the evaluation in a private meeting with the employee. The employee shall sign the performance evaluation to acknowledge that the employee is aware of its contents and has discussed the evaluation with his or her supervisor. The employee's signature on the evaluation does not necessarily indicate agreement with its contents. The employee will receive a copy of the evaluation after the meeting with the supervisor(s).

C. No Appeal

An employee has no right to appeal any matter relating to a performance evaluation. Instead, the employee may comment on the evaluation in a written statement within 10 days of receipt of the evaluation, or 30 days if the employee is covered under the Police Officers Bill of Rights Act or the Firefighters Procedural Bill of Rights Act. The evaluation, and any written comment, will be filed in the employee's personnel file. This section is not meant to overrule any existing federal, state, or local law, or contract. Where an existing law or contract contradicts this section the law or contract shall govern.

SECTION 58. SECTION 9. COMPENSATION AND PAYROLL PRACTICES

A. Salary Advancements

Probationary employees are eligible for salary advancement coinciding with the successful completion of the probationary period. Probationary employees hired above the "A" step shall not be eligible for a step advancement until one year after their appointment. Regular employees who have not reached the top step of their salary range are eligible for a one-step salary advancement annually on the anniversary date of previous step adjustment. Advancements shall not be automatic, but shall depend upon increased service value of an employee to the City as evidenced by performance evaluations. Employees who are promoted shall receive an increase in salary within the new salary range over that which such employee had been receiving in the lower class, provided, however, that a salary increase of no less than five (5%) shall be granted with each promotion. Salary advancements shall be recommended by the Department Head and approved by the City Manager.

B. Salary Upon Appointment

Employees hired at the entry step of a salary range are eligible for a merit increase after twelve (12) months of employment, i.e., at the conclusion of a successful probationary period. The employee is then eligible for a merit increase each year thereafter until reaching the top step of the salary range. Employees hired at a step within a salary range are eligible for a merit increase one year after commencing employment and each year thereafter until reaching the top step of the salary range.

C. Salary Upon Transfer

An employee, who is transferred from one position to another in the same salary range, or to a position in a different classification in the same salary range, is paid at the same step in that salary range.

D. Salary Upon Reclassification

- 1. Reclassification to a Higher Salary Range** When an employee is reclassified to a position within a classification that has a higher salary range than the prior classification, the employee receives pay at the step of the new classification's salary range which is equal to or the next step higher than the employee's prior salary.
- 2. Reclassification to a Lower Salary Range** An employee receives a Y-rated salary upon reclassification to a position with a lower salary range than the prior classification. "Y-rated" means that the employee's salary remains the same until his/her new position would earn him/her more. The lowest step of the salary range to which the employee has been reclassified must first reach the level of the reclassified employee's step before he or she will receive a salary increase.

E. Salary Upon Promotion

An employee who is promoted receives the first salary step in the promotional classification which is at least 5% higher than the employee's prior salary.

F. Salary Upon Demotion for Cause

An employee who is demoted for cause receives the lower salary assigned to the demoted classification and at the same step that the employee held prior to demotion.

G. Salary Upon Demotion Due to Layoff

An employee demoted pursuant to a layoff receives the lower salary assigned to the demoted classification that is closest to his or her salary prior to layoff.

H. Pay for Performance Salary Increase

Merit salary increases are granted at the discretion of the department head and solely upon outstanding job performance. There is no entitlement to a merit increase. Only regular employees are eligible for merit increases. No employee is entitled to receive an increase that exceeds the

maximum rate established for his or her classification.

I. Overtime Compensation

1. **Prior Approval Required.** Overtime-eligible employees are not permitted to work overtime except as the department head authorizes or directs. No employee may work overtime without receiving the approval of the appropriate supervisor prior to performing the work. Working overtime without advance approval is grounds for discipline.
2. **“Overtime” Defined.** Unless otherwise stated in a memorandum of understanding, “overtime” for general employees is all actual hours an overtime-eligible employee works over 40 in his or her workweek. For safety employees, “overtime” is all actual hours an overtime-eligible employee works over 80 in his or her bi-weekly pay period. Overtime is compensated at 1.5 times the Fair Labor Standards Act regular rate of pay. Paid time off for vacations, sick leave, holidays, and compensatory time off shall be treated as hours worked for purposes of determining overtime. No overtime shall be recorded or reported for less than 8 minutes of work.

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J. Compensation and Payroll Practices:

1. **Supervisor Approval/MOU Provision Required Before Work Performed.** An unrepresented employee by written authorization may opt to accrue compensatory time-off (“CTO”) in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed. A represented employee will accrue CTO in lieu of cash payment for overtime worked only if so provided in the applicable MOU.
2. **Accrual Rate.** CTO accrues at the rate of 1.5 hours for each hour worked over 40 hours of actual work in the employee’s work week. CTO cannot be accumulated in excess of 240 CTO hours at any given time. For work in “public safety,” “emergency response” and “seasonal” activities, an employee may accumulate up to 480 hours of CTO. Any employee who reaches their applicable cap of 240 or 480 hours of CTO shall, for additional overtime hours of work, be paid overtime compensation.

Commented [1]: This is required by law and the MOU should be updated accordingly. See 29 U.S.C. section 207(o)(2)(A)(i)

Commented [2]: This is required by law and cannot be contracted around. See 29 USC 207(o)(3)(A)

Commented [3]:

3. **Employee Requests to Use CTO.** The City will grant an employee's request to use accumulated CTO within a reasonable period after the request is made, unless doing so would unduly disrupt the City's operations.

Commented [4]: Required by law – see 29 USC 207(o)(5)

4. ~~Employee~~ **Payment Upon Termination.** . Terminating employees shall be
~~Employee~~ **Payment Upon Termination.** . Terminating employees shall be

K. Prohibited Salary Deductions

Notwithstanding any other provision in these Rules, the City will not reduce the pay of any FLSA -exempt employee for any of the following reasons:

- a. Any disciplinary penalty other than a major safety violation, except when the employee does not work any hours in the employee's work day or work week;
- b. Jury duty;
- c. Temporary military leave; or
- d. Witness leave except when the leave is to pursue the employee's own legal action.

SECTION 59.SECTION 10. TRAVEL POLICY

A. Policy

The City will reimburse certain travel costs for employee travel that is related to City business. All employee travel, travel schedules and travel expenses must receive prior approval from the employee's Department Head.

The Department Head will determine on a case-by-case basis: (1) whether or not particular travel is considered to be for City business and therefore subject to the terms of this policy, and (2) whether or not the employee travel time in question is considered hours worked and therefore subject to the FLSA rules governing employee travel time.

B. Advances

With approval, the City will advance the full estimated cost of attendance at meetings, conferences and training sessions. The Finance Department will issue separate checks for lodging, registration or travel when requested.

Requests for advances should be submitted as early as possible. **ADVANCE CHECKS**

WILL BE ISSUED EVERY FRIDAY FOR REQUESTS RECEIVED THE PREVIOUS WEDNESDAY. Requests for travel not following these procedures will be accounted for on a reimbursement basis only.

C. Rates of Compensation

1. **Mileage:** Authorized travel on City business using privately-owned vehicles shall be compensated at the prevailing IRS mileage rate. Travel using any other vehicle or mode of transport shall be compensated in accordance with actual costs incurred. The Department Head shall certify that the compensation for travel is at the most economical means in accordance with this policy.
2. **Meal Allowance:** Employees traveling on City business are entitled to a meal allowance to be compensated at the prevailing IRS per diem rate tables using the high-low method* if the employee is required to be away from his or her normal place of business.

Breakfast will be reimbursed for travel prior to 7 a.m. and dinner will be reimbursed for travel after 7 p.m. When travel is wholly between the hours of 7:00 a.m. and 7:00 p.m., lunch is the only meal expense that may be claimed. Employees shall receive reimbursement by submitting a reimbursement request. Advances or reimbursement requests will be adjusted to account for meals included in meeting registration fees. Meals included in the registration fee, but not eaten, cannot be claimed for reimbursement under the above schedule. Also, if a separate charge is made for fixed meals that are integral to a meeting or training session, the City will reimburse the full cost of such a meal.

*Examples of high cost travel areas include New York, Chicago, Los Angeles, San Francisco, Washington, D.C., San Jose, Monterey, Sacramento, San Diego, and Palm Springs. High cost area designation will be indicated by the published Federal Government per diem rate.

3. **Lodging:** The City will reimburse the actual cost of reasonable lodging required for overnight travel. Cost is the base room rate charged plus lodging taxes. Employees are also encouraged to request government exemptions from TOT. Employees are also encouraged to request government exemptions from TOT taxes.

The following items will not be reimbursed:

- a. Lodging costs in private homes, whether through a third party company (like AirBNB, Home Away, VRBO, etc.) or through the owner directly
- b. Phone calls not strictly related to City business
- c. In-room television or movie costs
- d. Personal expenses

4. **Incidental Expenses:** In addition to any mileage, meal or lodging expenses, an employee traveling on City business shall be reimbursed for incidental expenses incurred. Incidental expenses shall include, but are not limited to, such items as:
 - a. Ferry and toll bridge fares
 - b. Taxi or other ride sharing fares
 - c. Registration fees at conferences and conventions
 - d. Parking fees
 - e. Tips for Sky Caps, Bell Hops (not to exceed \$10.00 per trip)
5. **Personal Expenses:** No personal expenses, including but not limited to barbering, alcoholic beverages, entertainment, laundry, or dry cleaning shall be eligible for reimbursement.

SECTION 60. SECTION 11. EMPLOYMENT OF RELATIVES

A. Definitions

The following definitions apply to this Rule:

1. **“Relative”** means spouse, domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law.
2. **“Spouse”** means two persons who are married or are in a domestic partnership.
3. **“Supervisory relationship”** means a relationship in which one employee exercises the right to control, direct, reward, review, or punish another employee by virtue of the duties and responsibilities assigned to his or her City appointment.
4. **“Employee”**, for purposes of this section only, is one who receives a City payroll check for services rendered.

B. Policy as to Relatives

Relatives of employees may be hired by the City only if (1) the individuals concerned will not work in a direct supervisory relationship with one another, (2) spouses/registered domestic partners will not work in the same department; and (3) the employment will not poses difficulties for supervision, security, safety, or morale. A Department Head has discretion not to appoint, promote or transfer a person to a position within the same department in which the person’s relative already holds a position, when such employment would result in any of the following:

- A direct or indirect supervisory relationship;

- The two employees having job duties which require performance of shared duties on the same or related work assignment;
- Both employees having the same immediate supervisor; or
- A potential for creating an adverse impact on supervision, safety, security, morale or efficiency that is greater for relatives than for unrelated persons.

If two City employees who work in the same department become spouses or registered domestic partners
 If two City employees who work in the same department become spouses or registered domestic partners
 If two City employees who work in the same department become spouses or registered domestic partners
 If two City employees who work in the same department become spouses or registered domestic partners
 If two City employees who work in the same department become spouses or registered domestic partners
 If two City employees who work in the same department become spouses or registered domestic partners

If no such alternative position is available and continuing employment of both employees cannot be accommodated in a manner the department head finds to be consistent with the City's interest in the promotion of safety, security, morale, and efficiency, then the employees will have the opportunity to decide who will voluntarily separate their employment with the City. If neither of the employees voluntarily separates from their employment, then the employee with less seniority will be separated.

. Notwithstanding any provision in these Rules, any such separation is not considered to be disciplinary and is not subject to any grievance or appeal.

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SECTION 61. SECTION 12. **FITNESS FOR DUTY**

- A. **Policy Objectives.** Pre-employment medical examinations and reviews, including drug testing, shall be conducted only for applicants for a public safety officer position and only after a conditional offer of an employment has been made but before employment has actually begun. Pre-employment medical examinations shall be job-related and consistent with business necessity, and administered to all applicants in the same job category.
- B. **Designated Medical Provider.** The City Manager shall select a licensed medical clinic, doctor or other medical provider to conduct the pre-employment medical review and exam under this policy (the "Medical Provider"). The Medical Provider may utilize an independent laboratory for portions of the exam. The Medical Provider or the laboratory utilized by the Medical Provider shall be certified by the National Institute on Drug Abuse (NIDA). All expenses of the Medical Provider in implementing this policy shall be paid

by the City. The Medical Provider and laboratory will administer the medical review and exams in a professional, timely and confidential manner.

C. **Pre-Employment Medical Review and Exam Requirement.**

1. Unless otherwise determined by the City Manager, all offers of employment with the City for a public safety officer position shall be subject to the acceptable results of a pre-employment medical review and examination of the applicant as provided in this policy. The applicant must submit to a physical examination and the Medical Provider must determine that the applicant is medically and physically fit to perform the essential functions of the position applied for, with or without reasonable accommodations, and can perform such functions without posing a direct threat to the health or safety of the applicant or others in the workplace.

2. Unless otherwise determined by the City Manager, the pre-employment examination shall also include a drug screening examination to test for the presence of illegal drugs. If the drug screening examination shows the presence of an illegal drug, or if the applicant refuses to be drug tested, the applicant shall be disqualified from employment with the City. For purposes of this policy, "illegal drug" means any drug or controlled substance that (a) is not legally obtainable, (b) is legally obtainable, but has not been legally obtained, or (c) has been legally obtained, but is being used unlawfully. Please note that despite its legal status in California, marijuana remains illegal under federal law and is therefore an "illegal drug" for purposes of this policy.

An offer of employment will be withdrawn, on the basis of this pre-employment medical review and exam, only if: (1) the applicant is unable to perform the essential functions of the position with reasonable accommodation; (2) no reasonable accommodation exists; (3) the applicant poses a direct threat to the health or safety of the workplace and no reasonable accommodation would eliminate this risk or reduce it to an acceptable level; or (4) the employee does not pass the pre-employment drug screening.

This pre-employment medical review and exam will not test for the presence of a genetic characteristic pursuant to the federal Genetic Information Nondiscrimination Act.

D. **Job Related Qualification Standards.** The City Manager shall establish job-related physical standards and qualifications regarding performance of the essential functions for each job classification listed above, which may include, but is not necessarily limited to, standards for height, weight, strength, and medical and physical health. An applicant's failure to achieve and maintain one of these standards as established by the City Manager will result in disqualification from employment. The City Manager will supply the Medical Provider with the job classifications and standards and qualifications for all positions subject to this policy.

E. **Forms.** The City Manager, in consultation with the Medical Provider and laboratory, shall (1) determine, prepare, amend and maintain the forms that are necessary or appropriate to implement this policy, and (2) determine the type and scope of the medical exam and

review components appropriate for the position.

F. **Procedure.**

1. When an applicant has received a job offer contingent upon successful completion of the pre-employment medical review and exam, he or she will be given the appropriate medical history and consent and release form(s) to complete and sign, instructed regarding the City's pre-employment medical review and exam policy, and advised of the time and location of his or her appointment with the Medical Provider. An applicant who fails or refuses to complete and sign the medical history and consent and release form(s), and/or to appear and submit to the medical examination or any portion of it, shall be disqualified from employment with the City.
2. The medical review and examination shall be conducted by the Medical Provider. The Medical Provider will determine whether, in its judgment, and in consideration of the applicable job description, the applicant is medically and physically fit to perform the essential functions of the position applied for, with or without reasonable accommodations, and can perform such functions without posing a direct threat to the health or safety of the applicant or others in the workplace. The Medical Provider will contact the City Manager if further testing or examination is recommended.
3. The drug screening examination shall be conducted by the Medical Provider (or a laboratory selected by the Medical Provider) by urinalysis. The urinalysis shall be conducted by a qualified and competent NIDA-certified laboratory. Any positive finding shall be confirmed by gas chromatography/mass spectrometry or another accurate confirmation test before any report of a positive drug screening result to the City. The collection of urine specimens shall be done in a professional manner and in such a way as to assure a proper and documented chain of custody, including proper identification, labeling and handling of test specimens. Medical personnel shall not observe the act of urination itself. In connection with the drug screening examination, the applicant shall be asked to list those prescription and over-the-counter drugs which he or she has consumed in the recent past. Upon request by the applicant, the applicant will be furnished with a portion of the specimen that he or she may use for independent laboratory analysis, at his or her own expense. An applicant shall be informed, at the commencement of the testing process, of the right to obtain such a sample portion. If the applicant submits the results of an independent laboratory analysis, then these results shall be considered by the City prior to any final decision on qualification for employment.
4. Upon completion of the medical review and examination and test results, the Medical Provider will immediately forward one copy of the medical examination report forms to the City Manager, retaining one copy for the Medical Provider's files. No statement of medical cause or actual detailed test results will be reported to the City. The medical examination report form shall disclose only whether the Medical Provider determined whether the applicant is medically and physically fit

to perform the essential functions of the position applied for, with or without reasonable accommodations, and can perform such functions without posing a direct threat to the health or safety of the applicant or others in the workplace, and whether the applicant passed the drug test. If applicable, the Medical Provider also shall describe the functional limitations of the applicant that may limit the applicant's fitness to perform the essential position, with or without reasonable accommodations.

5. If the medical examination report states that the applicant (1) is not medically or If the medical examination report states that the applicant (1) is not medically or If the medical examination report states that the applicant (1) is not medically or If the medical examination report states that the applicant (1) is not medically or If the medical examination report states that the applicant (1) is not medically or If the medical examination report states that the applicant (1) is not medically or If the medical examination report states that the applicant (1) is not medically or If the medical examination report states that the applicant (1) is not medically or physically fit to perform the essential functions of the position applied for, with or without reasonable accommodations; (2) cannot perform such functions without posing a direct threat to the health or safety of the applicant or others in the workplace; and/or (3) failed to pass the drug test, then the applicant is disqualified from employment with the City. The City Manager shall immediately inform the applicant of the determination. If the determination is disqualification, then the applicant shall also be notified of the appeal procedure under subsection G.

G. Appeal Procedure.

1. If an applicant is disqualified from employment for failing to pass the City's pre-employment medical review and examination, he or she may file a written request through the City Manager for a review of his or her disqualification. The request must be submitted to the City Manager within five working days after the applicant is notified of the disqualification. If the applicant fails to timely request a review under this subsection, then the disqualification shall be final.
2. In an appeal, the applicant may, but is not required to submit additional information regarding his or her medical condition, including a report by an independent licensed medical clinic, doctor, laboratory or other medical provider. The additional information must be submitted within 15 days from the date of the request to the Medical Provider directly. The information provided must be relevant to the nature and extent of the medical condition(s) which relate to the applicant's disqualification. The applicant shall pay all costs and expenses relating to any independent medical examination or report.
3. The Medical Provider will then review and determine whether, in light of the The Medical Provider will then review and determine

whether, in light of the additional information, any change in the Medical Provider's initial report is warranted. If the Medical Provider, after reviewing the information, reverses its earlier report, then the applicant will be approved for the position applied for. If the Medical Provider affirms or upholds its earlier report, then the disqualification shall be final.

H. **Qualified Disability.**

If the applicant is determined to be unfit for employment with the City, and if the unfitness is a result of a qualified disability under federal and/or state law, then the City will investigate whether the applicant can perform the essential functions of the position with reasonable accommodation that would not impose an undue hardship on the City. As part of this investigation, the City Manager will arrange for a discussion or discussions, in person or via conference telephone call, with the employee and his or her representatives, (if any). The purpose of the discussions will be to work in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the City Manager also will discuss, if relevant, alternate available jobs for which the employee is qualified. After the discussions, the City Manager will review the information received, and determine if there is a reasonable accommodation that would enable the employee to perform essential job functions, or if the accommodations would pose an undue hardship on City finances or operations. The City Manager will inform the employee of his or her determination. The City Manager will use his or her discretion based upon the particular facts of each case.

I. **Confidentiality.**

The forms and results of the pre-employment medical review and examination shall be treated confidentially, kept separate from the regular personnel files, and made available only to the City Manager, City Attorney, and other City department heads who have a clear business reason to know the information. The forms and results will not be released to anyone else without the consent of the applicant or by court order. Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the City Manager.

Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a dispute between the employer and employee

J. **Exemptions.**

This policy shall not apply to temporary employees, elected officials, volunteers or independent contractors.

DISCIPLINARY ACTION

A. **Policy**

Prior to the suspension, demotion, reduction in pay, or discharge of a regular employee for disciplinary purposes, the procedure set forth in this rule shall be complied with. Paid administrative leave pending completion of a disciplinary investigation shall not constitute discipline, nor require compliance with the procedures set forth in this rule.

Employees are expected to observe certain standards of job performance and good conduct. When performance or conduct do not meet City standards, the City will endeavor when it deems appropriate to provide the employee a reasonable opportunity to correct the deficiency. If, however, the employee fails to make the correction, he or she will be subject to discipline, up to and including dismissal.

The grounds for discipline set forth below are intended to provide employees with fair notice of what is expected of them. These rules, though, cannot identify every type of unacceptable conduct and performance. Therefore, employees should be aware that conduct not specifically listed below but which adversely affects or is otherwise detrimental to the interests of the City, other employees, or the public, may also result in disciplinary action.

The discipline procedures in this section represent guidelines that the City believes are generally appropriate to govern employee conduct and process disciplinary action. They are not, however, absolute rules. The City retains discretion to determine what constitutes proper disciplinary action and procedure in each individual situation.

B. Grounds for Discipline

Include, but are not limited to, the following:

- a. Fraud in securing employment or making a false statement on an application and/or interview for employment.
- b. Incompetence, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.
- c. Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his/her position.
- d. Willful disobedience or insubordination, i.e., a willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position or insulting or demeaning the authority of a supervisor or manager.
- e. Dishonesty involving employment.
- f. Possession, distribution, sale, use, or being under the influence of alcohol or illegal drugs or narcotics while on duty or while operating a City vehicle or potentially dangerous equipment leased or owned by the City.
- g. Excessive unexcused absenteeism.

- h. Inexcusable absence without leave, including the failure of an employee absent without leave to return to duty within twenty-four hours after notice to return.
- i. Abuse of sick leave.
- j. Conviction of a felony or misdemeanor, which is of a nature to adversely affect the employee's ability to perform the duties and responsibilities of his or her employment, which tends to bring discredit to the City, or which results in imprisonment. The record of conviction will be conclusive evidence of the fact that the conviction occurred. The appointing authority may inquire into the circumstances surrounding the commission of the crime in order to support the degree of discipline. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere is deemed to be a conviction within the meaning of this Section.
- k. Discourteous treatment of the public or other employees.
- l. Improper or unauthorized use of City property.
- m. Refusal to subscribe to any oath or affirmation which is required by law in connection with City employment.
- n. Any willful act or conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the City, the employee's department or division.
- o. Inattention to duty or negligence in the care and handling of City property.
- p. Violation of these Personnel Rules, other City personnel policy, or any rule, regulation or policy of any department.
- q. _____
- s. _____ Improper political activity. Example: Campaigning for or espousing the
Improper political activity. Example: Campaigning for or espousing the
Improper political activity. Example: Campaigning for or espousing the
Improper political activity. Example: Campaigning for or espousing the
Improper political activity. Example: Campaigning for or espousing the
- u.s. _____ Working overtime without authorization.
- v.t. _____ Possession of weapons in the workplace unless authorized
in writing by the City Manager.
- w.u. _____ Making false and malicious statements concerning any employee, the
City or the City's policies or practices.

- x.v. Any other conduct that adversely affects the operation of the City, the health, safety, welfare of City employees or others, or the safety of City property

C. Levels of Discipline

The following are the types and levels of discipline that may be imposed by the City. The City ordinarily will implement a progressive disciplinary system to provide the employee a reasonable opportunity to correct deficiencies and improve conduct. However, the City reserves the discretion to determine the appropriate level of discipline in every instance and there is no fixed order of progressive discipline levels that must be followed. Furthermore, the City may proceed directly to discharge for a first offense depending upon the employee's position and/or type and severity of the offense.

a. Counseling Memo:

A counseling memo shall become part of the employee's permanent record, and may not be appealed under this policy.

b. Oral Admonishment or Reprimand:

An oral admonishment or reprimand shall be memorialized in writing, become part of the employee's permanent record, and may not be appealed under this policy.

c. Written Admonishment or Reprimand:

A department head may reprimand an employee by furnishing him/her with a written statement of the specific reasons for reprimand. A copy of the reprimand will be retained in the employee's personnel file, and may not be appealed. The employee shall have the right to have a written rebuttal attached to the reprimand in the employee's personnel file.

d. Suspension:

The department head may suspend an employee from his or her position for cause with or without pay. Documents related to a suspension shall become part of the employee's permanent record. An employee in the competitive service who is subject to suspension will receive prior written notice and appeal as provided herein. Except for a violation of a major safety rule, exempt employees may not be subject to suspensions other than in full workweek increments or full day increments. FLSA-exempt employees who believe they have been disciplined in violation of this policy may contact the Administrative Services Director who will conduct an investigation and take appropriate action.

e. Demotion:

The department head may demote an employee from his or her position for cause. Documents related to a demotion shall become part of the employee's permanent record. An employee in the competitive service who is subject to demotion shall be entitled to the prior written notice and appeal as provided herein.

f. Reduction in Pay:

The department head may reduce an employee's pay for cause. A reduction in pay for disciplinary purposes may take one of two forms: 1) a decrease in salary to a lower step within the salary range; or 2) a decrease in salary paid to an employee for a fixed period of time. Documents related to a reduction in pay shall become part of the employee's permanent record. An employee in the competitive service who is subject to a reduction in pay shall be entitled to prior written notice and appeal as provided herein. FLSA-exempt employees are only subject to a reduction in pay for major safety violations, except when the employee does not work any hours in the employee's work day or work week.

g. Discharge:

The department head may discharge an employee from his or her position for cause. Documents related to discharge shall become a part of an employee's permanent record. A discharged employee in the competitive service who is entitled to prior written notice and appeal based upon the terms described herein.

The disciplinary procedures in this Section 13 (e.g., notice of proposed discipline, opportunity to respond, appeal rights) apply and are available only to employees in the competitive service (as defined at section 2(E)). Employees not included in the competitive service are at-will employees and may be disciplined or discharged by the appointing authority at any time, with or without cause, with or without prior notice, and without appeal rights (unless otherwise provided by law or written employment agreement approved by the City Manager or the City Council).

D. Written Notice of Proposed Discipline

Written notice of the proposed disciplinary action shall be given to the employee. Such notice shall include the following information: a statement of the nature of the intended disciplinary action; a statement of the ground(s) for disciplinary action; a statement in ordinary and concise language of the specific facts and/or omissions upon which the proposed discipline is based; a statement that copies of all documents and other materials that support the proposed action are either attached or available for examination by the employee at a specified location; and, a statement advising the employee that he or she may respond orally or in writing to the notice prior to the final decision on the intended disciplinary action or dismissal and that any such response must be provided to the appointing authority within five working days of the date of the notice

E. Employee Review

The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and, if practicable, the employee shall be supplied with a copy of the documents.

F. Employee Response

Within five (5) working days after the employee has received the written notice of the proposed disciplinary action, the employee shall have the right to respond, orally or in writing, at the employee's option, to the appointing authority concerning the proposed action.

G. Notice of Discipline

Prior to a decision on any intended disciplinary action, the appointing authority shall consider any written and/or oral response timely submitted by the employee. The appointing authority shall make a final decision on the proposed discipline within five working days after receiving the written and/or oral response from the employee or, if no response is received from the employee, within five days after the last day to submit a response. The decision shall be effective the day that it is made and the affected employee shall be informed of the decision either personally or by mail at his or her last known address on file with the City. The decision also shall notify the employee about his or her appeal rights under these Rules.

H. Effect of Discipline on Benefits

After the effective date of any disciplinary action resulting in a suspension without pay, employee and employer contributions to benefits will be continued during the period of the suspension. Upon the effective date of a discharge, the City shall cease to provide any benefits for the employee except as otherwise may be required by law or written agreement.

I. Relief of Duty

Notwithstanding the provisions of this Rule, upon the recommendation of the Department Head, the City Manager may approve the temporary assignment of an employee to a status of leave with pay pending conduct or completion of such investigations or opportunity to respond as may be required to determine if disciplinary action is to be taken.

J. Appeal

Employees in the competitive service may appeal disciplinary actions pursuant to Step 3 of the grievance procedure established within these Personnel System Rules. The written notice of discipline shall be the equivalent of the answer at Step 2 of the grievance process. In any appeal of a disciplinary action, (1) the City will bear the burden of presenting substantial evidence to support the charges against the employee, (2) the parties shall have the right to confront and cross-examine adverse witnesses, (3) there shall be no formal discovery (however, the City shall provide to the employee copies of or access to all written materials forming the basis for the City's decision to discipline the employee), (4) there shall be a transcript or tape recording of the appeal hearing, (5) the hearing officer must prepare written findings of the pertinent facts based on the evidence

received in the hearing, (6) the findings of fact must be supported by evidence in the record of the appeal hearing, and (7) the City shall bear the cost of the hearing officer.

SECTION 65, SECTION 14. LAYOFF POLICY AND PROCEDURE

A. Statement of Intent

Whenever, in the judgment of the City Council, it becomes necessary to abolish any position or employment, the employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal.

B. Notification

Employees to be laid off shall be given, whenever possible, at least fourteen (14) calendar day's prior notice. More notice may be required if certain circumstances pursuant to applicable state and federal law.

C. Vacancy and Demotion

Except as otherwise provided, whenever there is a reduction in the workforce, the appointing authority shall first demote to a vacancy, if any, in a lower class for which the employee who is the latest to be laid off in accordance with Section F is qualified. All persons so demoted shall have their names placed on the re-employment list.

D. Employee Rights

An employee affected by layoff shall have the right to displace an employee in the same department who has less seniority in a lower class in the same class series or in a lower classification in which the affected employee once had regular status. For the purpose of this section and Section E, seniority includes all periods of full-time service at or above the classification level where layoff is to occur.

E. Seniority

In order to retreat to a former or lower class, an employee must have more seniority than at least one of the incumbents in the retreat class and request displacement action in writing to the Administrative Services Director within five (5) working days of receipt of notice of layoff. Seniority is defined as length of time of service with the City.

Employees retreating to a lower or similar class shall be placed at the salary grade representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

Employees retreating to a lower or similar class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class or a class in the class series.

F. Employment Status

In each class of position, employees shall be laid off according to employment status in the following order: temporary, provisional, probationary, and regular.

Temporary, provisional and probationary employees shall be laid off according to the needs of the service as determined by the appointing authority.

In cases where there are two or more regular employees in the class from which the layoff is to be made, such employees shall be laid off on the basis of the last evaluation rating in the class, providing such rating has been on file at least thirty (30) days and no more than twelve (12) months prior to layoff as follows:

First, all employees having overall ratings of “below expectations”; Second, all employees having ratings of “meets expectations”; Third, all employees having ratings of “exceeds expectations”.

Employees within each rating category shall be laid off in inverse order of seniority in City service.

G. Re-Employment List

The names of persons laid off or demoted in accordance with these rules shall be entered upon a re-employment list. Lists from different departments or at different times for the same class of position shall be combined into a single list. Such list shall be used by every appointing authority when a vacancy arises in the same or lower class of position before appointment is made from an eligible list.

H. Duration of Re-employment List

Names of persons laid off shall be carried on a re-employment list for one year, except that persons appointed to regular positions of the same level as that which are laid off, shall, upon such appointment, be dropped from the list. Persons who refuse re-employment shall be dropped from the list. Persons re-employed in a lower class, or on a temporary basis, shall be continued on the list for the higher position for one year.

SECTION 66, SECTION 15. LEAVES OF ABSENCE

A. Attendance

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees which shall be reported to the Administrative Services Director in the form and on the dates as specified. Failure on the part of an employee, absent without leave, to return to duty within twenty-four (24) hours after notice to return shall be cause for disciplinary action.

B. Absence

Employee absence is subject to the following:

1. Definitions

- a. Planned Time Off: Vacation, compensatory (comp) time, sick leave (e.g., doctor, vision or dentist appointment, etc.), or administrative leave requested at least one day prior to the day off and approved by the employee's supervisor. If time off is requested for leave other than sick leave on the same day (e.g., calling in the morning or requesting to take the afternoon off) and is approved by the supervisor, it will be counted as an excused absence. Use of sick leave is always considered an excused absence, provided the employee provides notice as soon as practicable. Excused absences for sick leave and/or to care for family members shall not be considered in evaluating or disciplining employees.
- b. Excused Absences: Use of accrued sick days; vacation, comp time, or administrative leave requested on the same day and vacation, comp time, or administrative leave requested on the same day and approved by the supervisor.
- c. Unexcused Absences: Taking vacation, comp time, or administrative leave without supervisor approval.

2.——Absences and Annual Evaluations

Supervisors shall utilize this policy as suggested guidelines for evaluating and/or disciplining employees for absences, but shall assess each case on its own merit. In assessing an employee's absences as part of his/her annual evaluation, absences will be treated as follows:

- a. (Unacceptable) - Has frequent unexcused absences
Three or more unexcused absences per year.
- b. (Below Expectations) - Has frequent excused or unexcused absences
No more than two unexcused absences.
No more than two unexcused absences.
No more than two unexcused absences.
- c. (Meets Expectations) -Has occasional excused absences
No more than two unexcused absences.
Not more than one unexcused absence.
Not more than one unexcused absence.
Not more than one unexcused absence.
- d. ~~(Exceeds Expectations)~~ Not more than one unexcused absence. Absent only in case of verified emergency

No unexcused absences.

5.3. Other

This policy does not cover State and Federal laws regarding sick, family medical leave, or pregnancy leave, and employees will not be disciplined for taking such protected leaves. Leave taken pursuant to these State and Federal laws will be consistent with these laws. This policy does not cover all situations and modifications may be made for extraordinary situations.

C. Military Leave

The City provides military leaves of absence to employees who serve in the uniformed services as required by the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §4301 et. seq. ("USERRA") and applicable state laws. An employee requesting military leave must provide the department head a copy of the military orders that specify the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

D. Leave of Absence Without Pay/Personal Leave

The City provides leaves of absence without pay to regular full time employees who wish to take time off from work duties to fulfill obligations. As soon as eligible employees become aware of the need for a personal leave of absence, they should request a leave from their supervisor.

Personal leave may be granted for a period of up to 30 calendar days in any 12 month period following completion of six months of successful performance. Extension of the leave of absence may be considered upon application of the Department Head to the City Manager. All requests for leaves of absence must be in writing and must establish reasonable justification for approval of the request. Requests for personal leave will be evaluated based on a number of factors including anticipated work load requirements and staffing considerations during the proposed period of absence. Any leave of absence without pay exceeding fifteen (15) calendar days shall cause the employee's salary anniversary date to be postponed the number of calendar days equal to the number of days of the unpaid leave. All accrued vacation, comp time and floating holiday time must be taken before unpaid leave can begin.

Subject to the terms, conditions, and limitations of the applicable plans and the Affordable Care Act, health insurance benefits will be provided by the City until the end of the month in which the approved personal leave begins, provided that all accrued paid time off has been exhausted. At that time, employees will become responsible for the full costs of these benefits if they wish coverage to continue. When the employee returns from personal leave, benefits will again be provided by the City according to the applicable plans.

Benefit accruals such as vacation, sick leave, or holiday benefits, will be suspended during the unpaid portions of the leave and will resume upon return to active employment.

Failure of the employee to report to work promptly at the expiration of the approved leave period may be cause for dismissal.

E. Annual Vacation Leave

The purpose of annual vacation leave is to enable each eligible employee annually to return to work mentally refreshed. All employees in the competitive service shall be entitled to annual vacation leave with pay except the following:

- a. Employees who have served less than 6 months in the service of the City. However, vacation credits for the time may be granted to each such employee who later receives regular employee status.
- b. Employees who work on a provisional or seasonal basis, and all employees who are not regularly employed in regular full-time or part-time positions, unless specifically granted by contract.

Eligible employees shall accrue vacation credits as follows:

<u>Completed</u> Years of Service	Number of Working Days Month	<u>Maximum Accrual (1.5 times annual vacation allotment)</u>
1*-5 inclusive	10 days per year (<u>earned on a pro rata basis each pay period</u>)	<u>15 days total</u>
6-12 inclusive	15 days per year (<u>earned on a pro rata basis each pay period</u>)	<u>22.5 days total</u>
13 and over	20 days per year (<u>earned on a pro rata basis each pay period</u>)	<u>30 days total</u>

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*Eligible employees will begin accruing vacation upon hire, but that time does not vest (and the employee cannot use that time) until six months of continuous employment has been completed.

Accrued but unused vacation time carries over into the following year. However, on December 1st of each calendar year, employees will be paid (at their current hourly rate) for all vacation time accrued and unused that is in excess of 1.5 times their applicable annual vacation allotment maximum (see "Maximum Accrual" in the chart above).

Regular employees who work less than full time shall be credited vacation on a pro-rated basis.

~~An employee starting work after the first day of a month will earn pro-rated vacation benefits for that month based on the number days worked in the month. Pro-rata credits shall be accrued per pay period.~~

The times during a calendar year at which an employee may take vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that an employee cannot take part or all of annual vacation in a particular calendar year, such vacation shall be taken during the

following calendar year. Paid vacation leave can be used in minimum increments of fifteen minutes.

In the event one or more municipal holidays fall within an annual vacation leave, such holidays
In the event one or more municipal holidays fall within an annual vacation leave, such holidays

Employees who separate from City employment shall be paid at the employee's final rate of pay
for all accrued vacation leave earned prior to the effective date of separation.

F. Sick Leave

The City provides paid sick leave benefits to all eligible employees
pursuant to the California Paid Sick Leave Law.
Employees begin accruing sick leave upon the commencement of employment. To be eligible for
paid sick leave, employees must work for the City for at least ninety (90) calendar days.

Regular eligible employees will accrue sick leave benefits at the rate of 8 hours per month of
service. Regular part time employees accrue sick leave benefits on a pro-rated basis. All other
employees will accrue sick leave benefits at the rate of one hour per every thirty (30) hours worked.
The Probationary Period does not have to be completed before sick leave can be
taken.

Employees may use sick leave as it is accrued, once the ninety (90) day time period has been
completed. Paid sick leave can be used in minimum increments of fifteen minutes.

Paid sick leave not used in a year otherwise carries over from year to year.

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Paid sick leave not used in a year otherwise carries over from year to year.

Paid sick leave may be used for the diagnosis, care (including preventative care), or treatment of
otherwise carries over from year to year.
Paid sick leave may be used for the diagnosis, care (including preventative care), or treatment of
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A family member includes a child, parent, spouse, domestic partner, grandparent, grandchild, or
sibling. For purposes of this policy, a "child" means a biological or adopted child, a foster child, a
step-child, a legal ward, or a child to whom the employee stands in loco parentis.
Similarly, a "parent" under this policy means a biological or adoptive parent, a foster
parent, a step-parent, an employee's legal guardian, a legal guardian of an employee's spouse or
domestic partner, or a person who stood in loco parentis when the employee was a minor child.

Employees who are victims of domestic violence, sexual assault, or stalking also may use paid
sick leave for treatment, assistance, and other purposes authorized by law.

Employees will be paid for sick leave not later than the payday for the next regular payroll period after the sick leave was taken. Finally, an employee will not be required to search for or find a replacement if the employee is taking paid sick leave under this policy.

Sick leave benefits will be calculated based on the employee's base pay rate at the time of absence and will include any special forms of compensation, such as incentives or shift differentials. Employees who work a flex time schedule will use sick leave based on the number of hours they are scheduled to work. An employee with adequate accrued sick leave who works four tens, for example, would receive ten hours of sick pay for one day's absence.

If the need for paid sick leave is foreseeable (e.g., scheduled routine medical appointments), the employee must provide reasonable advance notice. If the leave is not foreseeable, the employee must provide notice of the leave as soon as practical. When requesting sick leave, employees should not disclose any private medical information or any other confidential personal information.

Each employee, at the time of termination of employment with the City shall receive (at the
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Employees separating from employment who are rehired within one year from the date of separation will have their previously accrued and unused paid sick days, that have not been cashed out according to the paragraph above, reinstated. The employee also will begin accruing paid sick leave upon re-hire (assuming the employee's bank is below the applicable cap). In addition, if the employee is re-hired within one year from the date of separation, any number of days that the employee previously worked for the City will be credited toward the 90 calendar days that an employee must have worked for the City before being eligible to use paid sick leave under this policy.

Sick leave used will be counted as hours worked for purposes of determining overtime.

The City strictly prohibits any form of retaliation or discrimination against an employee for attempting to use or using paid sick leave under this policy, and for any other reason prohibited by applicable law. Employees who believe they have been discriminated or retaliated against should report their concerns to the Administrative Services Director immediately.

Holidays

Holidays

Holidays

The City observes the following holidays and provides all regular employees time off with pay at their normal rate of pay:

- New Year's Day (January 1)
- Lincoln's Birthday (February 12) (*POA Only*)
- Martin Luther King Day (3rd Monday in January)
- Presidents' Day (3rd Monday in February)
- Caesar Chavez Day (March 31) (*POA Only*)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (1st Monday in September)
- Columbus Day (2nd Monday in October)
- Veterans Day (November 11)
- Thanksgiving Day (4th Thursday in November)
- The Friday after Thanksgiving Day
- Christmas Eve (December 24)
- Christmas Day (December 25)
- New Years' Eve (December 31)

Should any of these holidays fall on a Saturday, the preceding Friday shall be considered a paid holiday. Should any of these holidays fall on a Sunday, the following Monday shall be considered a paid holiday.

In addition, every day designated by the President or Governor for a public fast, thanksgiving, or holiday and approved by the City Council shall be a paid holiday for City employees.

One floating holiday consisting of eight (8) hours will be provided to each regular full-time employee and on a prorated basis to regular part time employees on their one year anniversary date of their hire, and on each anniversary date thereafter.
The holiday may be taken upon the employee's discretion after consulting with his/her supervisor.

Any unused floating holiday hours at the end of the anniversary year will be added to the vacation hour's balance and converted into vacation time.
Unused floating holidays that have not been converted to vacation time will be paid upon separation of employment.

All regular full-time employees are eligible for holiday pay whether or not the Probationary Period has been completed. Holiday pay will be eight (8) hours compensation calculated on the employee's straight-time pay rate (as of the date of the holiday). Employees working a flex schedule (i.e., four tens) will be compensated the number of hours they were regularly scheduled to work for a paid holiday. Regular part-time employees shall receive paid holiday benefits on a pro-rated basis as compared with regular full-time employees.

If a recognized holiday occurs when an eligible employee is on an approved paid leave of absence, that day off will not be subtracted from the employee's paid leave.

Management has the right and the responsibility to schedule work hours. This includes the right to

schedule employees to work on holidays and to schedule work to avoid working on holidays. Employees who are required to work (and actually work) more than thirty-two (32) hours in a week containing a recognized holiday will be paid at an overtime rate for those hours worked in excess of thirty-two (32).

J.H. Bereavement Leave

A maximum of 24 hours paid bereavement leave shall be granted to all regular and probationary employees upon the death of any of the following family members as defined by the U.S. Office of Personnel Management: 1) spouse and parents thereof; 2) sons and daughters and spouses thereof; 3) parents and spouses thereof; 4) brothers and sisters and spouses thereof; 5) grandparents and grandchildren and spouses thereof; 6) domestic partner and parents thereof (including domestic partners of any individual in 2 through 5 of this definition; and 7) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

This paid bereavement leave is not counted against accrued paid sick leave or vacation leave.

Every employee of the City who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to the supervisor, shall be entitled to be absent from duties with the City during the period of such service or while necessarily being present in court as a result of such call. The employee shall be compensated for the time actually spent serving as a juror, without a deduction to vacation, comp time or sick leave hours balances, for up to a maximum of five (5) days. The hours for which the employee is compensated will not include travel time and will not be considered actual hours worked for computing overtime.

To receive compensation for any additional time off taken in conjunction with jury duty in excess of five (5) days, the employee must use vacation or comp time hours. The employee shall submit to the City any payment received for jury duty, except travel pay, for the first five (5) days. If an employee is summoned for jury duty on a regularly scheduled day off, there shall be no compensation from the City, and the employee may retain all payments received for that time served.

M.J. Family and Medical Leave

Any eligible employee may be granted a family and medical leave subject to the provisions of the California Family Rights Act (CFRA) and the Family Medical Leave Act (FMLA) in effect at the time the leave is granted. In accordance with the CFRA, FMLA, and this policy, the City shall provide up to 12 workweeks (up to 26 workweeks of FMLA leave in the case of Military Caregiver Leave) of CFRA and /or FMLA unpaid leave in a 12-month period to any "eligible employee" who requests leave for any of the following purposes:

:

1.) Basic Leave Entitlements (FMLA/CFRA)

- a. The birth or adoption of a child by the employee or placement of a child in foster care with the employee (all family leave taken for one of these purposes must be concluded within one year of the event).
- b. To care for a child, parent, spouse or registered domestic partner of the employee who has a serious health condition.
- c. For an employee's own serious health condition.
- d. —

2.) Military Family Leave Entitlements (FMLA):

- a. Exigency leave: Eligible employees with a spouse, son, daughter, or parent on covered active duty (or who has been called or ordered to covered active duty) in the Armed Forces may use their FMLA leave entitlement of up to 12 workweeks during the applicable 12-week period to address qualifying exigencies. Qualifying exigencies may include activities such as attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
- b. Military caregiver leave: Eligible employees may take up to 26 workweeks of FMLA leave in a single 12-month period to care for a "covered servicemember," if the employee is the spouse, son, daughter, parent, or next of kin of the covered servicemember.

N.K. Definitions

The definition of terms used in conjunction with the family and medical leave are as follows:

"Eligible Employee" means an employee who:

- a. Has been employed with the City for at least 12 months; or has been employed by the City for at least 1,250 hours during the 12 month period immediately preceding the commencement of the leave; and
- b. Is employed at a City worksite where the City employs at least 50 employees within 75 miles of the worksite.
- c. If the employee meets the requirements above but is employed at a worksite where 20 to 49 employees are employed by the City within 75 miles of that worksite the employee may be eligible for parental leave pursuant to

California's New Parent Leave Act. The New Parent Leave Act entitles eligible employees to up to twelve (12) weeks of parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement. An employee eligible for FMLA/CFRA leave shall not also be entitled to parental leave under the New Parent Leave Act. Should you have any question about your eligibility, rights, or responsibilities in connection with parental leave under the New Parent Leave Act, contact the Administrative Services Director.

"Serious health condition" means:

An illness, injury, impairment, physical or mental condition of a child, parent, spouse, domestic partner or employee that involves either (1) the individual being admitted to a medical care facility with the expectation that he or she will remain at least overnight, or (2) continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

"Continuing treatment" means:

- a. Two or more visits to a health care provider;
- b. Two or more treatments by a health care practitioner on referral from, or under the direction of, a health care provider; or
- c. A single visit to a health care provider that results in a regimen of continuing treatment under the supervision of a health care provider.

"Health Care Provider" means:

- a. An individual holding a physician's or surgeon's license, or osteopathic licensed in California;
- b. Podiatrists, dentists, clinical psychologists and optometrists;
- c. Chiropractors, nurse practitioners and nurse-midwives who are licensed and performing within the scope of their practice under California law;
- d. Any health care provider from whom an employer or group health plan's Any health care provider from whom an employer or group health plan's

"Child" means:

A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* (who has parents' rights) who is either under age 18, or an adult dependent child. An adult dependent child is an individual who is 18 years of age or older and who is incapable of self-care because of a mental or physical disability.

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“Parent” means:

A biological, foster, or adoptive parent, a stepparent, or legal guardian. Parent does not include a parent-in-law or grandparent.

An eligible employee may be entitled to family and medical leave up to a total of 12 workweeks during the 12 month period that begins on the first day of qualifying leave. An eligible employee does not need to take family and medical leave in one continuous period of time. However, this leave must be taken in periods of hours or days. Leave can be taken retroactively before the conclusion of the leave if the employee requests it and it meets all qualifications.

O.L. Intermittent Leave or Reduced Work Schedule

When medically necessary, leave may be taken intermittently or on a reduced work schedule:

- a. Intermittent leave is taken in separate blocks of time due to a single illness or injury.
- b. Reduced leave means a leave schedule that reduces the employee’s usual number of hours per workweek or workday.

Should an employee request intermittent or reduced leave when medically necessary, the employee may be required to transfer temporarily to an available alternative position for which the employee is qualified which has equivalent pay and benefits and which better accommodates recurring periods of leave. Where the intermittent leave is to be taken in connection with the birth, adoption, or foster placement of a child, the minimum duration for each period of leave is two weeks, except that the employee may request leave of less than two weeks duration on any two occasions.

P.M. Notification and Certification/Recertification

1. Notification

The employee, or a spokesperson for the employee (e.g., spouse, adult family member, or other responsible party), must notify the City, preferably in writing, as soon as it becomes apparent that the employee will be needing leave for a family leave purpose, as well as the anticipated timing and duration of the leave.

Employees must provide at least 30-calendar days written advance notice for foreseeable events, or notice as soon as possible practicable for unforeseeable events, which qualify for family leave.

The employee must consult with the City regarding, and must make a reasonable effort to schedule any planned medical treatment or supervision so as to minimize disruption of City operations. Actual scheduling is, however, subject to the approval of the employee's health care provider.

Failure to comply with these notice requirements is grounds for, and may result in, deferral of the requested leave until the employee complies with these provisions. However, the City shall not

deny a leave, the need for which is an emergency or is otherwise unforeseeable, on the basis that the employee did not provide advance notice of the need for the leave.

Where leave is requested on the basis of a serious health condition affecting an employee's family member, the City may require evidence of the family relationship.

In addition to the above, the City may require that employees on family leave periodically provide notice as to the employee's intent to return to work.

Once the City is aware of the employee's need for leave, it will inform the employee whether he or she is eligible under the FMLA/CFRA/ If the employee is eligible, the notice will specify any additional information required as well as the employee's rights and responsibilities. If the employee is not eligible, the City will provide a reason for the ineligibility.

2. Certification

For family and medical leave taken for reason of the birth or adoption of a child of the employee, any leave taken shall be initiated within one year of the birth or placement of the child with the employee in connection with the adoption of the child by the employee.

For leaves to care for a child, parent or spouse with a serious health condition, the employee shall provide, within 15 days of the leave request if practicable, the written certification from the health care provider containing the following information:

- a. The date, if known, on which the serious condition commenced.
- a.b. The probable duration of the condition.
- b.c. An estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, registered domestic partner, or spouse.
- c.d. A statement that the serious health condition warrants the participation of a family member to provide care during a period of treatment or supervision of the child, parent, registered domestic partner, or spouse.
- d.e. If intermittent leave or reduced leave is requested, the certification should indicate the medical necessity for leave and its expected duration.

Upon expiration of the time period which the health care provider originally estimated that the employee needed to care for the family member, the City shall require the employee to obtain recertification if additional leave is requested

If the family and medical leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of the employee's position.

If the validity of the certification is questioned, the City may at its own expense, require the employee to obtain the opinion of a second health care provider chosen by the City. When the second opinion differs from the first, the City may require at its own expense, the opinion of a third health care provider approved jointly by the City and the employee whose opinion shall be considered final and binding.

The FMLA allows for a maximum of 12 weeks of combined leave for spouses who work for the same employer and who take leave for the birth, placement for adoption, or foster care of their child, or to care for a parent with a serious health condition. Under the CFRA, the same rule applies, except that the parents do not need to also be spouses.

Pursuant to the FMLA and CFRA, the City has the right and responsibility to designate leave, paid or unpaid, as CFRA and/or FMLA leave based on information provided by the employee and the employee's health care provider.

In the event that the City determines that a leave of absence is for a family leave purpose, the City shall, within 5 business days, notify the employee of its determination that the leave constitutes FMLA and/or CFRA leave. Such notice may be oral or in writing.

The City shall attempt to respond to the leave request before the date the leave is due to begin. Once given, approval shall be deemed retroactive to the date of the first day of the leave.

Q.N. Benefits While on Leave

Except to the extent that other paid leave is substituted for family and medical leave, such family and medical leave is unpaid. However, employees may be entitled to California State Disability Insurance and/or Paid Family Leave benefits while on such a leave of absence. These programs are administered by the California Employment Development Department.

Employees are required to substitute accrued vacation time and compensatory time off for all family and medical leaves. Employees are required to substitute paid sick leave only for the employee's own medical leaves. Employees may elect to substitute paid sick leave to attend the illness of a child, parent, spouse or domestic partner of the employee, or of other types of family and medical leave.

The employee on a family and medical leave shall be allowed to continue with health, dental, vision and life insurance benefits at the same level as would have been covered if the employee had continued working. The employee will be allowed to continue and pay for his/her group health coverage.

If an employee fails to return to work from leave, the City may recover the employer-paid portion of the premiums during the leave unless the failure to return to work was the result of continuation, recurrence, onset of a serious health condition or other circumstance beyond the control of the employee which has been certified by a health care provider within 30 days of the employee's failure to return to work.

Continued health coverage will be assured any employee failing to return to work in accordance with COBRA provisions and applicable state and federal law.

Return to Work Certification

Return to Work Certification

Return to Work Certification

Return to Work Certification

An employee whose leave was due to the employee's own serious health condition shall be Return to Work Certification required to provide medical certification that he or she is released to return to work and able to do so. The City may delay restoring the employee to employment or terminate the employee without Return to Work Certification such certificate.

The City may deny restoration to a previous position if the employee who has taken family and medical leave is considered a "key" employee (among the highest paid 10% of all employees) if:

- a. Denial is necessary to prevent substantial and grievous economic injury to the operations of the City.
- b. The City notifies the employee of the intent to deny restoration on such basis at the time the City determines that such injury would occur; and
- c. In any case where the leave has commenced, the employee elects not to return to employment after receiving such notice.

Catastrophic Leave Donation Policy

Catastrophic Leave Donation Policy

Catastrophic Leave Donation Policy

Employees of the City have historically joined together to help their fellow employees in times of crisis. Catastrophic illness or injury can create a serious financial hardship for employees and their families when the employee has exhausted all accumulated leave time on the books, but remains off work due to a serious illness or injury to either themselves or a family member. Thus, the purpose for creating a leave donation program is to provide an opportunity for employees to donate leave time to assist co-workers facing leave-without-pay status during a catastrophic injury or illness, and to provide an opportunity for eligible employees to receive the donated leave when facing a catastrophic event.

The City shall establish a Leave Donation Bank to which eligible employees may donate earned and unused vacation time off. Donations made to the Leave Donation Bank shall be confidential, strictly voluntary, and are **irrevocable**. A donation to the Leave Donation Bank shall be a general donation and shall not be donated to a specific employee for his or her exclusive use. Donation guidelines, recipient qualifications and procedures for requesting leave are provided in this policy.

DEFINITIONS

CATASTROPHIC ILLNESS OR INJURY: “Catastrophic Illness or Injury” is defined as an injury or illness that is expected to incapacitate an employee or an eligible member of his or her family for a prolonged period of time. “Incapacity” for purposes of catastrophic illness or injury, is defined as the inability to perform the essential functions of his or her work, or perform other required daily activities without assistance as a direct result of the catastrophic illness or injury.

ELIGIBLE FAMILY: For purposes of this policy, the employee’s eligible family shall consist of spouse or registered domestic partner, child(ren) of any age (including stepchildren), and parents.

LEAVE: “Leave” that may be donated to the Leave Donation Bank includes accrued but unused vacation time only.

REGULAR EMPLOYEE: For purposes of this policy, a “regular” employee is defined as a full-time or part-time employee in a permanent position with the City.

DONOR QUALIFICATIONS

An employee must meet all of the following qualifications in order to make an irrevocable donation to the Leave Donation Bank:

- Regular Employee must be in a permanent position with the City. Both full and part-time employees may donate.
- Regular Employees must have a minimum of at least 50% the employees annual vacation allotment after donating leave time.

MINIMUM / MAXIMUM DONATION

There is no minimum or maximum amount of Leave that may be donated.

An employee may not donate more than the maximum amount of leave that he or she normally accrues, and must have a minimum balance of at least 50% the employees annual vacation allotment remaining after donating leave time.

CONVERSION OF LEAVE

Leave donations will be converted based on the donor's rate of pay at the time of donation and the Leave Donation Bank will be maintained based on the monetary value of hours donated. For example, if an employee who makes \$100/hour donates one hour of leave, an employee who makes \$20 can receive 5 hours of Leave from the value of the donation.

All donations to the Leave Donation Bank shall remain confidential, are strictly voluntary and are irrevocable.

RECIPIENT QUALIFICATIONS – CATASTROPHIC ILLNESS OR INJURY

Any Regular Employee suffering from a Catastrophic Illness or Injury, or whose eligible family member is suffering from a Catastrophic Illness or Injury, is eligible to apply for Leave to provide a source of wage replacement during an approved leave of absence. Eligibility to receive Leave hours for wage replacement, however, does not guarantee or entitle any employee to an approved or job-protected leave of absence.

The employee must have exhausted all of his or her accrued leave time, including vacation time, sick leave, and compensatory time off, in order to be eligible to receive donated Leave.

The employee must use all leave that he or she continues to accrue on a monthly basis before receiving Leave hours that have been donated to the Leave Donation Bank. Donated Leave hours are paid at the recipient employee's regular rate of pay.

There is no maximum number of hours from the Leave Donation Bank that can be granted to an employee.

Any employee requesting Leave must provide the City with written verification of the Catastrophic Illness or Injury from a health care provider that includes the following: (1) verification of the Catastrophic Illness or Injury of the employee or eligible family member; (2) the degree of the disability; and (3) the anticipated length of the disability.

PROCEDURE FOR APPROVAL OF LEAVE DONATION

All requests for donated Leave benefits shall be presented in writing to the City Manager. All requests shall remain confidential. The City shall provide all eligible employees with a copy of this policy and a Leave Donation Bank Request Form.

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An employee's request for donated Leave benefits shall be reviewed and approved or disapproved by the City Manager within seven business days of receipt. Decisions will be made using all relevant facts. The employee will be notified in writing of the determination.

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The City Manager's decision to deny an employee's request for Leave Donation Bank benefits is final and not subject to the grievance procedure.

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The criteria used for making the decision will be based on the definitions in this policy. For example, open heart surgery, cancer, massive injuries requiring a long recuperation, or an injury or illness that prevents the employee from performing his or her usual and customary job duties for an extended period of time as a direct result of the injury or illness would be considered a Catastrophic Illness or Injury.

Employees donating, requesting or receiving benefits under this policy shall hold the City harmless from any and all claims, attorney's fees, judgments, costs, or settlements arising from the administration of this section.

RETURNING EXCESS LEAVE/EXTENSION OF ABSENCE

If an employee does not use the entire amount of donated Leave for Catastrophic Illness or Injury prior to returning to work, the remaining donated Leave will be returned to the Leave Donation Bank and not retained by the employee.

An employee should notify the City as soon as possible if he or she feels they will not be able to return as scheduled from leave. Additional leave options will be explored with the employee.

Prior to the resumption of work duties after having 60 consecutive days or more of leave due to injury or illness, an employee may be required to submit a release to return to work from his/her health care provider in conformity with the Americans with Disabilities Act and/or the Family Medical Leave Act, and/or the California Family Rights Act.

Pregnancy Disability Leave

Pregnancy Disability Leave

Pregnancy Disability Leave

~~**Pregnancy Disability Leave**~~
An employee who is disabled because of pregnancy, childbirth, or a related medical condition may take a pregnancy-related disability leave for the period of actual disability of up to four months, in addition to any family care or medical leave to which the employee may be entitled. Pregnancy-related disability leaves may be taken intermittently, or on a reduced-hours schedule, as medically necessary.

Moreover, an employee is entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions of she so requests and provides the City with medical certification from her health care provider. In addition to other forms of reasonable accommodation, a pregnant

employee is entitled to transfer temporarily to a less strenuous or hazardous position or to less hazardous or strenuous duties if she so requests, the transfer request is supported by proper medical certification, and the transfer can be reasonably accommodated.

1. Notice & Certification Requirements:

An employee shall provide timely oral or written notice sufficient to make the City aware that the employee needs reasonable accommodation, transfer, or pregnancy disability leave, and, where practicable, the anticipated timing and duration of the reasonable accommodation, transfer or pregnancy disability leave.

An employee must provide the City at least 30 days advance notice before the start of reasonable accommodation, transfer, or pregnancy disability leave if the need for the reasonable accommodation, transfer, or leave is foreseeable. The employee shall consult with the City and make a reasonable effort to schedule any planned appointment or medical treatment to minimize disruption to the employer's operations, subject to the health care provider's approval.

If 30 days advance notice is not practicable, because it is not known when reasonable accommodation, transfer, or leave will be required to begin, or because of a change in circumstances, a medical emergency, or other good cause, notice must be given as soon as practicable.

The City shall respond to the leave or accommodation request as soon as practicable and inform the employee if she is eligible for a PDL leave, transfer, or other accommodation. The City shall attempt to respond to the leave request before the date the leave is due to begin. Once given, approval shall be deemed retroactive to the date of the first day of the leave.

Requests for an extension of leave must be submitted in writing to the department
Requests for

an extension of leave must be submitted in writing to the department head prior to the agreed date of return and must be supported by a written certification of the attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition. The maximum pregnancy disability leave is four months.

Compensation During Leave: An employee taking a pregnancy disability leave

Compensation During Leave: An employee taking a pregnancy disability leave

Compensation During Leave: An employee taking a pregnancy disability leave

3. **Benefits During Leave:** During a pregnancy disability leave, the City will continue to pay for the employee's participation in the City's group health plans, to the same extent and under the same terms and conditions as would apply had the employee continued in employment continuously for the leave period. Thus, the employee must continue to pay her share of the health plan premiums during the leave. If paid leave is substituted for any portion of the leave that is unpaid leave, such payments will be deducted from the employee's pay through the regular payroll deductions.

4. **Return to Work Certification:** Consistent with the City's practice for other employees returning from a disability leave for reasons other than pregnancy, the City requires that an employee returning from pregnancy disability leave provide a release to return to work from her healthcare provider stating she is able to resume her original job or duties.

0. **Reinstatement:** Employees returning from pregnancy disability leave generally are entitled to be reinstated in the same position, subject to certain conditions, and consistent with applicable law.

Time Off for Victims of Crime

Time Off for Victims of Crime

Time Off for Victims of Crime

The City will provide time off to an employee to attend judicial proceedings related to a crime, if that employee is a victim of a crime, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim. The City requires that where feasible, in advance of taking leave, the employee provide it with a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice. If advance notice is not possible, the employee is required to provide the City with a copy of the notice within a reasonable time.

No employee who is absent from work pursuant to this provision will be discharged or otherwise discriminated against in compensation or other terms, conditions or privileges of employment, because of such absence. Such leave is unpaid. Employees taking leave under this policy may elect to apply vacation time to such leave.

OO.S. Time Off for Victims of Domestic Abuse and Sexual Assault

The City will provide time off to an employee who has been the victim of domestic violence, sexual assault or stalking to seek any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child. This includes time off for court proceedings services from a domestic violence shelter, program or rape crisis center, counseling, medical attention, and participation in safety planning programs. The City requires reasonable advance notice of the leave when feasible. If time off is taken due to an emergency, the employee must, within 15 days of the absence, provide the City with certification of the need for the leave such as a police report, court order, documentation from a healthcare provider, victims advocate, or counselor.

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Leave under this section is unpaid unless the employee uses accrued time off. Employees eligible for paid sick leave benefits may take any such available paid time off for the purposes set forth in this policy. In the event paid sick leave benefits are not available, employees taking leave under this policy may elect to apply accrued and unused vacation and compensatory time off to such time.

Also, the City will provide a reasonable accommodation for an employee who is a victim of domestic violence, sexual assault, or stalking, and who has disclosed that status to the City, if the employee requests an accommodation for his or her safety while at work. The City will engage, in good faith, in a timely and interactive process with the employee to determine an effective reasonable accommodation, and the City may request that the employee provide (i) a written statement, signed by the employee or someone acting on his or her behalf, certifying that the accommodation is for the purpose stated above, and (ii) a certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking. Every 6 months after the date of the previous certification, the City may request recertification of such status. The City will maintain certifications as confidential if it identifies the employee as a victim of domestic violence, sexual assault, or stalking, and will disclose such information only as required by law, or as necessary to protect the employee's workplace safety. The City will notify the employee before such disclosure.

The City prohibits discrimination, discharge, or retaliation against an employee for taking time off or requesting an accommodation under this policy, or based on the employee's status as a victim of domestic violence, sexual assault, and/or stalking.

PP.T. Workers' Compensation Disability Leave

The City will grant workers' compensation disability leave to employees with occupational illnesses or injuries in accordance with state law and/or reasonably accommodate such employees with modified work when appropriate.

1. **Notice Requirement:** Employees must report all on duty accidents, injuries and illnesses—no matter how small—to their immediate supervisor as soon as possible.
2. **Compensation During Leave:** Employees may first utilize any accrued sick time and then any other accrued paid time off during the leave. All such payments will be coordinated with any short or long-term disability, workers' compensation, or other wage reimbursement benefits for which employees may be eligible. At no time shall an employee receive a greater total payment than the employee's regular salary. Peace employees may be entitled to receive their full salary while temporarily disabled by on-the-job injuries for a period of time.

QQ.U. School-Related Leaves

An employee who is a parent, guardian or grandparent with custody of a child in a licensed day care facility, kindergarten or grades 1-12, inclusive, may request unpaid time off to visit that facility or school as described below.

1. **School Activities:** An employee may take off up to 8 hours without pay each month (up to a maximum of 40 hours each calendar year), to participate in the activities of the facility or school, provided that the employee gives reasonable notice to the City of his or her proposed absence. An employee may utilize his or her existing accrued vacation time or other accrued paid time off. The City requires the employee to provide documentation from the school or licensed day care facility, within 5 days of the leave, as proof that the employee participated in the school or licensed day care activities on a specific date and time.

If both parents of a child work for the City, only one parent—the first to provide notice—may take the time off, unless the City approves both parents taking time off.

School Leave – Suspension: An employee who is the parent or guardian of a child who has been suspended from school, and who the school has directed to attend the child’s school, may have unpaid leave for this purpose. The employee should alert his or her supervisor as soon as possible so that alternative arrangements may be made. The employee may utilize his or her accrued vacation time.

SECTION 67. ~~SECTION 16.~~ COMPREHENSIVE ELECTRONIC MEDIA POLICY

A. Purpose

This policy governs the use of all electronic media by City employees. Nothing in this policy shall be construed to override employees’ rights under state and federal labor laws.

B. Scope

This policy applies to electronic media and all documents, recordings, and other data contained in or recoverable from such media, owned by the City of Wheatland.

“Electronic Media” includes all types of City-owned electronic equipment, such as computers, computer peripherals, PDA’s, computer software, laptops, voice mail, cell phones, electronic mail (e-mail), Internet access, World Wide Web access, online information services, and any other electronic type of equipment that the City deems as electronic media.

1. Employer Equipment

This policy applies to all electronic media provided by the City of Wheatland.

2. Confidential Records

This policy does not apply to access to any law enforcement, medical, financial, or client information, which is designated as confidential by state or federal law or regulation. Nothing in this policy allows, or shall be interpreted to allow, any person not authorized by law to receive or review such confidential information to

do so. Any person attempting to access or accessing confidential information will be subject to disciplinary action, up to and including termination.

C. Policy

Electronic Media are provided for the use of City employees for business- related purposes. All Electronic Media and the information stored thereon is the property of the City and can be accessed by the City at any time and for any reason. Employees have no expectation of privacy in any Electronic Media or information stored thereon. They may not be used for personal purposes or any other purposes unrelated to City's business except where specifically authorized by the Department Head or Supervisor. Any such authorization shall be granted only if the use will not be disruptive to the workplace and will occur only during the employee's lunch period or other authorized break. Employees shall have no expectation that information they convey, create, file, or store in such media will be confidential or private. Accordingly, employees should not disclose any medical, financial, private, etc. information on the City's Electronic Media.

No employee, under any circumstances, shall use electronic media for any of the following purposes: view, research or otherwise access any information containing sexually explicit or pornographic materials, terrorist materials or organizations, recreational games, chain letters, use for personal gain, solicitations, messages which constitute discrimination or harassment under state or federal law, or other unlawful actions.

Hacking is unauthorized and is a violation of the Federal Electronic Communications Privacy Act (ECPA) 18 U.S.C. § 2510.

Except as set forth in Section B 2, the City Manager or Department Heads of the City have the right to enter, search, monitor, copy and/or retrieve the computer files, voice mail, e-mail, or any type of electronic file of any employee, without notice, including but not limited to investigating theft, disclosure of confidential business information, use of the system for personal reasons, or for any other purpose at any time. Employees must receive advance approval from their department head before adding personal software programs to the City's computers.

Copyrighted electronic files shall not be copied or transferred without all legally required written permission. Downloading a file from the Internet can bring viruses with it. Employees shall scan all downloaded files with City virus protection.

D. Use of Electronic Media

1. Computers, Computer Software, Laptops and Computer Files

The City's computers, software and files stored on the computer or network are City property and may only be used for its business purposes. Although employees have passwords that restrict access to their computers, the City may access any files stored on or deleted from the computer system.

The City reserves the right to access such information for any lawful purpose at any time. All software that resides on any of City's computers must be licensed to the City of Wheatland.

2. **Online Information Services**

Use of online information services, such as the Internet and the World Wide Web, is restricted to approved plans/services provided by the City of Wheatland.

Online information services may be used only in a manner consistent with this policy. Access to online services should be limited to a reasonable amount of time. The standard for a reasonable amount of time shall be established at the discretion of the department head or supervisor.

3. **Voice Mail**

Although employees may have passwords that restrict access to voice mail messages left for them on the system, employees should be aware that the department head or supervisor can access any messages stored in the voice mail system and may do so for any reason at any time. Therefore, employees may not assume that such messages are confidential.

4. **E-mail**

Electronic mail addressed to, generated by, or received on City's computers or servers is the property of the City and may only be used for purposes consistent with this policy. As with voice mail, although employees have passwords that restrict access to their computers, the department head or supervisor may access any files or e-mail messages stored on or deleted from the computer system. The City reserves the right to access such information for any purpose at any time.

a. E-mail messages must be electronically **deleted** from all computer devices
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c.b. Sent e-mail messages are to be electronically **deleted** from all computer devices on the 7th day after they are sent.

d.c. Deleted e-mail messages are electronically **deleted** when a user logs out of the system at the close of each workday.

e.d. Voicemail message that have been heard should be electronically deleted on the 15th day after receipt and voicemail messages that have not been heard should be electronically deleted on the 30th day after receipt.

5. **Information Retrieval**

Information of files deleted from electronic media may not have been permanently deleted from the system. It is possible to recover deleted computer files, deleted e-mail, and deleted voice mail messages at any time.

6. Other Disclosures

With limited exceptions as specifically authorized by state or federal law, data, files, messages, and information on City computers are public records. They are available to any member of the public and the news media upon request. Employees must create and send any electronic media information with that fact in mind. Electronic data is discoverable in litigation, which may be filed against or by the City or its officers and employees and, if you are uncertain about the content of a message, you or your department head should consult with the City Attorney before it is created or sent.

E. Allowable Uses of Electronic Media

Allowable uses of electronic media for City business purposes include the following:

- to facilitate performance of job function;
- to facilitate communication of information within the City;
- to coordinate meetings of individuals, locations and resources of the City;
- to communicate information and respond to requests for information received from the City web site;
- to communicate with outside organizations as required in order to perform and employee's job function.

F. Prohibited Uses of Electronic Media

Prohibited uses of electronic media include, but are not limited to the following:

- violating local, state or federal law; harassing or disparaging others based on race, national origin, sex, sexual orientation, age, disability, or religious or political beliefs, or any other protected category as identified in the anti-harassment policy above (including but not limited to racial slurs, obscene messages, sexually explicit images, cartoons or messages);
- threatening others;
- defaming others;
- soliciting or proselytizing others for commercial ventures, religious or political causes, outside organizations, or other non-job-related matters;
- intentionally disrupting business operations or crashing department networks and connected systems (for example, sabotaging or intentionally introducing a computer virus);
- accessing others' files without authorization and with no substantial business purpose;
- vandalizing the data of another user; forging electronic mail messages; wasting system resources; sending personal messages such as chain letters; and

- using electronic media inappropriately in a way deemed by the City to violate the intended purpose of any electronic media.

G. Violations of This Policy

Violations of this policy may result in disciplinary action, up to and including discharge.

**SECTION 68. SECTION 17. OUTSIDE EMPLOYMENT OR
ACTIVITY/CONFLICTS OF INTEREST**

A. Conflict of Interest Implications of Outside Employment

Employees are expected to devote their best efforts and attention to the full-time performance of their jobs. Moreover, employees are expected to use good judgment, to adhere to high ethical standards, and to avoid situations that create an actual or potential conflict between the employees' personal interests and the legitimate business interests of the City. A conflict of interest exists when the employee's loyalties or actions are divided between the City's interests and those of another. Both the fact and the appearance of a conflict of interest should be avoided. Employees unsure as to whether a certain transaction, activity, or relationship constitutes a conflict of interest should discuss it with their immediate supervisor or the Administrative Services Director for clarification.

Based thereon, City employees are permitted to pursue outside employment or activities only when all of the following conditions are met:

Employees shall not engage in any employment, activity, or enterprise for compensation, which is inconsistent, incompatible, in conflict with or, inimical to his or her duties as an officer or employee or with the duties, functions, or responsibilities of his or her appointing authority or the department in which he or she is employed for the City.

The City Manager shall determine, in his or her sole discretion those outside activities,
The City Manager shall determine, in his or her sole discretion those outside activities, which for
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- Involves the use for private gain or advantage of his/her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local agency office or employment.
- Involves receipt or acceptance by the officer or employee of any money or other consideration from any person or entity other than the City for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her City employment or as a part of his or her duties as a City officer or employee.
- Involves the performance of an act in other than his or her capacity as a City officer or employee which act may later be subject directly or indirectly to

the control, inspection, review, audit, or enforcement by the officer or employee or any other officer or employee of the City.

- d. Involves time demands that negatively impact the performance of his or her duties as a City officer or employee.

. Every City employee at the time of adoption of this policy or at the time of Every City employee at the time of adoption of this policy or at the time of

5.3. Any City officer or employee violating this rule, including engaging in prohibited activities, shall be subject to disciplinary action.

B. _____

TERMS AND CONDITIONS OF OUTSIDE EMPLOYMENT OR ACTIVITY

1.4. The City reserves the right to require that outside employment or activity be terminated at any time the City Manager deems such termination appropriate given an actual or potential conflict of interest in the sole exercise of his or her discretion.

2.5. Worker's Compensation Insurance provided the employee through the City shall not in any way be construed as transferable to cover outside employment. To the extent such coverage is required for outside employment, the other employer shall bear all responsibility and obligation to provide such coverage for the employee at all times of outside employment.

3. By authorizing outside employment or activity, the City assumes no liability
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SECTION 69. SECTION 18. EMPLOYEE POLITICAL ACTIVITIES

A. Policy

The City prohibits:

- Employees and officers from engaging in political activities during work hours;
- Political campaigning in City buildings or on City premises adjacent to City buildings in a way that attributes or implies City support of or opposition to any political issue; and
- Employees and officers from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

- Those who violate this policy will be subject to discipline, up to and including termination.

B. Examples of Prohibited Conduct

- Participate in political activities of any kind while in uniform;
- Participate in political activities during working hours;
- Participate in political activities at the workplace;
- Place or distribute political communications on City property in a way that attributes or implies City support of or opposition to any political issue;
- Use City equipment to make political communications;
- Solicit a political contribution from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee;
- Favor or discriminate against any employee because of political opinions or affiliations;
- Interfere with any election; or
- Attempt to trade job benefits for votes.

C. Examples of Permitted Conduct

- Express opinions on all political subjects or candidates;
- Become a candidate for any local, state, or national election;
- Contribute to political campaigns;
- Join and participate in the activities of political organizations;
- Request, during off-duty time, political contributions, through the mail or other means, from City officers or employees if the solicitation is part of a solicitation made to a significant segment of the public which may include City officers or employees;
- Solicit or receive, during off-duty time, political contributions from a City employee organization if the funds, when collected, were not earmarked for a clearly identifiable candidate for a federal, state or local office; or
- Solicit or receive, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of City officers or employees.

SECTION 70. SECTION 19. DRUG AND ALCOHOL-FREE WORKPLACE POLICY

A. Purpose

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Wheatland has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol can take its toll on job performance and employee safety.

Employees must be in a condition to perform their duties safely and efficiently, in the interest of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during work hours, are inconsistent with this objective. Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from a counselor or medical professional.

While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those whose continued substance abuse, even if enrolled in counseling or rehabilitation programs, results in performance problems, dangers to the health and safety of others and themselves and/or violations of federal, state or City laws/policy.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substances which could impair an employee's ability to safely and effectively perform the functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the City's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired. In recognition of the public service responsibilities entrusted to the employees of the City and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City.

B. Policy

It is City policy that employees shall not be impaired by or have in their biological system, or be in possession of, alcohol, illegal drugs, prescription drugs or any other substances which could impair an employee's ability to safely and effectively perform the functions of the particular job while on City property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty.

Please note that despite its legal status in California, marijuana remains an illegal drug under federal law and is therefore deemed an "illegal drug" for purposes of this policy.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City equipment, can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

Refusal to immediately submit to an alcohol and/or drug analysis based on reasonable suspicion

Refusal to immediately submit to an alcohol and/or drug analysis based on reasonable suspicion (see below) when requested by City management or law enforcement personnel, may constitute insubordination and be grounds for discipline, up to and including termination.

Employees reasonably believed to be under the influence of alcohol, illegal drugs, prescription drugs or any other substances which could impair an employee's ability to safely and effectively perform the functions of the particular job, shall be prevented from engaging in further work and shall be detained for a reasonable time until he or she can be safely transported from the work site.

The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

C. Application

This policy applies to all City employees and to all applicants for positions with the City. This policy applies to alcohol, illegal drugs, prescription drugs or any other substances which could impair an employee's ability to safely and effectively perform the functions of the particular job

This policy applies any time an employee is (1) on duty, (2) on City premises, (3) operating a City vehicle or equipment, and (4) performing City business, regardless of location

D. Employee Responsibilities

An employee must:

1. Not report to work or be subject to duty while his or her ability to perform job duties is impaired due to on or off duty alcohol or illegal or legal drug use;
2. Not possess or use alcohol or impairing drugs, including illegal drugs and prescription 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;
3. Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
4. Submit immediately to an alcohol or drug test when requested by a City representative based on reasonable suspicion;
5. Notify his or her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City equipment; and

6. Provide within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/ test is positive. The prescription must be in the employee's name.

Any violation of this policy may result in discipline, up to and including termination.

E. **Management Responsibilities**

1. Managers and supervisors are responsible for reasonable enforcement of this policy.

~~0.~~ **Drug/Alcohol Testing**

Drug/Alcohol Testing

~~1.~~ **Drug/Alcohol Testing**

If an employee occupies a designated safety-sensitive position, including public works employees and public safety officers, and his or her supervisor or manager has a reasonable suspicion that the employee is working in an impaired condition or otherwise engaging in conduct that violates these Rules, the employee will be asked about any observed behavior and offered an opportunity to give a reasonable explanation. If the employee is unable to explain the behavior, he or she will be asked to take a drug test in accordance with the procedures outlined below.

If the employee refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result.

~~2.~~ **Reasonable Suspicion**

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so the employee's ability to perform his or her job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion depending upon the circumstances in which the behavior is observed and/or reported:

- Slurred speech;
- Alcohol odor on breath;
- Unsteady walking and movement;
- An accident involving City property, where it appears the employee's conduct is at fault;
- Physical altercation;
- Verbal altercation;
- Unusual Behavior;
- Possession of alcohol or drugs;
- Information obtained from a reliable person with personal knowledge.

Any manager or supervisor requesting an employee to submit to a drug and/or alcohol test should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence.

Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this Policy. Where there is reasonable suspicion that the employee is then under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported home.

Managers and supervisors shall notify their Department Head or designee when they have
Managers and supervisors shall notify their Department Head or designee when they have
Managers and supervisors shall notify their Department Head or designee when they have

V.3. Procedure

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If a manager or supervisor has reasonable suspicion that an employee may be under the influence of or impaired by drugs or alcohol, then the employee will be asked about any observed behavior or other indicator(s) and offered an opportunity to provide a reasonable explanation. If the employee cannot reasonably explain the behavior or other indicator(s) to the satisfaction of the City, then the employee shall be directed to submit to a drug and alcohol screening test. The drug/alcohol testing procedure shall be the same as, and in accordance with, the fitness for duty exam procedures in section 12.

The drug and/or alcohol test may test for any substance which could impair an employee's ability to perform effectively and safely the functions of his or her job, including, but not limited to, prescription medication, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids.

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including, termination.

If the drug screen is positive, the employee must provide, within 24 hours of the request, bona fide verification of a valid current prescription for the legal drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription for a legal drug, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor of the same, or if the prescription is for an illegal drug (including but not limited to marijuana), the employee will be subject to disciplinary action, up to and including termination.

If an alcohol/drug test is positive for alcohol or drugs, the City shall impose discipline, up to and including termination, in conformance with City procedures for discipline.

SECTION 20. INSPECTIONS AND SEARCHES

A. Access to City Property

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In order to ensure access at all times to City property, and because employees properly in possession of City property or information related to City business may not always be available to produce the property or information when needed in the ordinary course of the City's business, the City reserves the right to conduct a routine inspection or search at any time for City property on City premises. In addition, the City reserves the right to access at all times information and communications stored in City computer files and on City mobile devices, and in employee voicemail boxes and electronic-mail systems.

Routine searches or inspections for City property may include an employee's office, desk, file cabinet, closet, computer files, voicemail, electronic mail, City-issued mobile device, or similar places where employees may store City property or company-related information, whether or not the places are locked or protected by access codes and/or passwords.

Because even a routine search for City property might result in the discovery of an employee's personal possessions, all employees are encouraged to refrain from bringing into the workplace any item of personal property that they do not wish to reveal to the City.

All searches are conducted in accordance with applicable local, state, and federal law. For certain employees, additional procedural protections may be required pursuant to applicable law. Please consult the Administrative Services Director with any inquiries. Furthermore, if the terms of an applicable memorandum of understanding contain terms different from, or in any way in conflict with, the above, the terms of the applicable memorandum of understanding apply.

B. Inspections and Searches for Prohibited Materials

Inspections or searches for prohibited materials in or on City premises also will be conducted whenever the City has reasonable suspicion to believe that a particular employee or group of employees may be in possession of materials in violation of these Rules.

Inspections or searches for prohibited materials may be conducted by an independent security service or by City personnel.

Inspection or searches for prohibited materials may be conducted on a regular or random basis at locations where employees enter or exit City premises, without regard to whether there is reasonable suspicion that any employee may be in possession of prohibited materials in violation of these Rules, provided doing so is consistent with applicable local, state, and federal law.

Inspections or searches for prohibited materials may be conducted from time to time even when there is no immediate reason to suspect the presence of the materials. In such cases, the City may announce the inspection in advance, except for inspections or searches conducted at locations where employees enter or exit City premises.

Inspections or searches for prohibited materials may include an employee's office, desk, file cabinet, closet, computer, City-issued mobile device, or similar places where employees may place personal possessions or information, whether or not the places are locked or password protected. Inspections or searches for prohibited materials also may include an employee's locker, or an employee's pockets, purse, briefcase, lunch box, or other item of personal property that is being worn or carried by the employee while on City premises.

In cases involving an inspection or search of an employee's pockets, purse, briefcase, or other item of personal property that is being worn or carried by the employee, the employee will be requested to conduct a self-search (i.e., by turning out or emptying pockets, purses, etc.) in the presence of an observer who will be a person of the same gender.

Employees who refuse to cooperate during an inspection or search will not be forcibly detained or searched. However, the City will base any disciplinary decision on the information that is available, including the employee's refusal to consent to the search as well as the information that gave rise to a reasonable suspicion that the employee was in possession of prohibited materials, if applicable. An employee's failure or refusal to cooperate could deprive the City of information that may clear the employee of suspicion. In addition, the City reserves the right to take appropriate action to prevent the unauthorized removal from City premises of City property.

All searches are conducted in accordance with applicable local, state, and federal law. For certain employees, additional procedural protections may be required pursuant to applicable law. Please consult the Administrative Services Director with any inquiries. Furthermore, if the terms of an applicable memorandum of understanding contain terms different from, or in any way in conflict with, the above, the terms of the applicable memorandum of understanding apply.

SECTION 71. SECTION 21. WORKPLACE SECURITY

A. Policy

The City of Wheatland is committed to providing a safe and secure workplace for employees and the public. The City will not tolerate acts or threats of violence in the workplace. The workplace includes any location where City business is conducted, including vehicles and parking lots. Any violation of this policy will lead to criminal prosecution, and/or disciplinary action, up to and including termination.

B. Prohibited Behavior

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

Employees engaged in City business are prohibited from carrying self-defense weapons in violation of any law or this policy. Employees who have legal authority to carry a self-defense weapon shall notify the department head in writing of what type of weapon is being carried. Employees who have legal authority to carry self-defense weapons violate this policy if they: accidentally discharge or lose their weapon; use, threaten to use, or display the weapon while engaging in City business; or violate any law related to carrying a legal self-defense weapon while engaged in City business.

C. Definitions

"Workplace Violence" is any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her co-workers, family, friends, and/or property. Specific

examples of workplace violence include, but are not limited to, the following:

1. Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, co-workers, or property.
2. The destruction of, or threat of destruction of City property or another employee's property.
3. Harassing or threatening communications (including but not limited to phone calls, text messages, emails, voicemails, etc.)
4. Surveillance.
5. Stalking.
6. Possession of offensive or defensive weapons (firearms, illegal knives, clubs, mace, pepper spray, tear gas, etc.) unless specifically required or authorized and approved by the City Manager.
7. Any conduct relating to violence or threats of violence.
8. Weapons are defined as firearms, chemical sprays, clubs or batons, and knives, and any other device, tool, chemical agent or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

D. Incident Reporting Procedures

Employees must immediately report workplace violence to their supervisor or department head. The supervisor or department head will report the matter to the City Manager. Further, employees should notify their supervisor or department head if any restraining order is in effect, or if a potentially violent non-work-related situation exists that could result in violence in the workplace.

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

The City Manager will take appropriate steps to provide security, such as:

1. Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
2. Asking any threatening or potentially violent person to leave the site;
3. Immediately contacting an appropriate law enforcement agency; or
- 3.4. Seeking a workplace violence restraining order.

E. Investigation

The City Manager will see that reported violations of this policy are investigated promptly as appropriate.

F. Management Responsibilities

Each department head has authority to enforce this policy by:

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

G. Follow up and Disciplinary Procedures

An employee found in violation of this policy will be subject to disciplinary action, up to and including termination of employment.

SECTION 72. ~~SECTION 22.~~ GRIEVANCE PROCEDURE

A. Statement of Intent

It is the purpose of this policy to establish a clear process to resolve issues raised by employees related to interpretation of personnel rules and any current Memorandum of Understanding. It is the desire of the City to resolve all grievance issues at the lowest possible level within the organization; however, it is important to have a policy in place that assures employees that there are a series of appeal processes available to deal with grievance issues.

B. Definition of Grievant

A grievant is any employee, or a recognized employee association on behalf of one or more than one employee, adversely affected by an alleged violation of personnel rules and/or a current labor memorandum of understanding.

C. Definition of Grievance

A grievance is defined as any dispute that: 1) is job-related; 2) is wholly or partially within the province of the City to rectify or remedy; 3) concerns terms and conditions of employment; 4) involves the interpretation, application, or alleged violation of these Rules or a current Memorandum of Understanding (MOU) between the City and a recognized employee organization representing City employees; and 5) is not subject to any other City dispute resolution process or

procedure that is provided by these Rules.

D. Pre-Grievance Step

Potential grievances shall be discussed in informal conferences between the employee and the immediate supervisor outside of the bargaining unit. At least one informal meeting between parties shall take place before the grievance procedure is invoked.

If the potential grievance is not resolved at this step, then the aggrieved employee may declare that a grievance exists and the provisions of this Rule will be implemented.

E. Formal Grievance

Step One. Within ten (10) working days of the occurrence or discovery of an alleged grievance, the grievance shall be presented in writing to the department head or his/her designee. The grievance by the aggrieved or their representative shall contain information which identifies:

1. The aggrieved;
2. The specific nature of the grievance;
3. The time or place of its occurrence;
4. The section of these Rules or a current Memorandum of Understanding alleged to have been violated;
5. The consideration given or steps taken to secure informal resolution;
6. The corrective action desired.

A meeting shall take place if it is agreed by the parties that such a meeting would assist to clarify or resolve the grievance. The employee may be accompanied by his/her representative at the meeting.

A decision shall be made within ten (10) working days of receipt of the grievance. A copy shall be sent to the aggrieved.

Step Two. If the grievant is not satisfied with the Step One Decision, he/she may appeal the decision in writing to the Administrative Services Director (Director) or his/her designee within ten (10) working days after receiving a written decision at Step One.

The Director or his/her designee shall meet with the grievant and may include other persons involved in the grievance. The grievant may be accompanied by his/her representative. Additional meetings may be held as per mutual agreement.

The Director or his/her designee shall communicate his/her decision to the grievant in writing within ten (10) working days after receiving the grievance (unless there is a mutually agreed upon extension of time), which answer shall be final and binding on the grievant unless it is timely appealed in accordance with the procedures set forth in Step Three.

Step Three. Any grievance that has been properly and timely processed through Step 2 of the Grievance Procedures and that has not been settled at the conclusion of Step 2, may be appealed in writing to a grievance hearing by the aggrieved party or his or her designee. The written appeal must be submitted to the City Manager within 10 working days after receipt of the written answer of the City at Step Two of the Grievance Procedure. The failure to timely appeal within this 10 day period shall constitute a waiver of the aggrieved party's right to appeal to the Step 3 hearing, and the written answer of the City at Step Two of the Grievance Procedure shall be final and binding on the aggrieved employee and the City.

A request for a grievance hearing shall be filed with the office of the City Manager. Upon receipt of a properly filed request for a grievance hearing, the City Manager (or his/her designee) and the grievant (or his/her representative) shall mutually select a hearing officer, who shall not be an employee of the City. If the parties are unable to agree on a hearing officer, then they shall request a list of three names from the State Mediation and Conciliation Service. The parties shall each strike a name from the list and the remaining name shall be the hearing officer. The hearing officer's compensation and expenses shall be borne equally by the City and the grievant (except as otherwise provided in section 13).

The hearing officer shall schedule hearing date(s) as necessary. The hearing shall be informal and the formal rules of evidence shall not apply. The parties shall have the right to offer witness testimony and submit legal briefs, and the specific details and procedures thereof shall be governed by the hearing officer. The hearing officer shall render his/her decision within thirty (30) calendar days of the close of the hearing, receipt of transcripts, submission of briefs or such other date as the parties may mutually select.

The hearing officer's decision shall be a recommendation to the City Manager. The City Manager may accept, reject or modify the hearing officer's recommendation, or remand the recommendation for further proceedings before the hearing officer. If the City Manager does not accept the recommendation of the hearing officer, he/she shall review the entire record of the hearing officer proceeding. The decision of the City Manager shall be final and binding.

If the subject of the grievance is the appeal of a disciplinary action under section 13(J) or another matter involving the deprivation of a constitutionally protected property interest of the grievant and if the City Manager does not accept the hearing officer's recommendation, then the grievance shall be decided by the City Council. In this situation, the hearing officer's recommendation and record of proceeding shall be referred to the City Council and the City Council shall review and consider the grievance record and recommendation, exercise its independent judgment on the grievance and either accept, reject or modify the hearing officer's recommendation or remand the matter for further proceedings before the hearing officer. The City Council's consideration of the matter shall be at an open and public meeting, unless a closed session is authorized by the Brown Act and the grievant consents to consideration of the grievance in closed session. There shall not be any further factual hearing before the City Council. The City Council's decision shall be by resolution, which shall be final and binding.

SECTION 73.SECTION 23. USE OF CITY PROPERTY AND EQUIPMENT

A. Policy

- City property is to be used only for conducting City business unless otherwise authorized. City property includes, but is not limited to: telephones, desks, computers (including hardware and software), file cabinets, lockers, communications stored or transmitted on City property (such as e- and voice-mails), vehicles and other City property used by City employees in their work.
- City property may be monitored and searched at any time and for any reason. Messages sent or received on City equipment may be saved and reviewed by others. As a result, City employees have no expectation of privacy in the messages sent or received on City property or equipment.
- The security of City property is of vital importance to the City. City property includes not only tangible property, like desks and computers, but also intangible property such as confidential information. It is critical for the City to preserve and protect its confidential information, as well as the confidential information of customers, suppliers, and third parties. All employees are responsible for ensuring that proper security is maintained at all times.
- “Confidential Information” means all information, not generally known, belonging to, or otherwise relating to the business of the City or its clients, customers, suppliers, vendors, affiliates or partners, regardless of the media or manner in which it is stored or conveyed, that the City has taken reasonable steps to protect from unauthorized use or disclosure. Confidential Information includes but is not limited to trade secrets as well as other proprietary knowledge, information, and know-how; non-public intellectual property rights, including business plans and strategies; manufacturing techniques; formulae; processes; designs; drawings; discoveries; improvements; ideas; conceptions; test data; compilations of data; and developments, whether or not patentable and whether or not copyrightable.
- “Personal Identification Information” includes individually identifiable information about employees, customers, consultants, or other individuals, such as Social Security numbers, background information, credit card or banking information, health information, or other non-public information entrusted to the City regarding an individual’s personal identity. There are laws in the United States and other countries that protect certain types of Personal Identification Information, and employees should not disclose such protected Personal Identification Information about other individuals to any third party or from one country to another without prior managerial approval.
- Failure to take reasonable measures to protect the City’s Confidential Information may jeopardize its status as a trade secret. While employed by the City, employees must not use or disclose any Confidential Information or Personal Identification Information that they produce or obtain during employment with the City, except to the extent such use or disclosure is required in connection with performing their jobs. Employees may not use or disclose Confidential Information or Personal Identification Information for any reason after the employment relationship with the City ends. Misuse or unauthorized disclosure of Confidential Information or Personal Identification Information may result in immediate termination, as well as potential personal and criminal liability. Nothing in these rules restricts an employee from discussing his or her wages or other terms and conditions of employment with coworkers or others, to the extent protected by law.

- On termination of employment, whether voluntary or involuntary, all City documents, computer records, and other tangible City property in the employee's possession or control must be returned to the City immediately.
- Avoiding loss or theft of Confidential Information or Personal Identification Information is an important part of each employee's job. Accordingly employees must observe good security practices. Employees are expected to keep Confidential Information secure from outside visitors and all other persons who do not have legitimate reason to see or use such information. Employees are not to remove City property without authorization. Failure to adhere to City policies regarding Confidential Information and Personal Identification Information will be considered grounds for dismissal.

B. Use of City Vehicles and Private Vehicles for City Business

The following governs the use of City vehicles and the use of private vehicles on City business. Each department head of the City of Wheatland shall be responsible for assuring that all employees within his or her department who drive vehicles on City business are thoroughly aware of and comply with these rules and regulations.

1. General Rules and Regulations

- a. City vehicles shall be operated only by an authorized City employee, officer, or agent possessing a valid California driver's license of proper class for the vehicle being operated. Prior authorization by a department head is required for use.
- b. Use of City vehicles for any purpose other than City business is prohibited.
- c. Use of a City vehicle for transportation to home or a restaurant, for meals, is prohibited unless the employee is en route while on field duty or attending a meeting on official City business.
- d. Transportation of any person not connected with City business shall be prohibited in City vehicles except with prior approval of the department head.
- e. Use of a City vehicle for commuting purposes is prohibited unless retention of the City vehicle is authorized.

f.2. Driver Responsibilities

All City employees, when using any vehicle on City business, shall:

- i.a. Operate vehicles in a safe, reasonable manner consistent with the intended use of the vehicle.
- ii.b. Observe all traffic laws, rules and regulations, including applicable laws regarding hands-free cell phone usage. Fines and penalties imposed for

violation of traffic laws, rules and regulations while on City business, other than those due to City equipment violations, are the responsibility of the driver.

iii.c. Not smoke in any type of City vehicle.

iv.d. City officers and employees, prior to using any vehicle on City business, shall certify that:

(a)i. The driver and any privately owned vehicle to be used on City business are currently licensed, that such licenses have not been revoked or suspended, and that restrictions concerning any license will be met by the driver; and

(b)ii. The driver and any privately owned vehicle used on City business are insured by a company authorized to do business in the State of California in the minimum amounts specified by law. Said certification shall be made on a form provided by the Finance Department.

g. Seat belts shall be worn while operating or riding in City vehicles.

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EMPLOYEE PROTECTION LINE

Seat belts shall be worn while operating or riding in City vehicles.

As an employee of the City of Wheatland, you are considered a valuable member of the team. The City of Wheatland understands this and wants to provide you with the safest and most productive work environment possible. This means an environment without wrongdoing.

Workplace wrongdoing hurts everyone. Wrongdoing such as harassment, discrimination, retaliation, drug and alcohol abuse, theft, violence, unsafe acts, and misrepresenting a workers' compensation claim, can make your job more difficult and cause unnecessary loss, resulting in fewer jobs, raises, and benefits. Consequently, the City of Wheatland has provided several outlets to report wrongdoing safely within the City of Wheatland.

However, the City of Wheatland understands that there may be situations where you do not feel comfortable coming forward internally, so the City is providing you with an alternative means for reporting wrongdoing -- the Employee Protection Line®.

The Employee Protection Line® enables you to report workplace wrongdoing without giving your name or identifying yourself in any way, however, you must give enough information to allow your concerns to be addressed.

The toll-free Employee Protection Line® is monitored by an independent third party. This third party monitors reports for many organizations.

When making a report, you must state the name of your organization, but your call will not be traced. You may make a report by calling (800) 576-5262. Your Employee Protection Line® organization code number is 10151.

SECTION 76, SECTION 25. EMPLOYER-EMPLOYEE RELATIONS

ARTICLE I

GENERAL PROVISIONS

Section 1. Statement of Purpose

This Section 25 ("Labor Rules") implements Chapter 10, Division 4, Title 1 of the Government Code (Sections 3500 *et seq.*) captioned "Local Public Employee Organizations", by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law, City ordinances, resolutions and rules which establish and regulate the merit and civil service system, or which provide for other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the City.

It is the purpose of these Labor Rules to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. However, nothing herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, which includes, among other things: the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards for selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; determine the content of job classifications; subcontract work; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its missions in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Should these Labor Rules conflict in any way with applicable local, state, or federal law, that local, state, or federal law controls. Similarly, should these Labor Rules conflict in any way with an applicable memorandum of understanding, the terms of that memorandum of understanding control.

Section 2. Definitions

As used in these Labor Rules, the following terms have the following meanings:

(a) "Appropriate unit" means a unit of employee classes or positions, established pursuant to Article II hereof.

(b) "City" means the City of Wheatland, and where appropriate herein, refers to the City Council or any duly authorized City representative as herein defined.

(c) "Confidential Employee" means an employee, who in the course of his or her duties, has access to confidential information relating to the City's administration of employer-employee relations.

(d) "Consult/Consultation in Good Faith" means to communicate orally or in writing with all effected employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining views or advising of proposed actions in an effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposal with an exclusively recognized employee organization in an endeavor to reach an agreement in the form of a Memorandum of Understanding, nor is subject to Article IV hereof. "Consult/Consultation in Good Faith" for purposes of adopting employer-employee relations rules and regulations, is restricted to exclusively recognized employee organizations.

(e) "Day" means calendar day unless expressly stated otherwise.

(f) "Employee organization" means either of the following: (1) Any organization that includes City employees and that has as one of its primary purposes representing those employees in their relations with the City, or (2) any organization that seeks to represent City employees in their relations with the City.

(g) "Employee Relations Officer" means the City Manager or his/her duly authorized representative.

(h) "Impasse" means the representatives of the City and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

(i) "Management Employee" means an employee having responsibility for formulating, administering or managing the implementation of City policies and programs.

(j) "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any

one employee shall not be considered as proof of employee support for any employee organization. The only authorization, which shall be considered proof of employee support hereunder, shall be the authorization last signed by an employee. The words “recently signed” shall mean within ninety (90) days prior to the filing of a petition.

(k) “Exclusively Recognized Employee Organization” means an employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article II hereof, having the exclusive right to meet and confer in good faith concerning the statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

(l) “Supervisory Employee” means any employee having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

ARTICLE II

REPRESENTATION PROCEEDINGS

Section 3. Filing of Recognition Petition by Employee Organization

An employee organization which seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- (a) Name and address of employee organization.
- (b) Names and titles of its officers.
- (c) Names of employee organization representatives who are authorized to speak on behalf of the organization.
- (d) A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment with the City.
- (e) A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and if so, the name and address of each other such organization.
- (f) Certified copies of the employee organization’s articles of incorporation or constitution and bylaws.

(g) A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

(h) A statement that the employee organization has no restriction on membership based on race, color, religion, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.

(i) The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.

(j) A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party (i.e., representatives of the California State Mediation and Conciliation Service).

(k) A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

(l) The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, by the duly authorized officer(s) of the employee organization executing it.

Section 4. City Response to Recognition Petition

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

(a) There has been compliance with the requirements of the Recognition Petition, and

(b) The proposed representation unit is an appropriate unit in accordance with Section 8 of Article II of these Labor Rules.

If an affirmative determination is made by the Employee Relations Officer in the foregoing two matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform the organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section 10 of this article

Section 5. Open Period for Filing/Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization

may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner set forth in Section 3 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 10 of this Article II.

If the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the Exclusive Recognized Employee Organization for the designated unit.

Section 6. Election Procedure

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of Labor Rules. All employee organizations who have duly submitted petitions that have been determined to be in conformance with this Article II shall be included on the ballot. The ballot shall reserve to employees the choice of representing themselves individually in their employment relations with the City. Employees entitled to vote in such election shall be those persons employed in regular positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under Labor Rules pursuant to any petition in a twelve (12) month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service.

Costs of conducting elections shall be borne in equal shares by the City and by each employee organization appearing on the ballot.

Section 7. Procedure for Decertification of Exclusively Recognized Employee Organization

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of March of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory to be true, correct and complete:

(a) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.

(b) The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.

(c) An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.

(d) Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent, that includes the allegation and information required under paragraph (c.) of this Section 7, and otherwise conforms to the requirements of this Article.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 10 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to the unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot to be held on or about thirty (30) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 6 of this Article II.

During the "open period" specified in the first paragraph of this Section 7, the Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this Section 7, which the Employee Relations Officer shall act on in accordance with this Section 7.

If, pursuant to this Section 7, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term, or until a new Memorandum of Understanding is negotiated, whichever occurs first.

Section 8. Policy and Standards for Determination of Appropriate Units

The policy objectives determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on the recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- (a) Similarity of the general kinds of work performed, types of qualifications required, and the general work conditions.
- (b) History of representation in the City and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- (c) Consistency with the organizational structure of the City;
- (d) Effect of differing legally mandated impasse resolution procedures.
- (e) Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- (f) Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Section 2 of Labor Rules, are determining factors in

establishing appropriate units hereunder, and therefore, managerial, supervisory and confidential employees may only be included in a unit consisting solely of managerial, supervisory and confidential employees respectively. Managerial, supervisory and confidential employees may not represent any employee organization that represents other employees.

Peace officers may join, participate in, and be represented in separate units composed solely of such peace officers. These units shall not be subordinate to any other employee organization which includes non-peace officers.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Employee Relations Officer shall be final.

Section 9. Procedure for Modification of Established Appropriate Units

The Employee Relations Officer may consider requests by employee organizations for modifications of established appropriate units only during the period established in Section 7 of this Article II. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Section 3 of this Article, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 8 hereof. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing from and processing of such request shall be as specified in this section.

The Employee Relations Officer may by his or her own motion propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations, shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 8 of this Article II, and shall give written notice to the affected employee organizations. The Employee Relations Officer's decision may be appealed as provided in Section 10 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Section 3 hereof.

Section 10. Appeals

An employee organization which disputes a unit determination by the Employee Relations Officer or disputes a determination by the Employee Relations Officer that a Recognition Petition, Challenging Petition, Unit Modification Petition or Decertification Petition has not been filed in compliance with the applicable provisions of this Article may, within ten (10) working days of

such decision, request the assistance of a mediator from the State Mediation and Conciliation Services. If the Employee Relations Officer also agrees to mediation, the parties shall share equally the mediation costs.

If there is no agreement to mediate, the employee organization may file an appeal of the decision with the California Public Employment Relations Board (PERB) pursuant to Government Code “ 3507.1(a) and 3509(c) (or any successor sections thereto) and any other applicable provisions of law or regulation. Any such appeal shall be filed within ten (10) working days after a mediation request has been rejected or within ten (10) working days after a mediation has concluded and no agreement mutually satisfactory to the parties resulted from the mediation.

ARTICLE III

ADMINISTRATION

Section 11. Submission of Current Information by Recognized Employee Organizations

All changes in the information filed with the City by an Exclusively Recognized Employee Organization under items (a.) through (h.) of the Recognized Petition under Section 3 of these Labor Rules shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Section 12. Employee Organization Activities - Use of City Resources

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 the Memoranda of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of these Labor Rules that pertain directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization of meetings and elections, and shall not interfere with the efficiency, safety and security of City operations.

Section 13. Administrative Rules and Procedures

The Employee Relations Officer is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of these Labor Rules after consultation with affected employee organizations.

ARTICLE IV

IMPASSE PROCEDURES

Section 14. Initiation of Impasse Procedures

If the meet-and-confer process has reached impasse as defined in Section 2 of these Labor Rules, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of

such meeting shall be:

(a) To review the position of the parties in a final effort to reach agreement on a Memoranda of Understanding; and

(b) If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section 15. Impasse Procedures

Impasse procedures are as follows:

(a) The parties shall discuss the merits of utilizing a mediator to resolve the dispute. If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.

(b) If the parties do not agree to engage in mediation, or doing so did not resolve the impasse, the matter shall be submitted to the City Council who shall make a final determination regarding resolution of the impasses which is final and binding on all parties. If the parties mutually agree that further negotiations are necessary or desirable, they may engage in such negotiations at any time prior to action by the City Council to resolve the impasse.

(c) The cost for the services of a mediator (if agreed to) utilized by the parties and other mutually incurred costs of mediation shall be borne equally by the City and the Exclusively Recognized Employee Organization. Other separately incurred costs relating to any mediation shall be borne by such party.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 16. Construction

These Labor Rules shall be administered and construed as follows:

(a) Nothing in these Labor Rules shall be construed to deny any person, employee, organization, the City, or any authorized officer, body or other representative of the City, the rights, powers and authority granted by federal, state or local law.

(b) These Labor Rules shall be interpreted so as to carry out its purpose as set forth in Article I.

(c) Nothing in these Labor Rules shall be construed as making the provisions of California Labor Code section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown

of work. In consideration of and as a condition of initial and continued employment by the City, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced, to the extent preemptive law does not prohibit such actions; and employee organizations may thereby incur liability and forfeit contractual rights.

Section 17. Severability

If any provision of these Labor Rules, or the application of such provisions to any persons or circumstance, shall not be held invalid, the remainder of these Labor Rules, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Acknowledgement of Receipt Form

I have received my copy of the City Personnel Rules. I understand and agree that it is my responsibility to read, familiarize myself with, and comply with the policies and procedures contained in these Rules during my employment with the City.

I acknowledge that the City reserves full discretion to add to, modify, or delete provisions of these Rules and other employment policies, procedures, work rules or benefits, at any time and without advance notice, except for the City's at-will employment policy. I further acknowledge that that no individual other than the City Council has the authority to enter into any employment contract, and that any such contract must be in writing and signed by me and the City Manager.

I further acknowledge that my employment relationship with the City is for no definite period. I further acknowledge that if my employment relationship with the City is at-will, my employment may be terminated by me or the City at any time and for any reason, with or without cause or advance notice, and that the City may demote or discipline me or otherwise alter the terms of my employment at any time at its sole discretion, with or without cause or advance notice.

I agree to return this Acknowledgement to the Administrative Services Director within thirty (30) days of receipt.

Dated: _____

Employee Signature

Print Name