



CITY OF WESTMINSTER

Department of Human Resources

PERSONNEL POLICY MANUAL

Adopted By Westminster City Council Resolution on
November 12, 2025

These policies reflect the policies and rules of the City of Westminster. These rules shall be followed unless modified by a Memorandum of Understanding by the employee associations. Departments may create policies to address operational needs. If in conflict, Departmental policies will not supersede or modify the Personnel Rules and/or any MOU entered into by the City.

ARTICLE I

PURPOSE, GENERAL PROVISIONS AND DEFINITIONS

SECTION 1. PURPOSE

- A. Content: This manual contains statements of personnel policies and procedures ("**Rules**") **for the City of Westminster ("City")**. It is designed to be an official working document for supervisors and staff personnel in the day-to-day administration of the City's personnel program. These written policies and procedures should increase understanding, eliminate the need for personal decisions on matters of City-wide policy, and help to ensure uniformity throughout the organization. **These Rules apply to all City employees, as defined in this Article, unless excluded by a specific Article or Section.**
- B. Responsibility: It is the responsibility of each and every supervisor, official and administrator to administer these policies and procedures in a consistent and impartial manner. It is the responsibility of each employee to follow established rules. Each supervisor shall assist in keeping the personnel program up-to-date by notifying the **Personnel Human Resources** Department whenever problems are encountered or improvements can be made in the administration of our personnel policies and procedures.
- C. Memorandum of Understanding: ~~The City and the associations are required to meet and confer in good faith (California Government Code 3500-3510) to reach an agreement on matters pertaining to wages, hours and other working conditions. The terms of this agreement are then put into a document called a "Memorandum of Understanding" (MOU). The MOU specifies salary, benefits and working conditions for the term of the agreement. Should~~ If an MOU contradicts this manual, the MOU shall be construed as the official policy of the City for those employees to whom it applies.
- D. No Contract Created: **These Rules do not create a contract of employment, either express or implied, or any rights in the nature of a contract.**
- E. Lexipol: **If a policy in Lexipol contradicts this manual, this manual shall be construed as the official policy of the City for those employees to whom it applies.**

SECTION 2. GENERAL PROVISION

- A. Authority: The authority for establishing and revising personnel policies rests with the City Council. (Municipal Code 2.68.100.)
- B. Distribution: The Policy and Procedure Manual is distributed to employees **and employees are expected to familiarize themselves with it**. Please notice that the manual is assigned to the position and not the incumbent of the position and shall remain with the position if the incumbent moves on. The contents of the manual are not considered

confidential and may be reviewed by any employee of the City of Westminster. Other requests for policy information shall be referred to the **Human Resources Department**.

~~C. **Supplements:** From time to time, employees will receive additional supplements to the Personnel Policy and Procedure Manual. These new supplements will update and revise present policy and procedure whenever deemed necessary. All employees shall study the revised supplements carefully prior to placing them in the Policy and Procedure Manual. Old policy statements and procedures shall be removed when manual holders are instructed to do so in the memorandum attached to the supplements. Should questions arise concerning the intent or procedure to follow in supplements to the Policy and Procedure Manual, consult the Personnel Director.~~

~~C. **Amendment and Revision:** Recommendations for amendment and revision of these policies and procedures may be made, through the chain of command, to the City Manager by an employee of the City, or by any employee group. Such recommendations shall be in writing. Upon receipt of such suggested changes, the City Manager shall investigate if appropriate and make a written report to the City Council. The City Council Human Resources Director may amend these policies from time to time, and any amendments or revisions shall be effective upon adoption by the Council.~~

~~D. **Departmental Rules and Regulations:** Certain departments require special rules and regulations ~~peculiar~~ **specific** to their functions. In such cases, departmental rules and regulations, established and circulated by the department head, and approved by the City Manager, shall govern the employees of such departments. ~~and shall be interpreted as approved and adopted as part of these policies and procedures.~~ Such rules and regulations shall not ~~be in~~ conflict with the policies and procedures contained herein. A copy of all rules and regulations shall be ~~furnished to supervisory employees by the department head of the respective departments and the City Manager, and copies of said rules and regulations shall be maintained in the office of the Personnel Director posted on the City's Intranet and emailed to all employees upon adoption.~~~~

~~E. **Violations:** Employees covered by the Rules are expected to abide by them as a condition of continued employment with the City. Violation of the policies and procedures set forth in this manual shall be grounds for reprimand, dismissal, reduction in pay, demotion or suspension. The City may also send warning notices to employees with a copy placed in the employee's file.~~

~~F. **Management Rights:** The City reserves, retain, and is vested with, solely and exclusively, all rights of Management which have not been expressly abridged by a specific provision in a Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of any Memorandum of Understanding.~~

SECTION 3. DEFINITIONS

~~In utilizing the contents of this Personnel Policy and Procedure Manual, the following definitions shall apply:~~

ADMINISTRATIVE DETERMINATION: The specific application of the policies and procedures as determined by the ~~Personnel Director~~ Director of Human Resources or City Manager on a case-by-case basis.

~~AFFIRMATIVE ACTION: A program designed to work toward the elimination of discrimination by:~~

- ~~1. Breaking down those barriers which prevent the recognition of individual merit.~~
- ~~2. Adopting a management system sensitive to the cultural differences of minorities and women seeking to ensure equal employment opportunities for all individuals.~~

~~AFFIRMATIVE ACTION OFFICER: An official appointed by the City Manager to implement all the provisions of the Affirmative Action Program.~~

~~ALLOCATION: The assignment of a position to its proper class.~~

APPOINTING AUTHORITY: Those City officials authorized by resolution or ordinance to make appointments to a position.

AT-WILL EMPLOYEE: An employee who serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary due process or evidentiary appeal. All department heads, non-benefitted part-time, seasonal, and temporary employees are considered At-Will.

CALPERS: The California Public Employees Retirement System (CalPERS) that administers retirement benefits for the City's permanent, full-time employees. Part-time, seasonal, and temporary employees are excluded from CalPERS membership.

CHAIN OF COMMAND: Line of reporting or supervision authority.

~~CITY: The City of Westminster.~~

CLASS: A group of positions with similar characteristics to which the same schedule of compensation can be equally applied.

CLASSIFIED SERVICE: All permanent, full-time City employees except those specifically excluded by Municipal Code Section 2.68.050. ~~All offices, positions, and employment not exempted in this section shall constitute the classified services of the City (Ord. 1858 1, 1978: Prior code 2402).~~

~~2.68.050 Classified Service Scope Exceptions.~~

~~A. The provisions of this chapter shall apply to all offices, positions and employment in the service of the City, except:~~

- ~~1. Positions on appointive boards, commissions or committees;~~
- ~~2. Elective officials;~~

- ~~3. Casual, seasonal or temporary employees in any office or department of the City;~~
 - ~~4. Part-time employees in any office or department of the City;~~
 - ~~5. Volunteer personnel;~~
 - ~~6. Persons employed under contract to supply expert professional or technical services for a definite period of time;~~
 - ~~7. Emergency employees in any office or department of the City. All such positions and employment shall be for the duration of the emergency and shall terminate immediately thereafter;~~
- ~~B. All offices, positions and employment not exempted in this section shall constitute the classified service of the City (Ord 1858-1, 1978: Prior code 2404).~~

~~COMMISSION: Personnel Board of the City.~~

CONFLICT OF INTEREST: A situation in which ~~certain an employees have~~ has a financial or other personal interest which could adversely affect the performance of his or her official duties, as defined by law, including but not limited to Government Code section 1090 *et. Seq.* and the California Political Reform Act including any 700 Form filing. ~~Be affected by a decision they are participating in.~~

CONTINUOUS SERVICE: Ongoing City employment without interruption except for approved paid leaves of absence and approved leaves of absence ~~protected under federal and state law. For military service and approved leaves under State and Federal Family Leave Acts.~~

CONVERSION RATE: The rate of pay for those who do not work the standard forty (40) hour week; the hourly rate is calculated based on the ratio of the forty (40) hour week to the actual number of hours worked.

DEMOTION: A change in employment status from one position to another having a lower rate of pay for disciplinary reasons, or by request of the employee and approved by the City Manager or designee.

DISCIPLINARY ACTION: The suspension, demotion, reduction in pay, dismissal, or penalty of an employee for violation of City policies and procedures, job performance deficiencies, or other misconduct.

DISMISSAL: Discharge of an employee from the Classified Service.

ELIGIBLE: A qualified person whose name is on an Eligible List, a Re-employment List, or a Promotion List.

EMERGENCY ~~APPOINTMENT~~ EMPLOYEE: The appointment of a person to serve the City during an emergency situation which threatens ~~public~~ life or ~~public~~ property. Emergency employees may be employed, as approved by the City Manager, for the

duration of the emergency and shall terminate thereafter. Emergency employees shall not be considered part of the Classified Service and shall receive no employee benefits, unless otherwise required by law and/or provided for in the Manual's leave policies.

EMPLOYEE PERFORMANCE RATING: Periodic progress reports on all employees in the Classified Service.

~~EMPLOYER/EMPLOYEE RELATIONS: The relationship between the City management and employees or employee organizations.~~

EMPLOYMENT ELIGIBLE LIST: A banded list of all those qualified for employment on the basis of examination and interview results.

EQUAL EMPLOYMENT OPPORTUNITY (EEO): The provision of equal access to employment ~~and advancement without any form of discrimination~~ for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination, and freedom from discrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status or any other basis protected by law. (Gov. Code § 12940(a).)

EXAMINATIONS: The process of testing and evaluating applicants' job-related qualifications.

EXAMINING AGENCY: The City's ~~Personnel~~ Human Resources Department or a personnel agency selected to conduct tests for the City.

FULL-TIME EMPLOYEE: ~~An employee who works the number of hours within a work week required for full-time service and is in the Classified Service.~~ An employee whose position is in the classified service and requires the minimum number of total hours prescribed for normal employment in the class or position. Full-time employees are eligible for employee benefits.

FURLOUGH: An involuntary temporary unpaid leave of absence to address the economic needs of the City.

HOURLY RATE: The rate of pay established for an hour of work.

LATERAL ENTRY: A transfer from one public agency to another without going through the normal application process. Usually involves job classifications which are interchangeable and have standard qualifications, such as Police Officers.

LAY-OFF: Termination of employment because of the economy or lack of work or funds or reorganization.

MEMORANDUM OF UNDERSTANDING (MOU): A signed agreement between the City and a recognized employee representation organization on matters pertaining to wages, hours, and **other terms and** conditions of employment.

MERIT INCREASE: A step or percentage increase granted **to an employee** by the department head and City Manager for continuous meritorious and efficient service.

MINIMUM QUALIFICATIONS: The knowledge, skills, abilities, education level, and experience listed as minimum qualifications on a class specification or license included in a job announcement.

PARS: The Public Agency Retirement System is an alternate retirement system plan designed for the City's part-time, seasonal, and temporary employees.

PART-TIME EMPLOYEE: ~~An employee who works less than full time and is not in the Classified Service.~~ Anyone employed who works less than full time and is not in the classified service. Time served as a part-time employee does not count toward permanency in the position. Part-time employees are not eligible for employee benefits, unless otherwise required by law and/or provided for in the Manual's leave policies.

PERMANENT EMPLOYEE: A full-time employee who has successfully completed the required probation period, has been certified by his or her supervisor as meeting qualifications for the position occupied, ~~and~~ has been retained for employment, and is in the Classified Service.

POLICY: A rule or regulation of the City of Westminster.

POSITION: Any office or employment involving the performance of certain duties.

PROBATIONARY EMPLOYEE: An employee who serves a probationary period as described herein. A probationary employee is an at-will employee.

PROBATIONARY PERIOD: A period at either the outset of an initial employment or at the outset of a promotion to a higher classification ~~A working test period~~ during which an employee is required to demonstrate ability to perform the duties of the position to which appointed. The probationary period for new employees is one year of actual and continuous service, unless otherwise specified in an applicable MOU. Periods of time on paid or unpaid leave exceeding five (5) days (consecutive or non-consecutive) may extend the probationary period by the number of days the employee is on leave. During this period, the employee shall have an opportunity to demonstrate proper attitude, ability, and performance for the position for which employed. A probationary employee serving an initial probationary period has no property right in continued employment and may be dismissed without cause and without pre- or post-disciplinary due process or right of appeal. Upon satisfactory completion of the probationary period, the employee shall be given permanent status and employee benefits in accordance with the eligibility requirements of each benefit.

PROMOTIONAL LIST: A list of qualified applicants who are current employees of the City and are ~~applying for certified as eligible for~~ promotion.

REALLOCATION: A change in the allocation of a position by raising it to a higher class, lowering it, or moving it to another class.

RECLASSIFICATION: A change in classification, higher or lower, based upon a change in job duties and responsibilities.

REDUCTION: A salary decrease within the limits of the pay range for a particular class for disciplinary reasons, or as part of a reclassification.

RE-EMPLOYMENT LIST: A list of permanent or probationary employees who have either resigned or were laid off and who are eligible for reinstatement on the basis of their competency and seniority.

REINSTATEMENT: The re-employment of a former permanent or probationary employee.

REJECTION: The termination of an employee from a position during the probationary period.

RESIGNATION: An employee's voluntary termination of employment with the City.

SALARY: The amount of money paid to an employee.

SALARY ADVANCEMENT: A salary increase within the pay range limits of a class.

~~**SEASONAL EMPLOYEE:** A non-permanent recurrent employee who works during certain periods of the year and is not part of the Classified Service.~~

~~**TEMPORARY OR SEASONAL EMPLOYEES:** A non-permanent employee employed for a specified period who is not part of the Classified Service.~~ An at-will employee who is appointed other than from an eligibility list for a short term or seasonal basis, not to exceed six (6) months in any one (1) fiscal year. A temporary or seasonal employee serves at-will and at the pleasure of the appointing authority, is not part of the Classified Service, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. A temporary or seasonal employee shall not be eligible for benefits, unless otherwise required by law or provided for in the Manual's leave policies.

VOLUNTARY DEMOTION: A change in position to a lower paying position upon request of the employee and approved by the City Manager or designee.

WORKDAY: The normal scheduled hours of work as designated by the City.

Y-RATE: A rate paid to an employee which is above the current maximum salary established for the classification.

ARTICLE II (FORMERLY ARTICLE XIII)

CLASSIFICATION

SECTION 1. POSITION CLASSIFICATION

- A. Position Classification System: Position classification is the system whereby all positions in the City Service are classified according to their duties and responsibilities. Positions that are similar in type of work, level of difficulty, and level of responsibility are grouped together into a class. All positions in a particular class shall be treated alike in such matters as salary, examinations, and minimum qualifications.
- B. Position Allocation: Each position shall be allocated to a specific classification which is carefully described in a class specification. A class specification must be prepared for each classification. The ~~Personnel~~ Director of Human Resources or designee shall ascertain and record the duties and responsibilities of all officers and employees in the Classified Service, and after consultation with either the appointing authority and/or department heads, shall recommend a classification plan for such officers and employees.
- C. Classification Plan
1. The classification plan shall consist of classes of positions in the Classified Service defined by class specifications, including title, description of typical duties and responsibilities assigned to positions in each class, and a statement of training, experience, and other minimum qualifications to be required of applicants for positions in each class.
 2. Upon adoption of the classification plan by the City Council, by resolution, the provisions of the classification plan shall be followed in the administration of all personnel actions and activities. The classification plan shall be amended or revised as occasion requires in accordance with procedures set forth in these policies.
 3. Following the adoption of the classification plan, the ~~Personnel~~ Director of Human Resources shall recommend the allocation of every position in the Classified Service to one of the classes established by the plan.
- D. Reclassification or Reallocation: Positions, ~~the duties~~ of which the duties have changed materially so as to necessitate reclassification, shall be reallocated by the ~~Personnel~~ Director of Human Resources or designee to a more appropriate class. Reclassification shall not be used for the purpose of avoiding restrictions surrounding demotions and promotions. The ~~Personnel~~ Director of Human Resources shall also recommend the abolishment or consolidation of classifications as appropriate and shall conduct periodic studies to otherwise ensure the proper classification of City employees. The Director of

Human Resources must submit recommendations for reclassification to the City Council.
(Municipal Code 2.68.090.)

ARTICLE III (FORMERLY ARTICLE XII)

RECRUITMENT, AND SELECTION, AND APPOINTMENT

SECTION 1. EQUAL EMPLOYMENT OPPORTUNITY

- A. Policy: The employment policy of the City of Westminster shall provide for its employees the opportunity regardless of race, sexual orientation, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental handicap, marital status, veteran's status, or sex, and shall not show partiality or grant any special favors to any employee or group of employees.
- B. Applicant Qualifications: Candidates for job openings will be selected on the basis of merit, ability, competence, experience, without regard to race, creed, color, sex, age, national origin, ancestry, religion, physical or mental handicap, sexual orientation, pregnancy or veteran's status.
- C. Standards: Employment standards shall be established for each job and shall include minimally, the special training, abilities, knowledge and skills required to perform the duties of the job in a satisfactory manner.

SECTION 2. FAIR EMPLOYMENT POLICY

- A. Policy: No question in any test, or in any application process, and no appointment or removal from a position shall be affected or influenced in any manner by any consideration of race, sexual orientation, age, color, pregnancy, religion, creed, national origin, ancestry, physical or mental handicap, marital status, political or religious affliction, sex, or age, except where a bonafide occupational qualification dictates.
- B. Disability:
 - 1. Bonafide Occupational Qualification (BFOQ): All applicants and employees shall meet BFOQ's for positions applied for or held. A BFOQ shall be so job related that all persons excluded are unable to perform the job safely and efficiently, and if employed it would undermine the essence of the organization's operations.
 - 2. Reasonable Accommodations: The City shall consider all means of reasonable accommodation to enable the person to perform the job safely and efficiently.

If, after reasonable accommodation, the person cannot perform the essential job functions in a manner which would not endanger the health and safety of the person or of others to a greater extent than if a non-

disabled person performed the job, based upon an imminent and substantial degree of risk, then the person shall be refused employment or discharged.

SECTION 3. REQUISITION AND RECRUITMENT

- A. The department head shall notify the Director of Human Resources when a position is or will become vacant. ~~for a position which is, or will become, vacant shall notify the Personnel Director of Human Resources regarding the vacant position.~~
- B. The ~~Personnel~~ Director of Human Resources shall be responsible for recruiting for the vacant position in accordance with the policies and procedures of the City. The ~~Personnel~~ Director of Human Resources shall also review requisitions in terms of authorized budgeted positions for each department and recruit only for authorized positions.
- C. Employment standards shall be established for each job and shall include minimally, the special training, abilities, knowledge, and skills required to perform the duties of the job in a satisfactory manner.

SECTION 4. ANNOUNCEMENT OF JOB OPENINGS

City employment shall be publicized by posting announcements in such places that the ~~Personnel~~ Director of Human Resources deems advisable. The announcement shall specify the title and pay range of the position for which the examination is announced; the nature of the work to be performed; minimum qualifications; preparation desirable for performance of the work of that class; whether the position is at-will or permanent; the date, time, place, and manner of making application, and other pertinent information.

SECTION 5. APPLICATION

- A. ~~Form:~~ Applications shall be ~~made only on forms provided by the Personnel Director or designee.~~ submitted via electronic format through the City's website or career page. Applications require information covering training, experience and education background, and other information deemed pertinent by the appointing authority or ~~Personnel~~ Director of Human Resources.

~~Applicants may be required to provide supplementary information, including but not limited to answers to job-related questions; resumes; licenses; certifications; diplomas; letters of recommendation; and references. The Director of Human Resources may reject any application which is not fully completed or signed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records. However, applicants who are ultimately hired are not entitled to review pre-employment documents maintained by the City. (Labor Code § 1198.5.)~~

B. Filing of Application:

1. Applications shall not be accepted until an opening has been announced, except in the case of persons employed ~~on~~ in an emergency ~~and of temporary basis~~ in accordance with the provisions of these policies and procedures. The ~~Personnel~~ Director of Human Resources or designee shall accept requests for notification of examinations from persons eligible to take such examination for any position in the Classified Service.
2. Applications shall be marked at the time of ~~of receipt in the Personnel Director's office with the date and hour of the day~~, successful electronic submission. Applications ~~will not be accepted~~ after the date and ~~hour~~ time specified in the examination announcement. ~~shall be rejected~~.
3. The time for filing applications may be extended or re-opened by the ~~Personnel~~ Director of Human Resources, provided posted notice is given.
4. The ~~Personnel~~ Director of Human Resources may limit the number of applications to be considered. The ~~Personnel~~ Director of Human Resources may determine that all applications received after the limit has been reached will not be considered.

C. Amendments to Application: ~~With the approval of the Personnel Director of Human Resources or designee, persons whose applications have been rejected because they were incomplete may amend their applications. However, such amendments must be made before the time of an examination the close of the recruitment period for the position.~~ Applicants are responsible for ensuring the accuracy and completeness of their submitted applications.

Amendments or corrections to an application will only be accepted prior to the posted closing date and must be submitted in writing by the applicant. Requests should clearly specify the changes being requested and must be sent to the designated contact listed in the job posting.

No changes will be accepted after the application deadline has passed. It is the applicant's responsibility to review their application thoroughly before submission and before the closing date.

D. Criminal Conviction Check: After the determination is made that an applicant meets minimum qualifications, the Director of Human Resources may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two (2) years old, or convictions that have been judicially sealed, eradicated, or expunged. (Labor Code §§ 432.7-432.8.) The City will not deny employment to any applicant solely because he or she has been convicted of a crime. The City, however, may consider the nature, date, and circumstances

of the offense as well as whether the offense is relevant to the duties of the position. This Policy does not apply to applicants for Peace Officer employment and designated non-sworn positions. (Labor § 432.7)

E. ~~D.~~ Rejection of Application: The ~~Personnel~~ Director of Human Resources may reject any applicant who:

1. Does not possess the established minimum qualifications for the advertised position.
2. Is physically or mentally unable to perform the essential functions of the job with reasonable accommodations.
3. Has been convicted of a criminal offense related to the ~~position~~ job duties the applicant would perform. (The word "convicted" shall be construed to mean convicted in any manner referred to in Section 689 or 1016 of the Penal Code of the State of California).
4. Has used or attempted to use any personal or political influence to further eligibility or appointment.
5. ~~Has made a false statement concerning any material fact, or has practiced or attempted practice of any deception or fraud in the application or examination, or in securing eligibility for appointment or promotion, regardless of when discovery was made.~~ Has provided false information regarding any significant fact, or has engaged in or attempted to engage in deception or fraud during the application process, examination, or in obtaining eligibility for appointment or promotion—regardless of when such actions are discovered.
6. Fails to meet special conditions of employment.
7. Takes part in preparing, conducting or holding examinations for the recruitment.
8. For any material cause which in the judgment of the ~~Personnel~~ Director of Human Resources or designee would render the applicant unfit for the position, including a prior resignation or termination from the City, or a prior significant disciplinary action.

SECTION 6. LIMITING OF APPLICATIONS

After the time limit for receiving applications for a particular position has expired, the ~~Personnel~~ Director of Human Resources or designee shall determine the total number of applicants who meet the minimum qualifications for the positions. If there is a large number of qualified applicants for a particular position, and the ~~Personnel~~ Director of

Human Resources or designee determines that giving an examination of the nature and type appropriate to all the qualified applicants would unnecessarily burden the resources available to the City, the ~~Personnel~~ Director of Human Resources or designee may reasonably limit the number of applicants that shall move forward. After determining this limitation, the Director of Human Resources or designee shall rank for qualifying purposes only, the applications submitted on the basis of the applicants' experience, education, training, and work history as related to the particular position, and may choose applicants ~~whom he or she determines would best fit the position~~ who are best determined as fit for the position. The chosen applicants shall then be given further examination in order to obtain a score and ~~ranking~~ banding on the eligible list.

SECTION 7. EXAMINATIONS

A. General Provisions:

1. The selection of techniques used in the examination process shall be impartial, of a practical nature, ~~shall relate to those subjects which are related to the duties and responsibility of the position~~ and the content of all examinations will be job-related and designed to test knowledge, skills, or abilities that help predict successful completion of job duties.
2. The examination ~~shall~~ may consist of achievement tests, aptitude tests, ~~evaluations of personality and background through oral interviews~~ oral interviews, performance tests, work samples, ~~evaluation of prior training and performance, experience and/or education, working style assessments, practical exercises,~~ and physical agility tests or other job-related tests or any combination thereof. The two major types of examinations are "Promotional" and "Open Competitive". Examinations utilized will be valid and cut-off scores will ~~meet the applicable standards of federal rules and regulations,~~ adhere to the eligibility standard per employee's Compensation Plan or Memorandum of Understanding.
3. An applicant with a disability may request reasonable accommodation in the examination process. The applicant must provide the Director of Human Resources with a written request for accommodation. The Director of Human Resources may require the applicant to provide additional information, such as reasonable documentation of the existence of a disability. (2 Cal. Code Regs. § 11069(c)(2).)

- ### B. Promotional Examinations:
- Promotional examinations may be conducted whenever, in the opinion of the ~~Personnel~~ Director of Human Resources after consultation with the department head and the City Manager, the need of the service so requires. Promotional examinations may include any of the selection techniques mentioned above or any combinations thereof. Only permanent employees who meet the minimum qualifications of the open position set forth in

the classification plan adopted by the City Council may compete in promotional examinations.

- C. Open Competitive Examinations: Open Competitive examinations may be conducted whenever, in the opinion of the ~~Personnel~~ Director of Human Resources, with the approval of the City Manager and Finance Director, the need of the service so requires. Open Competitive examinations may include any of the selection techniques mentioned above or any combination thereof. Permanent employees, as well as the general public, who meet the minimum qualifications, may compete in open competitive examinations.
- D. Conduct of Examinations: The ~~Personnel~~ Director of Human Resources shall determine the manner, method, ~~and by whom and means by which~~ examinations shall be prepared and administered. The City may contract with any competent agency or individual for the performance of this service. In the absence of such a contract, the ~~Personnel~~ Director of Human Resources shall perform or delegate such duties.
- E. Scoring Examinations:
1. A candidate's score shall be the average or weighted average of grades received on each part of the competitive examination. Failure in one part of the examination may be grounds for disqualification of an applicant from taking subsequent parts of an examination or may result in a failing grade for the entire examination.
 2. The Director of Human Resources may use discretion to include and establish valid cut-off scores for performance tests.
- F. Notification of Results: ~~Each candidate in an examination shall be given written notice of the results.~~ Notification of exam results will be delivered in electronic format.
- ~~G. Review of Examination Papers:~~
- ~~1. Applicants may inspect the key booklet to their examination within three (3) working days after they have taken the test. They may inspect their own answer sheet within ten (10) working days after the test date. Standardized or copyrighted tests or free answer tests not graded by absolute standards may not be seen.~~
 - ~~2. The decision of the Personnel Director will be final on any objection to the accuracy and calculations used in scoring the examination.~~

SECTION 8. ~~EMPLOYMENT ELIGIBILITY~~ LISTS

As soon as possible after the completion of an examination, the ~~Personnel~~ Director of Human Resources or designee shall prepare and keep on file, the ~~Employment Eligibility~~ List consisting of the names of candidates who qualify in the examination, ~~in order of final score from the highest to lowest qualifying score~~ and the bands in which they have been placed for new or promotional opportunities. Whenever there are fewer than two (2) names on a Promotional List or five (5) names on an Open Competitive List, the department head may request the Director of Human Resources to establish a new list.

- A. Duration of ~~Employment Eligibility~~ List: ~~Employment Lists shall become effective upon the date of approval thereof by the City Manager. Employment Eligibility Lists shall remain in effect for such periods of time as recommended by the Personnel Director and approved by the City Manager.~~ a minimum of one (1) year, unless exhausted or extended as recommended by the department head and Director of Human Resources. ~~Employment Eligibility~~ Lists may be extended by the ~~City Manager~~ Human Resources Director prior to the expiration date for an additional six (6) month period, but in no event shall an ~~Employment Eligibility~~ List remain in effect for more than three (3) years.
- B. Re-Employment List: The names of probationary and permanent employees who have been laid off shall be placed on a re-employment list in the order of the seniority from greatest to least. Such names shall remain thereon for a period of two (2) years unless such persons are re-employed sooner.
- ~~C. Promotion List: The names of qualified candidates who are currently employees of the City will be placed on a Promotion List following proper examination in accordance with the requirements of the vacant position. Rules applicable to promotion shall apply.~~
- C. ~~D.~~ Removal of Names From List: The name of any person appearing on an ~~Employment Eligibility~~, Re-employment, or Promotional List shall be removed by the ~~Personnel~~ Director of Human Resources or designee if the eligible person requests removal in writing; or if the eligible person fails to respond to a notice of certification mailed to the last known address. ~~The person affected shall be notified of the removal by notice mailed to the last known address.~~ The names of persons on ~~Promotional Employment Eligibility~~ Lists who resign from ~~the City~~ service shall automatically be ~~deleted removed~~ from such lists.

SECTION 9. TYPES OF APPOINTMENT

- A. ~~All vacancies in the Classified Service shall be filled by reemployment, promotion, demotion, transfer or from Employment Lists approved by the City Manager, in that order. The Director of Human Resources will make all appointments except for those classifications that report to the City Manager or to the governing body. The Director of Human Resources has discretion to decide in what manner a vacancy is to be filled. Vacancies may be filled by re-employment, promotion, transfer, demotion, appointment of temporary / seasonal employees, or from an appropriate~~

eligibility list if available. No specific list shall have priority over other lists. The City Council and City Manager will make appointments for those classifications that report to it.

In the absence of persons eligible for appointment, temporary appointments may be permitted in accordance with these policies and procedures, or a position may be filled from an ~~Employment~~ Eligibility List of a higher class to a lower class. However, the examination given for the higher class must, in the opinion of the ~~Personnel~~ Director of Human Resources, fairly measure the relative capacities of the persons willing to accept appointment to the lower class.

- B. An employee who is selected from the list to fill the vacancy who refuses the assignment may be removed from the list without the right to appeal.

SECTION 10. ~~CERTIFICATION OF ELIGIBLE~~

- ~~A. The names of all individuals on available Employment Lists willing to accept appointment shall be approved by the City Manager. Whenever appointment is to be made, Employment Lists, if active and not exhausted, shall be used in the following order:~~

~~B. _____~~

- ~~_____ 1. Re-employment List~~
~~_____ 2. Promotional List~~
~~_____ 3. Open Competitive List~~

- ~~B. _____ Whenever there are fewer than two (2) names on a Promotional List or five (5) names on an Open Competitive List, the department head may recommend an appointment from among such eligible individuals or may request the Personnel Director to establish a new list.~~

SECTION 10 ~~11~~. APPOINTMENT

- A. General: ~~In the appointment of employees other than department heads, the department head shall notify the Personnel Director of Human Resources who shall make appointments from among those approved by the City Manager. Upon approval, the Personnel Director of Human Resources shall then notify the person appointed, and if the applicant accepts the appointment and reports for duty within such period of time as the Personnel Director of Human Resources shall prescribe, the person shall be deemed to be appointed. Otherwise, the person shall be deemed to have declined the appointment. This procedure shall be followed until the position has been filled. Only the Personnel Director of Human Resources or City Manager shall make representations to any prospective employee, regarding the terms and conditions of employment. For all appointments excluding department heads/management positions, the hiring manager must notify Human Resources once a candidate has been selected.~~

The hiring department is responsible for:

- Conducting professional reference checks, and
- Completing the New Hire Justification Form in its entirety.

No representations regarding the terms and conditions of employment may be made to the prospective employee until the selection has been reviewed and approved. Once approval is granted, only the Director of Human Resources or the City Manager is authorized to communicate or confirm employment terms with the selected candidate.

- B. Department Heads: ~~In the case of the appointment of a department head, the same rules shall apply except that the City Manager shall make the appointment with notification to the City Council.~~ For the appointment of a department head, the same procedures shall apply; however, the City Manager shall make the appointment and provide notification to the City Council.
- C. Temporary: In the absence of an appropriate **Employment** Eligibility Lists, a temporary appointment may be recommended by the department head, and approved by the City Manager, of a person meeting the minimum training and experience qualifications for the position. An Eligibility List shall be established within six (6) months for any permanent position filled by temporary appointment. No special credit shall be allowed in meeting any qualifications or in giving any test or in the establishment of any ~~Employment or Promotional~~ Eligible List for service rendered under a temporary appointment. **This restriction does not apply to CalPERS annuitants who are temporarily employed by the City.**
1. ~~Definition: With respect to a temporary appointment, no person may be employed temporarily in a permanent or seasonal position except as provided below:~~
 - ~~a. As a substitute for a permanent or seasonal employee who is absent.~~
 - ~~b. For the duration of any war or national emergency and six (6) months thereafter.~~
 - ~~c. When it is impossible to recruit an appointee meeting the standards for permanent employment.~~
 - ~~d. When the budget appropriation allows for only temporary employment, or when the work assignment is of short duration, or when it is anticipated that the position will soon be abolished.~~
 - ~~e. Lack of an Employment List or non-availability of those eligible on the list.~~
 - ~~f. When a state of disaster exists or such conditions exist which seriously endanger the health, welfare and safety of the community.~~
 - ~~g. Any other circumstances approved by the Personnel Director.~~
 2. Duration: A temporary appointment shall not exceed six (6) months and the department head, with the approval of the City Manager may terminate, upon discretion, a temporary appointment.

- D. ~~Emergency: An emergency appointment may be granted to meet immediate requirements of an emergency situation which threatens public life and public property.~~ An emergency appointment may be made to address urgent needs arising from a situation that poses a threat to public safety or property. Any elected official or department head of the City may make such appointments as may be needed for the duration of such emergency, notwithstanding these policies and procedures affecting appointments. As soon as possible, such appointments shall be reported to the City Manager and the City Council. Any emergency appointment which lasts in excess of thirty (30) days shall be reviewed by the City Manager.

SECTION 11. PHYSICAL EXAMINATION

Before an appointment is finalized, the selected eligible candidate must undergo a medical and/or psychological examination, as required. A licensed physician, chosen by the Director of Human Resources, will conduct the examination at the City's expense. If the candidate is found unfit based on the results of the examination, their name will be removed from the eligible list.

SECTION 12. BACKGROUND INVESTIGATION

Once selected, but prior to appointment, the City will conduct a background check on the successful candidate(s) which will focus on job-related qualifications. Background investigations may include, but are not limited to, reference checks, fingerprinting, checks of criminal records, and any other valid background checks deemed necessary by the ~~Personnel~~ Director of Human Resources and the appointing authority.

SECTION 12. PROBATIONARY PERIOD

- A. Purpose of Probation Period: The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee may be rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights set forth under the City's Policy on discipline and disciplinary procedures. Notification of rejection in writing shall be furnished to the probationary employee and a copy filed with the department head and the Director of Human Resources.

B. Provisions of Probationary Period

1. Time of Probation: Unless otherwise specified by memorandum of understanding or these Policies, the probationary period is one (1) year of actual and continuous service. The probationary period is automatically extended by the length of any absence of one (1) work week or more. The department head, with notice to the Director of Human Resources, may extend the probationary period of an employee up to six (6) months if an employee has demonstrated the necessary skills to be

successful and could benefit from an extension of the probationary period to meet the requirements of the position. The extension is subject to the approval of the City Manager and must be in writing. The extension of probation must be done before the probationary period expires.

2. Probationary Period for Promotional Appointments: When an employee is appointed to a new position (change in job classification) as a result of promotion, transfer, or for any other reason, a new probationary period, as provided herein, shall begin at the time of appointment to the new position. This probationary period shall extend for one year. However, a current permanent employee who promotes to the classification of Police Dispatcher or Police Officer shall be subject to a probationary period of 18 months before being eligible for certification as a permanent employee in the classification of Police Dispatcher or Police Officer. If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee shall revert back to the position held prior to promotion at the salary range and step held prior to promotion, if there is a vacancy in the prior position, unless he or she is terminated for cause. Should the original position no longer be available, the employee may be released without cause, without notice or appeal, and without rights described in this Manual or applicable MOU regarding discipline and disciplinary procedure.

- C. Permanent Appointment Following Probationary Period: Promotional appointments shall be tentative and subject to a probationary period. At the conclusion of the probationary period, the employee shall be notified of permanent status, provided the supervisor approves the action.

SECTION 13. RESIDENCY REQUIREMENT

~~No employee of the City of Westminster shall be required to be a resident of the City of Westminster at the time of employment or at any time thereafter. Certain MOUs or department policy may make further provisions.~~

(Formerly Article XVI)
ARTICLE IV

**EMPLOYEE STATUS CHANGES - PROMOTION, TRANSFER, RESIGNATION,
VOLUNTARY DEMOTION, LAYOFF, REINSTATEMENT, RE-EMPLOYMENT**

SECTION 1. PROMOTION

- A. Definition: The movement of an employee from a position in one class to a position in another class imposing higher duties and responsibilities, requiring higher qualifications and providing a higher maximum rate of pay will be regarded as a promotion.
- B. Promotion In-House: Insofar as practical and consistent with the best interest of the City, as determined by the ~~Personnel~~ Director of Human Resources and the City Manager, ~~all vacancies~~ a vacancy in the Classified Service ~~shall~~ may be filled by promotion from within the Classified Service after a promotional examination has been given and ~~a promotional employment~~ an Eligibility List has been established. (See Article III, Section 7)
- C. Requirements for Promotional Candidates: Only permanent employees who meet the minimum qualifications set forth in the classification plan adopted by the City Council and who have received an overall satisfactory rating at the time of their last performance review may compete in promotional examinations. (See Article III, Section 7)
- D. Exceptions to Promotional Examinations:
1. A promotional examination may not be given unless there are two (2) or more ~~qualified~~ candidates eligible for each position to be filled.
 2. If the ~~Personnel~~ Director of Human Resources, after consultation with the department head and City Manager, determines that a vacancy should be filled by a competitive or open examination instead of a promotional examination, the ~~Personnel~~ Director of Human Resources may accept applications for the vacancy and arrange for an open competitive examination and for the preparation and certification of an ~~Employment~~ Eligibility List in accordance with procedures set forth in these policies and procedures.
- E. Pay and Promotion: A promotion shall establish a new anniversary date. An employee shall receive a minimum of ~~(5) percent~~ five percent (5%) base pay increase unless promoted to a position only one schedule higher and paid at top step before the promotion. Normally pay rate changes will become effective at the start of the pay period after approval.

SECTION 2. TRANSFERS

- A. Definition: A transfer occurs when an employee changes positions which are in the same classification having essentially the same maximum salary. This may or may not involve a change of an employee's place of employment from one department to another.
- B. Conditions for Transfers: No employee shall be transferred to a position for which he/she does not possess the minimum qualifications. An employee may be transferred by the ~~Personnel~~ Director of Human Resources provided the transfer has been approved by the affected department head and the City Manager.

Transfers shall not be used to effect promotion, demotion, adjustment, or reduction, each of which may be accomplished only as provided in these policies and procedures.

- C. Employee Requests for Transfer: Only employees who have completed their probationary period in their current class and have a satisfactory or better current performance evaluation on file may apply for a transfer. A request may be submitted only when a vacancy exists. The employee's request for transfer shall be considered on the basis of the employee's qualifications for the vacant position, the employee's best interests, and the best interests of the City. Requests for transfers must be received according to deadlines established by the ~~Personnel~~ Director of Human Resources.
- D. Employer Initiated Transfers: The City of Westminster reserves the right to transfer its employees from one position to another, or one department to another, if the transfer is deemed necessary by the City Manager. An employee transferred from one position to another shall receive five (5) working days' notice, if possible.
- ~~E. Time Period for Effecting Transfer: In cases in which a department would be seriously affected by the loss of any employee who is to be transferred, the department head may request a delay in the transfer.~~

SECTION 3. VOLUNTARY DEMOTIONS

- A. A permanent employee may request a voluntary demotion to a vacant position in a class with a lower maximum salary rate, provided the employee possesses the minimum qualifications of that class.
- B. Such requests must be filed with the ~~Personnel~~ Director of Human Resources and require approval of the current department head and that of the department head of the vacant position. Employees who receive demotions shall be placed at the same step (on which the employee currently is placed) on the new range.

- C. A voluntary demotion shall not be available to a probationary employee except in cases of lay-off for lack of work or lack of funds.

SECTION 4. LAY-OFF

The following policies and procedures apply unless alternative procedures are established in an applicable Memorandum of Understanding.

- A. Definition: Termination of employment or separation from a position because of economy, lack of funds, lack of work, or reorganization.
- B. Conditions for Lay-Off: ~~a department head with the approval of~~ The City Manager may lay off an employee in the Classified Service because of material change in duties and organization, or shortage of work or funds, efficiency, or reorganization. No permanent employee shall be laid off until all temporary and probationary employees in the Classified Service holding positions in the same class in the department are first laid off. ~~Competency, then seniority, shall govern the lay-off of permanent employees.~~
- C. Procedures for Lay-Off:
1. Thirty (30) working days prior to the effective date of ~~a~~ lay-off, ~~the department head~~ City Manager shall furnish written notice ~~to the City Manager~~ of the anticipated action, stating the reasons therefore and evaluating the work performance of the employee to be laid off. A copy of such notice shall be given to the employee affected.
 2. If the employee has ~~given~~ demonstrated satisfactory service, the name of the terminated employee shall be placed on the appropriate ~~Employment~~ Eligibility List as provided in these policies and procedures. If the employee has failed to give satisfactory service (i.e. failed to meet expectations on his/her performance review) the employee shall be considered discharged and may exercise any appeal rights as provided under these policies and procedures ~~but will not have good standing to be placed on the re-employment list.~~
 3. ~~When employee lay-offs are made necessary by lack of funds,~~ The following layoff procedures shall be followed ~~regarding when one or more~~ employees in the same class or similar work categories ~~are subject to layoff~~:
 - a. ~~When seniority is equal, the less competent employee shall be laid off.~~ Seniority shall govern the order of lay-off of permanent employees.
 - b. ~~When competency is equal, the employee with less seniority shall be laid off.~~ If two (2) or more employees have equal

seniority, then the order of lay-off as between them shall be determined by their respective evaluations for the last evaluation period.

- c. If the employees' evaluations are equal, then the order of lay-off shall be determined by competency. The City Manager will make the decision as the greater competency of the employees based on input from the employees.

D. Rights of Employees Affected by Layoff ~~Lay-Off's for Lack of Funds:~~

1. Each employee subject to lay-off shall be provided with thirty (30) days' written notice and shall be allowed ~~reasonable~~ up to 5 hours a week of administrative leave as may be required to seek employment.
2. ~~Permanent employees who are laid off shall be entitled to re-employment for a two (2) year period, and probationary employees who are laid off shall be entitled to re-employment for a one (1) year period. If a position has been abolished and a person holding the position has been dismissed or transferred, such person shall have the right to reemployment in such position if within six (6) months the position is recreated without substantial change in duties, or as otherwise required by an applicable MOU. If a position is abolished and the employee occupying that position is either dismissed or transferred, the employee shall have the right to be reemployed in the same position—provided the position is reinstated within six (6) months without significant changes to its duties, or as otherwise required by an applicable Memorandum of Understanding (MOU). (Westminster Municipal Code, § 2.68.110.).~~
3. Laid off employees who are re-employed shall not be allowed to count seniority during the time not employed by the City.
4. ~~An employee who is laid off, who has greater seniority than an employee not laid off in the same class or work category, shall have the right of appeal as provided in this section~~
54. An employee who is laid off, who has greater seniority than an employee in a ~~lesser position~~ lower classification in the same work category in the same bargaining unit, shall have the right to displace the employee with the lesser seniority in the ~~lesser~~ lower position. Part-time employment does not count toward the seniority calculation. ~~If the displacement request is rejected, the laid off employee shall have the right of appeal as provided in this section.~~

E. Effect of Lay-Off on Benefits:

1. Laid off employees shall be paid for accumulated ~~vacation and~~ compensatory time off, as indicated in the personnel records and in accordance with policies regarding overtime, ~~vacation~~, and compensatory time off.
2. Laid off employees will not be paid out for executive leave, Administrative Leave, Floating Holiday or Holiday time.
23. Laid off employees shall not continue to receive benefits.

F. Lay-Off Appeal Procedure: Appeals, as provided for in this section, shall be filed within five (5) working days of receipt of formal notice of lay-off, and a hearing before the City Manager shall be held and completed within ten (10) working days after the appeal is filed. ~~A direct appeal of the City Manager's decision to the City Council may be filed within five (5) working days after the City Manager's decision. The decision of the City Manager shall be final.~~ Appeals must be limited to challenges for seniority calculations.

~~The appeals provided for may be heard only on the basis of relative competency or work comparability, and are distinct and different from appeals provided for in disciplinary actions.~~

SECTION 5. TERMINATION OF EMPLOYMENT

A. Resignation:

1. An employee wishing to ~~leave~~ resign from the City ~~service~~ in good standing shall file with their immediate supervisor at least ten (10) working days before ~~the service leaving the City~~, a written resignation stating the effective date and reason(s) for leaving. ~~Failure of the employee to comply with this procedure shall be entered on the employee's service record and may be cause for denial of future employment with the City.~~
2. The resignation shall be forwarded to the ~~Personnel~~ Director of Human Resources ~~with a statement by the department head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure of the employee to comply with this procedure shall be entered on the employee's service record and may be cause for denial of future employment with the City.~~ The resignation will be deemed effective upon receipt by the Director of Human Resources.

B. Unauthorized Absence - Resignation

1. ~~A~~ City employee who, without prior authorization notice, is absent or fails to discharge regularly assigned duties for either three (3) consecutive regular working days or two (2) consecutive regularly scheduled on-duty shifts,

whichever is applicable, and who fails to report for duty after twenty four (24) hours' notice has been delivered, ~~in person~~, by telephone, or in writing by regular mail to the last known home address, shall be deemed to have resigned from City employment effective as of the day ~~duties of the positions were last performed~~ he or she last performed any duties or his or her position. If, however, the employee reports for duty at the commencement of the next regular working day or on-duty shifts, the employee shall not be deemed to have so resigned ~~but may be subject to discipline~~.

2. Within twenty (20) days after the effective date of such resignation, any employee who has resigned under the circumstances above may file with the ~~appointing authority~~ Human Resources Department or City Manager a written request for reinstatement, setting forth good cause for the absence or failure to perform duties, such as a bona fide illness or injury, or similar circumstances beyond the employee's control, ~~and which prevented the employee from providing notification~~.
3. If the appointing authority finds good cause for the absence or failure to perform duties, the authority may reinstate the employee. Such reinstatement shall constitute retroactive leave of absence without pay.
4. Any employee who resigns under these circumstances and is not reinstated may file an appeal ~~with the Personnel Board~~ in writing with the Director of Human Resources, within five (5) business days ~~after the appointing authority's denial of the request for reinstatement~~. The ~~which~~ appeal shall be limited to the determination of good cause for the absence or failure to perform duties.

C. Exit Interviews:

1. ~~All Terminating employees shall receive~~ may be invited to participate in an exit interview, ~~unless so declined by the employee~~. The exit interview shall be held ~~immediately upon notification by the employee of plans to resign~~ on or around the employee's last day of work. The interview shall be conducted by the ~~Personnel~~ Director of Human Resources or designee. ~~When an employee simply telephones from the outside to resign, the call shall be referred to the Personnel Department. If an employee verbally resigns via telephone, the call shall be referred to the Human Resources Department. The Personnel Department shall attempt to arrange for an exit interview by having the employee apply to the Personnel Department to receive final payments due. Otherwise, the Personnel Department shall attempt to obtain as much exit interview information as possible over the telephone.~~
2. ~~The objectives of the exit interview shall be:~~
 - a. ~~To determine the real reason why the employee is leaving, so as to retain desirable employees whenever possible.~~

- ~~b. To discover any grievance the employee may have regarding departmental conditions so that corrective action can be taken.~~
- ~~c. To discover any misunderstandings the employee may have had regarding the job or the supervisors so the corrective action can be taken.~~
- ~~d. To make certain that the reason for leaving expressed on the form is identical with that expressed verbally by the employee.~~

SECTION 6. REFERENCES FOR TERMINATING EMPLOYEES:

If an employee leaving the City wishes for a reference letter, such ~~a letter may be written and signed by the department head. The letter shall be so worded as to be in the best interest of the City and the employee.~~ a request will be forwarded to the HR department and limited to title and dates of employment.

SECTION 7. REINSTATEMENT

- A. Upon recommendation of the department head and with approval of the ~~Personnel~~ Director ~~of Human Resources~~, an employee who has resigned with a good record and in good standing may be reinstated to their former position, if vacant, or to a vacant position in the same or a comparable class within ~~one (1) year~~ six (6) months from the date of resignation.
- B. An employee who has been suspended, discharged, or demoted may be reinstated by the department head with approval of the City Manager.

SECTION 8. RETIREMENT

~~An employee planning to retire is encouraged to provide a written notice to the Department Head and Director of Human Resources at least 30 days prior to the effective date of the retirement. A notice of retirement becomes final when the Director of Human Resources receives the notice of retirement in writing. Once a notice of retirement has been received, it will be final, and the employee cannot withdraw the notice.~~

ARTICLE V

CODE OF ETHICS

SECTION 1. RESPONSIBILITY AND PURPOSE

- A. Responsibility: ~~City employees shall be responsible to all of the people of the City and not to any favored segment or group.~~ City business and affairs ~~must~~ shall be conducted in an impartial manner. City employees ~~must avoid all situations where shall not permit~~ prejudice, bias, or opportunity for personal gain ~~could~~ to influence their decisions. They ~~must equally~~ should avoid ~~circumstance suggesting giving the impression~~ that favoritism or personal gain is ~~the a~~ motivating ~~force~~ factor in the conduct of City government.
- B. Purpose: The ~~minimum ethical standards to be followed by all employees of the City are~~ Code of Ethics is intended not only to ~~require prohibit to avoid activities that might result in~~ employees from using a public office or employment for private gain or giving ~~of favored preferential~~ treatment to any organization or person, but also to maintain public confidence in the City by prohibiting activities that might ~~permit opportunity for personal gain or personal preference to influence decisions.~~ give the appearance of impropriety.
- C. Reporting: If an employee is, or thinks that he or she may be, in a possible position of conflict of interest, the employee shall contact his/her direct supervisor immediately and refrain from further action until the Director of Human Resources (or designee) advises the employee further.

SECTION 2. SPECIFIC PROHIBITIONS

~~No employment, activity or enterprise shall be engaged in by any employee of the City which might result in, or create the appearance of resulting in, any of the following:~~
Employees shall not engage in any employment, activity, or enterprise that could result in, or give the appearance of resulting in, any of the following:

- A. Using ~~improperly~~ the prestige or influence of a City office or employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- B. Using ~~improperly~~ City time, facilities, ~~or equipment, or supplies for the officer's or employee's~~ for private gain or advantage, or the private gain or advantage of another.
- C. Using confidential information acquired by virtue of City employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.

- D. Receiving or accepting money or any other consideration from anyone other than the City for the performance of an act which the employee would be required or expected to ~~render perform~~ in the regular course ~~of hours~~ of their City employment or as a part of their duties as a City employee.
- E. Performance of an act in other than the employee's capacity as a City employee knowing that such act may later be subject, directly or indirectly, to control, inspection, review, audit, or enforcement by the employee or by the department in which employed.
- F. Receiving or accepting any loan from any person who has a contract with the City, except as specifically permitted by statute. (Gov. Code §§ 87460-87462).
- G. ~~F.~~ Receiving or accepting, directly or indirectly, any gift, including but not limited to money, ~~any~~ service, gratuity, favor, entertainment, or hospitality, ~~loan or any other thing of value from anyone who is doing or seeking to do business of any kind with the City or whose activities are regulated or controlled in any way by the City~~ from any single source in a calendar year with a total value of more than four hundred and seventy dollars (\$470) or a varied amount as adjusted and proscribed by statute. (Gov. Code § 89503).
- H. Receiving or accepting honorarium, except as otherwise permitted by statute, defined as a payment received for making a speech, publishing an article, or attending any public or private conference, convention, meeting, social event, meal, or gathering, as prohibited by statute. (e.g., Gov. Code § 89501 *et seq.*).
- I. Making a contract in an official capacity, individually or as a member of any body or board of which the official is a member, in which the official has a direct or indirect financial interest or as otherwise prohibited by law. An indirect financial interest may include the financial interest of the official or employee's spouse, child, or other family member.
- J. Holding any type of management position with an entity that performs business for the City.

SECTION 3. OUTSIDE EMPLOYMENT

- A. Policy: An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible, or in conflict with his or her City duties, functions, responsibilities, or that of the department in which he or she is employed at the City. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the Director of Human Resources prior to undertaking any outside employment as described in this policy. (Gov. Code § 1126(a).)
- B. Authorization and Appeal Process:

1. Written Request: Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to his or her department head. The written request must include: the work hours and/or time required; job title or nature of the activity; the work location; and the supervisor, manager, and name of the employer or activity.
 2. Conflict Analysis and Decision: The Director of Human Resources will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the City. If the Director of Human Resources determines such activity is compatible, or would be if any conditions or restrictions applied, he or she will authorize the activity and specify the conditions/restrictions in writing, giving the employee the Outside Employment Authorization, and place a copy in the personnel file.
 3. Full-Time Employees: Approval of outside employment for full-time employees shall be limited to 20 hours per week.
 4. One Year Authorization: An outside employment authorization is valid only for one year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, he or she must make another request following the process in this policy.
 5. Appeal: If the Director of Human Resources denies an employee's outside employment request, the employee may submit a written notice of appeal to the City Manager within 10 days of the date of the denial. The decision on appeal will be put in writing, provided within 10 days after the receipt of the appeal, and will be final.
- C. Prohibited Outside Activities (Gov. Code § 1126(b)): An employee's outside employment, activity, or enterprise may be prohibited if it:
1. Involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of the City or employment of the City.
 2. Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee would be required or expected to render in the regular course of his/her City employment.
 3. Involves the performance of an act in other than his/her capacity as a City employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he/she is employed; or

4. Involves time demands that would render the employee's performance of his or her regular City employment less efficient or dangerous to the employee.

- D. Changes in Outside Employment Status: The employee must promptly report in writing to the Director of Human Resources any of the following changes that may occur during the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties.
- E. Revocation / Suspension of Outside Employment Authorization: Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this policy. If the Director of Human Resources revokes an employee's outside employment, the employee may submit a written notice of appeal to the City Manager within 10 days of the date of the revocation. The decision on appeal will be put in writing, provided within 10 days after the receipt of the appeal, and will be final.
1. The employee's work performance declines to a "needs improvement" level or lower; or
 2. An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the City.
 3. When an employee is on a leave of absence of greater than two (2) weeks.
- F. Use of City Equipment Prohibited: Under no circumstances may an employee use any City equipment, vehicles, tools, supplies, machines, or any other item that is City property while an employee is engaged in any outside employment, activity, or enterprise.
- G. Outside Employment While Disabled: Criteria for revoking the outside employment permit include, but are not limited to, the following:
- a. He outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.
 - b. The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
 - c. The employee's failure to make timely notice of their intentions to their supervisor.

SECTION 4. EMPLOYMENT OF RELATIVES, SPOUSES, AND REGISTERED DOMESTIC PARTNERS

The hiring of relatives, spouses, or registered domestic partners of City employees may be permitted. A relative means a child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership. However, in no case shall it be allowed that one relative directly or indirectly supervise another. The same rules apply to part-time and temporary employees. Relatives may work within the same department or section with approval of the department head but may not report directly to another relative. Relatives of employees shall neither be given preference nor discriminated against.

If an employee currently supervises or is supervised by a relative, spouse, or domestic partner in violation of this policy, the employee shall be given a reasonable amount of time of up to six (6) months, as determined by the department head or his or her designee, to cure the violation and request a transfer.

SECTION 5. CONFLICT OF INTEREST

Public officials, employees and spouses and other dependent family members designated in the Municipal Code shall not influence a governmental decision in which they have a functional interest. A functional interest is defined as:

- A. A direct or indirect investment or more than \$1,000 in the business entity or in real property, with the exception of a place of residence.
- B. Receiving at least \$250 from the business entity (except commercial loans) within twelve months prior to the time the decision is made.
- C. Holding any type of management position with the business entity.

If an employee is in a possible position of conflict of interest, the employee shall contact his/her direct supervisor immediately and refrain from further action until the City Manager (or designee) advises the employee further.

(Formerly Article III)
ARTICLE VI

PARTICIPATION IN POLITICAL ACTIVITY

SECTION 1. PROHIBITED POLITICAL ACTIVITY

~~Except as otherwise provided in these rules, no restriction shall be placed on the political activities of any employee of the City.~~

SECTION 2. SPECIFIC PROHIBITION

An employee shall not:

- A. Participate in political activities of any kind, ~~while on City property~~, during working hours or while in uniform. (Gov. Code, §§ 3207, 3206 and 3209.)
- B. Directly or indirectly solicit or receive ~~political funds or contributions, knowingly, from officers or employees of the City~~ a political contribution from an officer or employee of the City, or from a person on the City's employment lists ~~of the City while on duty~~, unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from or employees of the City. (Gov. Code § 3205, subd. (a) and (c).)
- ~~C. Permit the entry into any place under the person's control, occupied and used for the governmental purposes of the City, of any person, for the purpose of making, or giving notice of any political assessment, subscription or contribution.~~
- ~~D. Knowingly permit a person to enter or remain in any such place described in subsection C of this section for the purpose of making, demanding or giving notice of any political assessment, subscription or contribution.~~

~~This section shall not apply to any auditorium or other place used for the conduct of public or political rallies or similar events, nor to any park, street, public land or other place not being used for the governmental purposes of the City.~~

SECTION 3. PERMITTED POLITICAL ACTIVITY

~~Article III, Section 2 shall not prevent any employee from:~~

- ~~A. Becoming or continuing to be a member of a political club or organization.~~
- ~~B. Attending any political meeting, off duty and out of uniform.~~
- ~~C. Enjoying entire freedom from all interferences in casting a vote.~~

~~C. Seeking or accepting election or appointment to any public office, but upon acceptance of said office, if the duties of said office are incompatible with the assigned duties as an employee of the City, the employee shall terminate employment with the City.~~

~~E. Obtaining signatures to any initiative or referendum petitions directly affecting the employee's rate of pay, hours of work, retirement, merit system or other working conditions, if the activity is not carried on during working hours or when dressed in the uniform purchased or required by any department of the City government.~~

~~F. Distributing publications, pamphlets or handbills or participating in any campaign in connection with a petition if the activity is not carried on during working hours or when dressed in the uniform purchased or required by any department of the City government.~~

SECTION 4. DISCIPLINARY ACTION FOR WILLFUL VIOLATION

~~Any willful violation of the above sections shall be sufficient grounds for disciplinary action against any employee.~~

ARTICLE VII (formerly article V)

~~AFFIRMATIVE ACTION/EQUAL EMPLOYMENT OPPORTUNITY PROGRAM~~

The City affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline, and termination. The City prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status or any other basis protected by law. (Gov. Code § 12940(a).) Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing.

~~A. AFFIRMATIVE ACTION/EQUAL EMPLOYMENT POLICY:~~

~~_____ The City shall not refuse to hire, discharge or discriminate against any person in compensation or in terms, conditions or privileges of employment because of the race, sexual orientation, age, pregnancy, religious creed, color, national origin, ancestry, disability, medical condition, marital status or sex of any person.~~

~~B. PHYSICAL OR MENTAL DISABILITY: The City may discharge or refuse to hire an employee with a physical or mental disability if the person, because of his or her disability is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger his or her health or safety or the health and safety of others even with reasonable accommodation.~~

~~C. MEDICAL CONDITION: The City may refuse to hire or discharge any employee who, because of the employee's medical condition, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner which would not endanger the employee's health or safety or the health and safety of others even with reasonable accommodation.~~

~~SECTION 2. AFFIRMATIVE ACTION PLAN~~

~~To implement this policy, the City has an Affirmative Action Plan which sets forth methods which are intended to assure equal opportunity by recognizing individual merit and creating a management system sensitive to the cultural differences of the employees. The Affirmative Action Officer, named by the City Manager, is responsible to see that the provisions of this Plan are carried out.~~

SECTION 3. AFFIRMATIVE ACTION APPEAL PROCEDURE

~~A. Any employee or applicant with the City shall file a complaint with the Affirmative Action Officer if that employee or applicant believes that the City has taken action that is discriminatory.~~

~~B. The City will respond to the complaint in a timely manner.~~

~~C. All employees or job applicants will be informed that if they believe they have suffered unlawful discrimination they should immediately report these concerns to the Affirmative Action Officer. A complaint shall be filed within one (1) year of the date of the alleged unlawful discrimination or of the date complainant knew or should have known of the facts underlying the allegations of unlawful discrimination.~~

~~D. Step 1 - Informal Complaint Procedure~~

~~— An employee or job applicant who feels he/she has been or is being subjected to discriminatory treatment, or who has learned of unlawful discrimination in his or her official capacity should immediately contact the Affirmative Action Officer of the City and submit a complaint. Each complaint will be investigated quickly and confidentially by the Affirmative Action Officer to determine if discrimination has occurred. All investigations will be conducted in a manner designed to maintain confidentiality to the extent possible. The City shall investigate and attempt to resolve the charges within thirty (30) days of receiving such complaint. The Complainant will be notified of the disposition of the complaint within forty (40) days of filing the complaint.~~

~~— Step 2 - Formal Complaint Procedure~~

~~— If the City is unable to resolve charges of unlawful discrimination within forty (40) days, or if the complainant is not satisfied with the City's resolution, the complainant should submit a written formal complaint to the Personnel office to be processed as a grievance pursuant to Article XVIII.~~

(NEWLY ADDED)
ARTICLE VIII

**POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION;
COMPLAINT PROCEDURES**

SECTION 1. PURPOSE

The City has a strong commitment to prohibit and prevent discrimination, harassment, and retaliation in its workplaces. The City has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. The City encourages all covered individuals to report – as soon as possible – any conduct that is believed to violate this Policy. Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

SECTION 2. SCOPE

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

SECTION 3. DEFINITIONS

- A. **Protected Classifications:** This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, transgender, sexual orientation (including heterosexuality, homosexuality, and bisexuality), pregnancy and breastfeeding, citizenship status, age, military and veteran status, or any other basis protected by law. (Gov. Code § 12940(a)). This Policy prohibits discrimination, harassment, or retaliation because: 1) of an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.
- B. **Discrimination:** This Policy prohibits treating individuals differently because of the individual's protected classification, actual or perceived, as defined in this Policy. (Gov. Code § 12926(o).)

- C. Harassment: Harassment may include, but is not limited to, the following types of behavior taken because of a person's actual or perceived protected classification. Note that harassment is not limited to conduct that employees take. Under certain circumstances, harassment can also include conduct taken by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or even members of the public:
1. Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.
 2. Physical acts, such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
 3. Visual acts, such as derogatory posters, cartoons, emails, pictures, or drawings related to a protected classification.
 4. Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment. (Gov. Code § 12940(i); Cal. Code Regs § 11091(b)(1).)
- C. Retaliation: Any adverse conduct taken because a covered individual has opposed or reported harassment or discrimination, or has participated in protected activity as described herein.
- D. Protected Activity: Protected activity includes any of the following:
1. Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation;
 2. Participating in or cooperating in good faith with a local, federal, or state enforcement agency that is conducting an investigation into alleged unlawful activity;
 3. Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity;

4. Associating with another covered individual who is engaged in any of the protected activities enumerated here;
5. Making or filing in good faith and with reasonable cause an internal complaint with the City regarding alleged unlawful activity;
6. Providing informal notice to the City regarding alleged unlawful activity;
7. Calling a government agency's "Whistleblower hotline" in good faith;
8. Filing a written complaint under penalty of perjury that the City has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety. (Labor Code §§ 53296(c) & 53297(d).); and
9. Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. (Labor Code § 1102.5(c).)

E. Adverse Action: Adverse action may include, but is not limited to, any of the following:

1. Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity;
2. Refusing to hire an individual because of actual or potential protected activity;
3. Denying promotion to an individual because of actual or potential protected activity;
4. Taking any form of disciplinary action because of actual or potential protected activity;
5. Extending a probationary period because of actual or potential protected activity;
6. Altering work schedules or work assignments because of actual or potential protected activity;
7. Condoning hostility and criticism of co-workers and third parties because of actual or potential protected activity;
8. Spreading rumors about a person because of that person's actual or potential protected activity;

9. Shunning or unreasonably avoiding a person because of that person's actual or potential protected activity;

SECTION 4. GUIDELINES FOR IDENTIFYING HARASSMENT:

- A. Identifying Harassment: Harassment includes any conduct which is or would be "unwelcome" or "unwanted" by an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification. The following guidelines may help to determine whether conduct is unwelcome or unwanted:
 1. Simply because no one has complained about behavior, including but not limited to, 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.
 2. Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person 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.
 3. 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 (e.g., gifts, over attention, endearing nicknames).

SECTION 5. WHISTLEBLOWER PROTECTION

- A. Prohibitions: The City prohibits the following:
 1. Taking any retaliatory adverse employment action because an employee has or is believed to have disclosed information to any government or law enforcement agency, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. (Labor Code § 1102.5(b).)
 2. Preventing an employee from disclosing information to a government agency, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. (Labor Code § 1102.5(a).)

3. Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. (Labor Code § 1102.5(c).)

SECTION 6. COMPLAINT PROCEDURE

- A. Employee Reporting: Any individual who believes he or she or someone else has been harassed, discriminated or retaliated against may make a complaint verbally or in writing to any supervisor, manager, or department head, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the Director of Human Resources. Upon receiving notification of a harassment complaint, the Director of Human Resources will complete and/or delegate the following steps. If the Director of Human Resources is accused or a witness to the events at issue, an individual with higher authority will complete and or delegate the following steps:
 1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with: 1) the complainant; 2) the accused harasser; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
 2. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, discrimination, or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
 3. Report a summary of the determination as to whether this Policy has been violated to appropriate persons, including the complainant, the alleged harasser, the supervisor, and the department head. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
 4. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
 5. Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.
 6. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- B. Proactive Approach: The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers

become aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

SECTION 7. OPTION TO REPORT TO OUTSIDE ADMINISTRATIVE AGENCIES

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

SECTION 8. CONFIDENTIALITY

Every effort will be made to assure the confidentiality of complaints made under this Policy. 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 attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. The City will not disclose a finalized investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

SECTION 9. RESPONSIBILITIES

- A. Non-Manager and Non-Supervisory Employees: Each non-manager or non-supervisor is responsible for:
1. Treating all individuals in the workplace with respect and consideration.
 2. Modeling appropriate behavior that conforms to this Policy.
 3. Participating in periodic training.
 4. Fully cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.
 5. Taking no actions to influence any potential witness while the investigation is ongoing.
 6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or Human Resources Director.

B. Additional Manager and Supervisor Responsibilities: In addition to the responsibilities listed above, each manager and supervisor is responsible for:

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

C. Dissemination of Policy: All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed.

(NEWLY ADDED)
ARTICLE IX

**REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS FOR:
APPLICANTS OR EMPLOYEES WITH DISABILITIES, PREGNANCY- RELATED
CONDITIONS, VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR
STALKING; OR RELIGIOUS BELIEF OR OBSERVANCE**

SECTION 1. REASONABLE ACCOMMODATION

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

- A. Qualified applicants and employees with disabilities to enable them to perform essential job functions (Gov. Code § 12940(m); and
- B. Employees with conditions related to pregnancy or childbirth upon request, and with the advice of the employee's health care provider (Gov. Code § 12945(3)(A)); and
- C. Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work. (Labor Code § 230(f)(4)); and
- D. Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement (Gov. Code § 12940(l).)

The City acknowledges that different standards may apply to its obligation to provide and entitlement to deny accommodations to employees depending on the basis for the accommodation(s) under consideration. These rules provide guidance and the City will adhere to all statutory and regulatory requirements.

SECTION 2. SUPPORTING DOCUMENTATION OR CERTIFICATION

- A. Reasonable Medical Documentation of Disability: If the disability or the need for reasonable accommodation is not obvious, the City may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the City will: 1) explain the insufficiency; 2) allow the employee or applicant to supplement the documentation; and 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided. (2 Cal. Code Regs § 11069(c)(2) & (d).)

- B. Medical Certification Indicating the Advisability of Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions: The City will provide the employee notice of the need for medical certification within two (2) business days after the employee's request for accommodation. A medical certification indicating the advisability of reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer. (2 Cal. Code Regs § 11050(b)(3).)
- C. Certification of Victim Status: An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his or her safety while at work must provide both of the following:
1. A written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
 2. A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking. (Labor Code § 230(f)(7).)

SECTION 3. FITNESS FOR DUTY EXAMINATIONS

- A. Applicants: After a conditional offer of employment has been extended to an applicant, the City may require the applicant to submit to a fitness for duty examination that is job-related, necessary for efficient operations of the City, and required of all applicants for the job classification. (Gov. Code § 12940(e) & (f).) An applicant or employee who is required to pass a medical and/or psychological examination will be notified of his/her right to obtain a second opinion at his/her expense and that he/she may submit such second opinions for consideration. (2 Cal. Code Regs § 11071(b)(2).)
- B. Current Employee: The Director of Human Resources may require an employee to submit to a fitness for duty examination when there is a reasonable basis to believe an employee may be unable to perform the essential functions of his or her job. (Gov. Code § 12940(e) & (f).)
- C. Role of Health Care Provider: The City may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or

employee, or may request a City-selected health care provider to do so at the City expense. The City will allow an employee paid time off to attend the exam. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining the functional limitations that the applicant or employee has that require reasonable accommodation. The health care provider will examine the employee and provide the City with non-confidential information regarding whether:

1. The applicant or employee has a disability (which the health provider does not identify) within the meaning of the California Fair Employment and Housing Act;
 2. The applicant or employee is fit to perform essential job functions;
 3. The employee is subject to any workplace restrictions or functional limitations, and the duration of the work restriction;
 4. There are any reasonable accommodations that would enable the employee to perform essential job functions; and
 5. The employee's continued employment poses a threat to the health and safety of him or herself or others.
 6. Should the health care provider exceed the scope of the City's request and provide confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested. (2 Cal.Code Regs § 11069(c) & (d).)
- D. Authorization for Use of Medical Information: During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.
- E. Medical Information from the Employee or Applicant: If an employee or applicant submits medical information to the City from his or her own health care provider, the Director of Human Resources will not forward that information on to the health care provider who conducted the examination for the City, without the employee or applicant's written authorization. Upon receipt of the written authorization, the Director of Human Resources will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

SECTION 4. INTERACTIVE PROCESS

- A. When to Initiate the Interactive Process: The Director of Human Resources will initiate the interactive process when:

1. An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s) (2 Cal.Code Regs § 11069(b)(1)); or
 2. The City otherwise becomes aware of the need for an accommodation through a third party (e.g. a doctor's note requesting an accommodation), or by observation of the employee's work (2 Cal.Code Regs. § 11069(b)(2)); or
 3. The City becomes aware of the possible need for an accommodation because the employee with a disability has exhausted Worker's Compensation leave, family and medical act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation (2 Cal.Code Regs. § 11069(b)(3)); or
 4. An employee with pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider (2 Cal.Code Regs § 11040(a)(1); or
 5. An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave; or
 6. An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his or her safety at work. (Labor Code § 230(f)(1)); or
 7. An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement. (Gov. Code § 12940(l).
 8. An employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices. (2 Cal. Code Regs § 11060(b).)
- B. Interactive Communication: After receipt of the request for accommodation, documentation of disability or victim status, fitness for duty information, and/or any other triggers for the interactive process as listed in this Policy, the Director of Human Resources will promptly arrange for a discussion or discussions with the applicant or employee and his or her attorney, or family or union representatives, (if any). The purpose of the interactive process meeting will be to discuss in good faith all feasible potential reasonable accommodations. The Director of Human Resources or designee will document these meetings in writing. (Gov. Code 12940(n) 2 Cal.Code Regs § 11069(a).)

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

SECTION 5. ACCESS TO MEDICAL INFORMATION REGARDING FITNESS FOR DUTY

Medical records and information regarding fitness for duty and the need for an accommodation will be kept separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Director of Human Resources, the City's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law. (2 Cal. Code Regs § 11069(g).)

(Former Article VII)
ARTICLE X

~~CHEMICAL ABUSE POLICY~~ DRUG AND ALCOHOL POLICY

SECTION 1. PURPOSE AND SCOPE

~~It is the purpose of this policy to articulate the position of the City Council of the City of Westminster with respect to the use of drugs and alcohol by City employees while on City time, in City vehicles, on City property or in City facilities.~~

~~In recognition of the duties entrusted to the employees of the City and with knowledge that drugs and alcohol do hinder a person's ability to perform duties safely and effectively, the City Council of the City of Westminster adopts the following policy:~~

The purpose of this Policy is to promote a drug and alcohol-free workplace and to eliminate drug and alcohol-related inefficiencies and risks. This Policy applies to all City employees, whether they are on City property, or they are performing City-related business elsewhere, except as this Policy may be superseded by a memorandum of understanding or federally mandated drug and alcohol policies. Compliance with this Policy is a condition of employment. Disciplinary action will be taken against those who violate this Policy.

SECTION 2. POLICY

It is the policy of the City of Westminster to maintain a safe, healthful, lawful and productive workplace. ~~Members of the City Council~~ The City is committed to discouraging alcohol and drug abuse and to achieving a work force free from the influence of drugs and alcohol.

It is the intent of this policy to deter the misuse or abuse of legal or illegal substances which create a threat to the safety and health of any City employee or member of the public. The City is concerned with those situations where the use of alcohol and/or drug use interferes with any employee's safety and/or job performance, adversely affects the job performance or safety of others, or affects the safety of the public.

SECTION 3. ~~EMPLOYEE ASSISTANCE PROGRAM~~ DRUG- AND ALCOHOL-FREE AWARENESS PROGRAM

- A. ~~There may be available a voluntary employee assistance program to assist City employees who wish to seek help for alcohol and drug problems. There is also available a variety of insurance coverage which provide treatment for drug and alcohol abuse. Employees may contact Personnel, their insurance provider or the Employee Assistance Program for additional information. The City's Employee Assistance Program (EAP) offers resources and counseling to employees who wish to seek help with alcohol or substance abuse. The employee assistance~~

program has information about: (a) the dangers of drug or alcohol use and abuse in the workplace; (b) the penalties that may be imposed for drug or alcohol abuse violations; and (c) any available drug or alcohol counseling, or rehabilitation.

- B. Employees who experience drug or alcohol problems are encouraged to seek referral for rehabilitation through the employee assistance program or their insurance provider. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

SECTION 4. PROHIBITIONS

- A. ~~The use, possession, or sale of illegal drugs is unlawful, dangerous and prohibited. The use of alcohol or drugs in the workplace is strictly prohibited. The use of alcohol, either in the work place or prior to coming to the work place, so that the employee's performance is impaired, is dangerous to the employee, to other employees and the general public and is prohibited. The abuse of all drugs, including alcohol, by employees is unacceptable since it can adversely affect health and safety, security, and productivity as well as public confidence and trust. The manufacture, distribution, sale, dispensation, possession, or use of any illegal drug or controlled substance in either City workplaces or wherever City business is performed is prohibited. (41 USC §§ 701-702; Gov. Code § 8355(a)(1).) A controlled substance means any drug, substance, or immediate precursor as defined by the California Uniform Controlled Substances Act. (Health & Saf. Code, § 11000, *et seq.*)~~
- B. ~~The unlawful manufacture, distribution, dispensation, possession, or use of a mind altering substance on City premises, or in City vehicles, or while conducting City business off City premises is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences. Working or being subject to call in if impaired by having any measurable trace of alcohol or any illegal drug or controlled substance in the employee's body.~~
- C. An employee's failure to notify his/her department head before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of City equipment.
- D. An employee's failure to notify the Director of Human Resources within five (5) days after any criminal conviction for a drug violation that occurred in the workplace. (41 USC § 701-702.)
- E. Failure to cooperate with any testing ordered by City representatives.
- F. Any attempt to falsify any documents pertaining to an employee's manufacture, distribution, sale, dispensation, possession, or use of any illegal drug or controlled substance in either City workplaces or wherever City business is performed.

SECTION 5. DRUG AND ALCOHOL TESTING

The City has discretion to test applicants and employees for alcohol and drug use under the following circumstances. The City will use an outside laboratory to perform all testing.

- A. Pre-Employment Testing for External Applicants for Certain Jobs: Those external applicants who apply for certain jobs must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing are:
 - 1. Safety sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, enforcing drug laws, and/or operating natural gas pipelines; or
 - 2. Jobs that involve direct influence over children.
- B. Reasonable Suspicion Testing: The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances.
 - 1. Reasonable Suspicion: Exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, an accident involving agency property or equipment, or other evidence of recent drug or alcohol use.
 - 2. Document and Analysis: In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the department head. Any reasonable suspicion testing must be pre-approved by the Director of Human Resources. The employee shall remain on duty until the Director of Human Resources determines whether the testing is approved.
 - 3. Testing Protocol: If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the Director of Human Resources has approved, the employee will be relieved from duty, transported to the testing facility and to his or her home after the test. The employee will be placed on sick or other paid leave until the test results are received.

SECTION 5 6. USE OF LEGAL DRUGS

~~Since physician-directed use of drugs can affect behavior and performance, employees are encouraged to advise their supervisor whenever they are taking drugs for medical reasons, since the use of such drugs may adversely affect job performance, and endanger the safety of other employees and the public.~~

Employees must inform their supervisor whenever they are taking drugs for medical reasons, if the employee is informed or should reasonably believe use of such drugs may adversely affect job performance or endanger the safety of other employees and the public.

SECTION 7. CONFIDENTIALITY

The City recognizes the confidentiality and privacy due employees, and disclosure of any information relating to chemical abuse, except on a need to know basis, shall be disclosed only with the expressed written consent of the employee involved or by court order. Conscientious efforts to seek such help will not jeopardize any employee's job, and will not be noted in any personnel record, unless willful and serious violation of this policy results in disciplinary action.

SECTION 7. COMPLIANCE

~~Employees must, as a condition of employment, abide by the terms of this policy, and report any conviction under a criminal drug statute for violations occurring on or off City premises while conducting City business. A report of a conviction must be made within five (5) days after the conviction.~~

(Former Article XIV)
ARTICLE XI

COMPENSATION

SECTION 1. COMPENSATION PLAN

- A. Preparation of Compensation Plan: The ~~Personnel~~ Director of Human Resources shall prepare a ~~Compensation Plan~~ Salary Schedule covering all classes of positions ~~in the Classified Service~~ showing minimum and maximum rates of pay.
- B. Adoption of Compensation Plan: The City Manager or designee shall submit the proposed plan to the City Council. The City Council shall by resolution, adopt and/or amend and adopt the proposed plan. Thereafter, no position shall be assigned a salary higher than the maximum salary or lower than the minimum salary provided for that classification in the latest resolution.

SECTION 2. SALARIES AND SALARY INCREASES

- A. Provisions: Salary and salary increases shall be consistent with the approved compensation plan.
- B. Eligibility: If the employee started the job above the first step of the salary range, the employee must remain at that step for at least one (1) year before becoming eligible for an increase, ~~unless authorized by the City Manager~~.
- C. Authorization: All increases must be authorized ~~by the department head~~ by Human Resources and the City Manager.
- D. Effective Date of Change: ~~Normally~~, Pay rate changes will become effective at the start of the pay period after approval.
- E. Anniversary Date: Each employee shall be assigned an anniversary date. If employed at Step "A", the anniversary date shall be the first day of the seventh month of employment. If employed at a step other than "A", the anniversary date shall be the ~~date of hire. first day of the month following completion of one year of employment date of employment on an annual basis.~~
- F. Service in Each Step: After Step "A", the normal service in each step will be one (1) year prior to eligibility for advancement to the next step.
- G. Advancement in Steps: Upon completion of six (6) months service by a new employee ~~who was hired at Step "A"~~, the supervisor and the department head of that employee shall file an evaluation form recommending approval or denial of advancement to Step "B", and the City Manager may approve or deny the advancement. Advancements to higher steps shall be granted only for continuous

meritorious and efficient service and continued improvement in the performance of the duties of the position. The supervisor and the department head shall file with the City Manager the prescribed form of employee evaluation and recommend the reasons for advancement in steps. The City Manager may approve, deny or delay the effective date of advancement to any of the higher steps.

- H. Special Advances: The City Manager, upon recommendation of the department head, may approve advancement to a new pay step without regard to the length of service provisions, **or an increase of two (2) pay steps**, when exceptional proficiency and value to the City is demonstrated.
- I. Step Advance Delay: When a normal step advance is denied, it may be reconsidered at any time, and if an advancement occurs in less than one **(1)** year of the denial, a new anniversary date shall be established.
- J. Promotion: (Appointment or Reclassification) A promotion shall establish a new anniversary date, and an employee shall receive **at least a minimum of** five percent (5%) increase, unless promoted to a position only one schedule higher and also paid at the top step before promotion. The new pay rate must be within the appropriate schedule. Normally, pay rate changes will become effective at the start of the pay period after approval.
- K. Demotion: (Disciplinary Only) A demoted employee shall receive at least a five percent (5%) reduction, and the new pay rate must be within the appropriate schedule.
- L. Reallocation of Salary Schedule: Employees in positions reallocated to a higher schedule shall be paid at the same step in the higher schedule. Employees in positions reallocated to a lower schedule, or reclassified to a position at a lower schedule, or demoted for other than disciplinary reason, shall not receive a reduction in pay, and if continued payments exceed the appropriate salary schedule top step, the employee shall be shown on the Personnel and Payroll records as a "Y" rated employee.
- M. Additional Salary Increases or Salary Adjustments: **Employees may be entitled to additional salary increases or adjustments as prescribed in an applicable Memorandum of Understanding.**

SECTION 3. COMPENSABLE HOURS OF WORK

- ~~A. Hours Worked: The pay provisions of the Fair Labor Standards Act will be observed in determining how to count time spent toward compensable hours of work for non-exempt employees.~~

~~_____ In general, a non-exempt employee may count as hours worked:~~

~~_____ 1. All time the employee spends working on the job.~~

~~_____ 2. All time the employee is required to be at the place of work or on duty, including:~~

~~_____ a. Performing the job.~~

~~_____ b. Getting ready to work.~~

~~_____ c. Learning the job. While learning, the employee should be paid for watching others as well as for doing the work.~~

~~_____ d. Correcting own or other's work.~~

~~_____ e. Getting medical care. The time the employee spends waiting for and receiving medical care should be counted as hours worked if treated at the place of work or at the employer's direction during the workday.~~

~~B. Hours Not Counted As Work: An employee may not count time as hours worked if:~~

~~_____ 1. During equipment failure if the employee is permitted to leave for a specified time, which is long enough to use effectively for personal purposes.~~

~~_____ 2. The employee is waiting to see if work will be available.~~

~~_____ 3. The employee has a meal time free of duties and is not subject to call. The meal period must be long enough (usually at least thirty (30) minutes) to allow time to eat. Meal time need not be counted as working time even if the employee eats at the work place.~~

~~_____ 4. Travel time to and from work.~~

~~_____ 5. The employee travel time outside of working hours.~~

~~_____ 6. Hours spent on paid leave, such as sick leave, vacation and holidays.~~

(Removed from Article XIV, Section 3)
added as: ARTICLE XII

WORK HOURS, WORK SCHEDULES, AND ATTENDANCE

SECTION 1 COMPENSABLE HOURS OF WORK

- A. Hours Worked: Unless indicated otherwise within the employee's MOU, the pay provisions of the Fair Labor Standards Act will be observed in determining how to count time spent toward compensable hours of work for non-exempt employees.

~~In general, a non-exempt employee may count as hours worked:~~

- ~~1. All time the employee spends working on the job.~~
- ~~2. All time the employee is required to be at the place of work or on duty, including:
 - ~~a. Performing the job.~~
 - ~~b. Getting ready to work.~~
 - ~~c. Learning the job. While learning, the employee should be paid for watching others as well as for doing the work.~~
 - ~~d. Correcting own or other's work.~~
 - ~~e. Getting medical care. The time the employee spends waiting for and receiving medical care should be counted as hours worked if treated at the place of work or at the employer's direction during the workday.~~~~

- B. Hours Not Counted As Work: An employee may not count time as hours worked if:

- ~~1. During equipment failure if the employee is permitted to leave for a specified time, which is long enough to use effectively for personal purposes.~~
 - ~~2. The employee is waiting to see if work will be available.~~
- 1. The employee has a meal time lunch period free of duties and is not subject to call. The meal time lunch period must be long enough (usually at least thirty (30) minutes) to allow time to eat. meal time Lunch periods need not be counted as working time even if the employee eats at the workplace.
 - 2. Travel time to and from work. The employee is traveling to and from work ("commute time"). However, if the employee is required to report to a work location that is different from the employee's regular work location and the amount of time to travel to the new location is longer than his or her normal commute time, then the employee will be compensated for the difference in time between the employee's normal commute and the new location. In

addition, if the City requires the employee to meet at a designated location and use the City's transportation to and from the work site, then the travel time from the designated location to the work site is compensable.

~~5. The employee travel time outside of working hours.~~

3. Hours spent on paid leave, such as vacation, paid injury, sick leave, bereavement, floating holiday, holiday, jury duty and compensatory time off.

SECTION 2. WORK WEEK

The workweek begins at 12:00 a.m. on Saturday and ends at 11:59 p.m. on Friday, except as otherwise designated in an applicable MOU or payroll records; for employees on a 9/80 work week; or police officers subject to a 7(k) exemption under 29 USC §207(k).

Work schedules are determined based on operational needs.

SECTION 3. OVERTIME AND COMPENSATORY TIME OFF.

- A. Definition: Overtime is all hours an overtime-eligible employee actually works over 40 hours in his or her designated work week or the overtime threshold designated pursuant to the 7(k) exemption. Only actual hours worked will be counted for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so.
- B. Remote Access: Unless the Director of Human Resources specifies otherwise in writing, overtime-eligible employees may not have remote access to City equipment, resources, or email.
- C. Prior Approval Required: Overtime-eligible employees are not permitted to work overtime except as their supervisor authorizes or directs, or in case of emergency. Working overtime without advance approval or an emergency situation is grounds for discipline. In emergencies, the employee may perform the work, but must notify a supervisor as soon as possible, and in no event later than the end of that day. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures will result in being paid for work time, and being subjected to disciplinary action, up to and including termination, for violating the overtime approval procedures. Employees must be paid for time worked.
- D. Accurate Time Reporting: All employees must accurately report all work time to the nearest five (5) minutes.
- E. Compensatory Time Off: Compensatory Time Off (CTO) may be accrued only to the extent permitted by applicable MOU or resolution. An overtime eligible employee may opt to accrue compensatory time off (CTO) in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being

performed. CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Exempt employees will accrue at 1:1.

1. The City will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five (5) days prior to the date requested. If the employee does not provide five (5) days' notice, or if the department cannot accommodate the time off without undue disruption, the City will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.
2. The City reserves the right to cash out accumulated CTO at any time.
3. During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays). Employees separating from City service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three (3) years, whichever is higher. (29 USC § 207(o)(3)(B) & (4); 29 CFR § 553.27.)

(FORMERLY ARTICLE XVII SECTION 1)
SECTION 4. ATTENDANCE AND ABSENTEEISM

This policy applies to all employees, including part-time, seasonal and temporary staff.

- A. Attendance: ~~Employees shall be in attendance in accordance with these policies and procedures governing hours of work, leaves and holidays. All departments shall maintain daily attendance records for employees which shall be reported to the Personnel Director on the form and on the dates specified.~~ Regular and punctual attendance is essential to the efficient operation of the City. All employees are expected to report to work on time and be prepared to begin their duties at the start of their scheduled shifts.
- B. Expectations: Employees are responsible for maintaining regular attendance and adhering to their assigned work schedules. Excessive tardiness, early departures, or unexcused absences may negatively impact team operations and will be addressed appropriately. Patterns of absenteeism, even if individual occurrences are reported, may still be subject to review and corrective action.
- C. Unscheduled Absences - Call in Procedures: Unscheduled absences, whether sickness, tardiness or other reason, must be reported according to the call-in procedures outlined below:

1. Employees must notify their supervisor prior to their scheduled start time.
2. For unscheduled absences of more than one day, the employee must follow call-in procedures for each day of absence, unless medical documentation has been submitted informing the employee's supervisor of the duration of absence.
3. If an employee is absent for three (3) or more days, they will be required to submit a doctor's note for the absence. The documentation must be submitted within 24 hours of written request by the supervisor or the Human Resources department.

Failure to follow the call-in procedure as set out by this policy may lead to the time being deemed as unauthorized leave without pay, and subject to discipline, up to and including dismissal from employment.

~~Absenteeism: Any employee who is absent from work shall be responsible for notifying the supervisor indicating when the employee will report back to work. Any employee who fails to comply with this policy shall be subject to disciplinary action.~~ Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law exceeds three (3) days in any three (3)-month period. In addition, no employee shall be retained on the payroll whose absence from work is unreported by the employee for three (3) consecutive workdays.

~~C. Reporting Leave: Reporting of any leave time used shall be the responsibility of the employee~~

(Formerly Article XV Section 4)

SECTION 5. BREAKS AND REST PERIODS

Because shifts and job conditions vary from department to department, there is no City-wide policy governing breaks and rest periods. Most departments arrange for **full-time non-exempt** employees to receive two (2) rest periods of approximately fifteen (15) minutes each during a shift. Supervisors shall ensure that rest periods are properly scheduled and taken **to the extent required by law**.

Employees are not permitted to "stack" or combine rest breaks and meal periods (e.g., taking multiple breaks back-to-back, or combining a rest break with a lunch period to leave work early or extend time away from duties). Breaks and meal periods must be taken at their designated times and may not be used to alter scheduled work hours or shift lengths without prior written approval from a supervisor.

Rest and meal periods are provided in compliance with applicable labor laws and are intended to support employee well-being throughout the workday. Misuse of scheduled breaks, including stacking or skipping without approval, may result in corrective action.

SECTION 6. LACTATION BREAK

- A. Policy Statement: The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (29 USC § 207 and Labor Code §§ 1030-1032). The city of Westminster supports the legal right of employees to choose to express breast milk in the workplace and will not discriminate or retaliate against employees who exercise this right.
- B. Lactation Space: The lactation space must:
- Not be a restroom
 - Be safe, clean, and free of toxic or hazardous materials
 - Contain a place to sit and a surface to place a breast pump and personal items
 - Have access to electricity or alternative devices, such as extension cords, needed to operate breast pumps
 - Have access to a sink with running water and a refrigerator in close proximity to the employee's work area.
 - A space temporarily created or converted into a space for expressing breast milk or made available when needed by the employee is sufficient, provided that the space is shielded from view, is free from any intrusion from co-workers and the public while the employee is expressing breastmilk and meets the other requirements of this policy.
- C. Lactation Breaks:
- The frequency of periods needed to express breast milk on a daily basis and the duration of each individual period will likely vary with each employee. Supervisors are to evaluate the reasonableness of an employee's request for time to express breast milk on a case-by-case basis.
 - The break time for an employee to express breast milk should, if possible, run concurrently with the employee's lunch and break time.
 - If the time for an employee's break or lunch time does not run concurrently with the break time needed to express breast milk, or when additional time is necessary, the break time for the lactation accommodation will be extended.
- D. Request For Lactation Accommodation: Employees have the right to request a lactation accommodation at work. An employee who requires time and/or private

space to express breast milk at work must affirmatively request so by using the Lactation Accommodation Request Form.

- E. Retaliation: Retaliation against employees for exercising their rights granted by this policy or any related statute is prohibited. This includes those who request time to express breast milk at work and/or who lodge a complaint related to the right to lactation accommodation.
- F. Right to File a Complaint: If an employee believes the City of Westminster has failed to comply with legal requirements related to lactation accommodation, the employee may file a complaint with:
- Their immediate supervisor, manager or department head or
 - City of Westminster Human Resource Department
 - CA Department of Fair Employment and Housing

(Formerly Article IX)
ARTICLE XIII

PERSONNEL RECORDS

SECTION 1. PERSONNEL FILES

- A. Responsibility: The ~~Personnel~~ Human Resources Department shall maintain a personnel file for each employee. This file shall include salary history, promotions, performance evaluations, disciplinary actions, leaves of absence, addresses, changes in an employee's status, date of promotion or assignment and other information which is considered pertinent. ~~In addition, the Police Department shall maintain portions of peace officer personnel files as required and in compliance with state law.~~

It is the responsibility of the employee to provide the City and the supervisor with changes in address, marital status, or number of dependents. Any changes must be reported by the employee or the supervisor to the ~~Personnel~~ Human Resources Department so that records remain current. Any changes in address or phone number shall be provided to the supervisor and the ~~Personnel~~ Human Resources Department within twenty-four (24) hours.

- B. Contents: Every appointment, transfer, promotion, demotion, change in salary rate and/or any other temporary or permanent change in status of the employee shall be reported to the ~~Personnel~~ Director of Human Resources in the manner prescribed by the ~~Personnel~~ Human Resources Department.
- C. Record Inspection and Appeal: Any employee, or the employee's representative, with written consent, has the right to inspect the personnel file designated for that employee ~~at a reasonable time during normal business hours and at reasonable intervals, within 30 days of a written request. (Lab. Code § 1198.5.)~~ If the file contains information that the employee does not agree with, the employee may appeal to the ~~Personnel~~ Director of Human Resources to have it removed or corrected. An employee who wishes to inspect the personnel file should call the the ~~Personnel~~ Human Resources Department for an appointment, allowing at least one (1) day's notice. ~~Former employees are entitled to inspect their personnel records one (1) time per year. (Lab. Code § 1198.5(d).)~~ If an employee or former employee wishes to have a photocopy of any of the documents in the personnel file, he or she will pay the fee charged by the City at the time for photocopies.

~~Prior to making a copy of personnel records or allowing inspection, the City may redact the names of nonsupervisory employees. (Labor Code § 1198.5(g).) Under no circumstances will the City provide access to or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee~~

members, or obtained in connection with a promotional examination. (Labor Code § 1198.5(h).)

- D. Retention: The official personnel record of any person employed by the City shall be kept indefinitely. All records relating to potential employees of the City may be destroyed after one (1) year. Files are kept for at least three (3) years after separation of employment (Lab. Code § 1198.5(c)(1).)

SECTION 2. CONFIDENTIALITY

- A. Confidential Files: A personnel file will contain only material that the City deems necessary and relevant or that is required by law. Personnel files are the property of the City, and access to the information they contain is restricted to protect employee privacy rights.
- B. Access to Applicant or Employee Medical Information: Employee and Applicant medical records are kept in separate medical files and are treated as confidential. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations. (2 Cal. Code Regs § 11069(g)(1).)

(Formerly section 4. of Article VIII)
ARTICLE XIV

PERFORMANCE EVALUATIONS

SECTION 1. PERFORMANCE RATING

- A. Responsibility: ~~Each officer, supervisor or department head having~~ Any employee who has immediate charge of an employee or group of employees shall make, or cause to be made, on forms provided by the ~~Personnel~~ Human Resources Department, performance rating reports for all subordinates in the Classified Service.

The employee performance rating shall be completed by the employee's immediate supervisor, and shall be signed and dated by the supervisor, department head, and employee. The original form shall be filed in the employee's official personnel file, and a copy shall be ~~handed to the employee for retention by~~ provided to the employee's supervisor, and employee. An employee may examine their own performance rating on file in the ~~Personnel Office~~ Human Resource Department at any time.

- B. Timeliness: ~~The~~ An employee performance rating shall be prepared ~~within fifteen (15) days~~ preceding the conclusion of ~~six (6) months~~ twelve (12) months service, and ~~annually thereafter after regular appointment from an employment list, and after any change in status of an employee in the Classified Service.~~ An employee performance rating shall be prepared within fifteen (15) days preceding the conclusion of ~~twelve (12) months service, and annually thereafter.~~ Interim performance reports may be done at any time as necessary. Failure to observe the timeliness set forth herein does not alter the employee's status. Performance rating reports may be considered in promotional examinations and actions relating to transfer, demotion, or other changes affecting the status of an employee.
- C. Response: The performance rating is not subject to any grievance and/or appeal procedure. The employee may prepare a written response to the evaluation which will be attached to the evaluation when it is placed in the personnel file. The response must be submitted to the ~~Personnel Office~~ Human Resource Department within ten (10) days after the employee received the evaluation or it will not be attached.
- D. Salary Advance: All step increases are subject to satisfactory work performance per the performance evaluation. Any employee who is below meets job requirements will not receive a step increase.

SECTION 2. PERFORMANCE IMPROVEMENT PLAN

Permanent full-time employees whose work becomes unsatisfactory may be placed on a Performance Improvement Plan (PIP) for a period not to exceed six (6) months by the department head, with notification from the Director of Human Resources. This performance improvement period is used to determine whether work performance or work-related behavior meets required standards of the position. Failure to meet performance standards per the PIP may result in discipline as provided for in this Manual and any applicable MOU.

ARTICLE XV

DISCIPLINARY ACTION

SECTION 1. DEFINITION

A disciplinary action is an action taken by an appointing authority, the ~~Personnel~~ Director of Human Resources, the City Manager, or a department head resulting in reprimand, suspension, reduction in pay, demotion, or ~~discharge dismissal~~.

Disciplinary action against peace officers, as defined under Penal Code 830.1, shall comply with ~~Section 3300 of the Government Code~~, the Public Safety Officers Procedural Bill of Rights.

SECTION 2. TYPES OF DISCIPLINARY ACTION

- A. ~~Reprimand: A written statement from a supervisor to a subordinate of an action or inaction which meets any of the grounds for disciplinary action listed herein.~~
Verbal Reprimand: A verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing to the employee and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeals procedures described below.
- B. Written Reprimand: A written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be retained in the employee's personnel file and is not subject to the discipline or discipline appeal procedures described below. The employee has the right to have his or her written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the Personnel Office within 14 days after the reprimand is received. A peace officer who is issued a written reprimand shall be entitled to an administrative appeal pursuant to Government Code, section 3304(b).
- C. Suspension: Suspension shall be the temporary separation of an employee from service, without pay, for disciplinary purposes.
~~An employee may be suspended with pay by a department head, with immediate notification to the City Manager, for a period not to exceed the employee's accumulated vacation and monies earned, in certain instances wherein the City Manager or department head is investigating the validity of certain charges against such employee. An employee found guilty of such charges may be dismissed from the Service or otherwise disciplined in accordance with the provision of these policies and procedures, and the amount paid such employee while under suspension will be deducted from terminal monies due the employee.~~

~~A department head, with immediate notification to City Manager, may suspend an employee at any time for the good of the Service for disciplinary purposes or other just cause.~~

- D. Reduction in Pay: ~~A reduction in pay for disciplinary purposes may take one of three forms: 1) a decrease in salary to a lower step within the salary range for disciplinary purposes or; 2) a decrease in compensation salary paid to an employee for a fixed period of time for disciplinary purposes; or 3) loss of accrued paid vacation or administrative leave, floating holiday, or compensatory time off. Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final. A reduction in pay is subject to the discipline and discipline appeal procedures described below.~~

- E. Demotion (~~mandated~~): A change in employment status from one position to another having a lower rate of pay and/or a change in duties which are allocated to a class having a lower maximum rate of pay.

~~The department head, with notification to the City Manager, may demote any employee whose work falls below the standards required for satisfactory performance, or for disciplinary purposes.~~

No employee shall be demoted to a position for which the employee does not possess the minimum qualifications.

~~A demotion is subject to the discipline appeal procedures as described in Section 5 below.~~

- F. Dismissal: The separation of an employee from the Classified Service by the appointing authority for cause.

An employee in the Classified Service may be discharged at any time by a department head, with notification to the City Manager, for cause as provided for and contemplated under these policies and procedures.

- G. Department Heads: ~~In the event that a department head is disciplined pursuant to these procedures, the City Manager will take such action to discipline the department head, with immediate notification to the City Council. A department head in the Classified Service may be suspended or discharged for cause under the provisions of these policies and procedures by the City Manager, with immediate notification to the City Council.~~

SECTION 3. ~~REASONS~~ CAUSES FOR DISCIPLINARY ACTION

~~An employee in the Classified Service may be disciplined for, including but not limited to, any of the causes of discipline listed below. Employees who are not members of the Classified Service, and who are therefore at-will employees, may be disciplined with or~~

~~without cause. Disciplinary action of an employee in the Classified Service may occur for any infraction of any policy or procedure including those set forth below:~~

- A. Insubordination which shall consist of refusal or failure to obey any proper direction or order given by a person in a supervisory position over the employee and given in the course of employment.
- B. Incompetence, inability, or failure to perform the duties required by the position, as well as willful neglect of official duty.
- C. ~~Gross~~ Carelessness in the discharge of assigned duties.
- | D. Dishonesty.
- E. Theft of city equipment, funds and misappropriation of City resources.
- F. Unsatisfactory job performance.
- G. Inefficiency.
- H. Reckless or Unsafe Conduct
- I. Being impaired by alcohol or drugs while on duty, consumption of alcoholic beverages or use of illegal drugs during working hours, possession of illegal drugs during working hours, or the unlawful manufacture, distribution, or use of any mind-altering substance on City premises, in City vehicles, or while conducting City business, or if under a Last Chance Agreement, the presence of illegal drugs or alcohol in the biological system.
- J. Inability to operate a motor vehicle upon the public highways of the State of California when the duties of such employee require the operation of such a vehicle, whether such inability results from physical or mental incapacity or the suspension or revocation of the privilege of such employee to operate such vehicle.
- K. Excessive absenteeism. (Excessive absenteeism is defined as exceeding division or department average. Special consideration shall be given for prolonged illness or injury).
- L. Unexcused absences. Abuse of sick leave, i.e. taking sick leave without a doctor's certificate where one is required, or misuse of sick leave.
- M. Abuse of leave from work in a manner not authorized or provided for under law or City policies.
- N. Repeated tardiness.

- O. Failure to establish and maintain proper working relationships with fellow officers and employees or with the public ~~and/or discourteous or offensive treatment.~~
- P. Unauthorized use ~~or misuse~~ of City tools, ~~or~~ equipment, ~~property, and/or resources~~ for private or personal purposes.
- Q. Abuse or gross neglect in the care and operation of City tools and equipment.

~~13. Using obscene language.~~

- R. ~~Abusive conduct, including malicious or obscene verbal, visual, or physical actions, or the gratuitous sabotage or undermining of a person's work performance.~~
- S. Accepting bribes of money or other valuable articles or any personal fee for performance of a City service.
- T. Engaging in improper political activity as hereinafter set forth in these policies and procedures.
- U. Divulging privileged communication or confidential information received by reason of employment with the City to persons not authorized to receive such communication or information.
- V. Refusing to report on official call in an emergency.
- W. Willfully making false statements, certificates, or reports or in any manner committing or attempting to commit fraud.
- X. Violation of ~~any of the provisions of the ordinances, resolutions or rules, regulations or policies prescribed by the City or~~ departmental rules and regulations duly adopted.

~~Addiction to or use of narcotics or drugs except as prescribed by a licensed physician.~~

- Y. Off-duty conduct which tends to discredit the City.

~~22. Mental or physical disability which renders the employee unfit for the proper performance of his or her duties if no reasonable accommodation can be made.~~

- Z. ~~Improper or unauthorized~~ Unapproved outside employment or activity, as proscribed in this Manual, or other enterprise that constitutes a conflict of interest with service to the City.

~~Violation of any of the provisions of the ordinances, resolutions or rules, regulations or policies prescribed by the City.~~

- AA. Conviction of either a misdemeanor or a felony involving moral turpitude or directly related to the duties and responsibilities of the job.

- BB. Working overtime without prior authorization or refusing to work scheduled overtime.
- CC. Horseplay or fighting.
- DD. Carrying firearms or other dangerous weapons while on duty when not required by job duties.
- EE. Bullying.
- FF. Failing to provide services in a courteous, competent manner.
- GG. Failing to cooperate with the City Council, City Manager, and department heads in order to completely fulfill objectives and purposes of the Municipal Code and these Policies and Procedures.

SECTION 4. PROCEDURES FOR DISCIPLINARY ACTION

~~Disciplinary action, other than written reprimand, shall be taken in compliance with the following procedures:~~

The following procedures outlined below pertain to suspension without pay, reduction in pay, demotion, or dismissal, and apply to permanent full-time, classified service employees:

- A. Notice of Intent: Whenever the appropriate authority intends to suspend an employee ~~for three (3) days or more~~, demote the employee, reduce the employee's ~~in~~ pay, or dismiss the employee, the appropriate authority shall give the employee a written notice of intent to discipline which sets forth the following:
 - 1. The disciplinary action intended;
 - 2. The specific charges upon which the action is based;
 - 3. A factual summary of the grounds upon which the charges are based;
 - 4. A copy of all written materials, reports, or documents upon which the discipline is based;
 - 5. Notice of the employee's right to respond to the ~~appropriate disciplinary authority regarding the charges within five (5) business days from the date of the Notice, either orally by requesting a pre-disciplinary meeting conference, or in writing to the appropriate authority by providing a written response, or both.~~ The pre-disciplinary meeting may also be referred to as a *Skelly* meeting, pursuant to *Skelly v. State Personnel Bd. (1975) 15 Cal. 3d 194.*

6. Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.

7. Notice of the employee's right to have a representative of his or her choice at the pre-disciplinary meeting conference.

B. Response by Employee: The employee shall have the right to respond to the charges to the appropriate disciplinary authority orally or in writing within five (5) working days, either by requesting a pre-disciplinary meeting conference or by providing a written response, or both. The employee shall have a right to be represented at any the pre-disciplinary meeting set by the appropriate authority to hear the employee's response. In cases of suspension for three (3) days or more, demotions, reductions in pay or dismissal, the employee's response will be considered before final action is taken.

If the employee is entitled to and requests a pre-disciplinary meeting, the appropriate disciplinary authority or their designee will conduct an informal meeting with the employee, at which time the employee will have an opportunity to rebut the charges against him or her and present any mitigating circumstances. The disciplinary authority will consider the employee's presentation before issuing the disciplinary action.

The employee's failure to attend the conference or failure to deliver a written response by the date specified in the notice of intent to discipline is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the notice of intent to discipline.

C. Final Notice: After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate disciplinary authority shall: (1) dismiss the notice of intent and take no disciplinary action against the employee, (2) modify the intended disciplinary action, or (3) accept the intended disciplinary action. The disciplinary authority shall then prepare and serve upon the employee a final notice of disciplinary action. The final notice of disciplinary action shall include the following:

1. The disciplinary action taken;
2. The effective date of the disciplinary action taken;
3. Specific charges upon which the action is based;
4. A factual summary of the grounds upon which the charges are based;
5. The written materials, reports, and documents upon which the disciplinary action is based;

6. The employee's right to appeal if any.

The final notice of discipline will be delivered by hand to the employee to be disciplined or sent by first class mail to the last known address of the employee. Notice of discipline is effective on the date that the final notice of discipline is hand-delivered to the employee or deposited in the mail.

- D. City Manager Review: Within seven (7) working days after the employee has received final notice of discipline by the department head, the employee shall be entitled to appeal the decision of the department head to the City Manager. ~~The employee must submit such an appeal in writing to the City Manager specifying the ground(s) for the appeal.~~ The City Manager shall review the matter with the employee and the department head and uphold, modify, or revoke the action taken within ~~fifteen~~ 15 working days ~~of receiving the written appeal~~. The action of the City Manager shall be documented in writing and shall be final and conclusive except as may be ~~determined by appeal to the Personnel Board~~ resolved by arbitration. Failure to appeal to the City Manager shall waive an employee's ability to further appeal disciplinary action.

SECTION 5. APPEAL PROCESS HEARINGS FOR DISCIPLINARY ACTION

~~The appeal procedure described herein shall apply only to cases of disciplinary suspensions, reductions in pay, demotions and dismissals affecting permanent full-time Classified Service employees.~~

Any employee who has been suspended, discharged, or otherwise disciplined shall have the right to appeal as provided in adopted rules and regulations in this agreement.

- A. ~~After an employee has received a final notice of suspension, reduction in pay, demotion or dismissal the employee may, within~~ After the City Manager has issued a final decision, the employee shall have five (5) working days ~~after City manager's~~ from the date the decision is issued to request a hearing ~~before the Personnel Director by filing a written request with the Director of Human Resources.~~ If within the five (5) day appeal period, the employee involved does not file said appeal, ~~and or~~ unless good cause is shown to the ~~Personnel~~ Director ~~of Human Resources~~ for failure to do so, the action of the City should be considered conclusive and shall take effect as set forth.

~~Upon receipt of the appeal, the Personnel Director shall schedule a hearing before the Personnel Board. The time for an appeal hearing shall not be less than twenty (20) working days nor more than sixty (60) working days from the date of the filing of the appeal. All interested parties shall be notified in writing of the date, time and place of the hearing at least ten (10) working days prior to the hearing. If the employee fails to attend the first scheduled hearing and fails to attend two (2) subsequently scheduled hearings, he/she will be considered to have abandoned the appeal and the City action is final.~~

- ~~3. All hearings shall be private; provided, however, that the appellant may request a hearing open to the public. Any request for an open hearing shall be submitted five (5) days prior to the hearing date or the hearing will be closed.~~
- ~~4. Five (5) working days prior to the date set for the hearing, each party shall serve upon the other party and submit to the Personnel Director for dissemination to the Personnel Board, a list of all witnesses and all exhibits. Failure to supply a list of exhibits shall be considered abandonment of the appeal. The City's exhibits shall be designated by number. The employee's or association's exhibits shall be designated by alphabetical letter. Neither party will be permitted to call during the hearing a witness not identified pursuant to this section, nor use any exhibit not provided pursuant to this section unless the party can show that they could not reasonably have anticipated the need for such witness or exhibit.~~
- ~~5. The hearing shall be conducted by the chair of the Personnel Board in accordance with the provisions of Municipal Code 2.68.070.~~
 - ~~A. The Personnel Board shall hear written appeals from disciplinary actions, dismissal, demotion, suspension, reduction in pay or alleged violation of the rules and regulations.~~
 - ~~B. Hearings on written appeals shall be informal. Technical rules which are employed to exclude evidence in criminal and civil court trials shall not be applied.~~
 - ~~C. The Board shall receive prior to the beginning of the hearing, a written report from the Personnel Director listing all alleged facts in justification for the action which has been appealed.~~
 - ~~D. At the hearing the Board shall consider all evidence presented to it. The Commission shall not consider any evidence which it feels is obviously not material or not relevant to the issues presented by the alleged facts in justification of the matter appealed. Evidence may be presented by written statement, by oral testimony, and by exhibits.~~
 - ~~E. The Board shall determine the order in which people shall speak and the amount of time available to each side.~~
 - ~~F. The person filing the appeal and all persons whose decisions are appealed shall have a right to be present, to receive a copy of each written report, statement or exhibit, or present evidence to the Board by written statements, and to present oral testimony by calling witnesses and asking questions. The person has the right to subpoena and call for questioning, any person for direct or cross examination.~~

- ~~G. The City Clerk shall issue subpoenas in the name of the City at the request of the party filing the appeal, or at the request of any person whose decision is appealed, or at the request of the City or the Board. The refusal of any person to attend and testify pursuant to a subpoena shall be subject to prosecution in the same manner as provided by law for failure to appear before the City Council in response to a subpoena issued by that body. The Chief of Police or designee shall serve any such subpoena upon any person who can be found within the City.~~
- ~~H. Each member of the Board shall have the power to administer the oath and to question any witness. The Personnel Director, or a person appointed by the Board, shall be present at all hearings to take minutes of all testimony presented and to keep a file of all writings and exhibits which are submitted to the Board. Any person, at his/her expense, shall be entitled to employ a court reporter to record the hearing.~~
- ~~6. The Personnel Board may grant a continuance for any reason they believe to be important to reaching a fair and proper decision.~~
- ~~7. The Personnel Board shall render findings and recommendations no later than fifteen (15) working days after conclusion of the hearing unless otherwise stipulated by the parties. The findings and recommendations shall address each of the disciplinary charges raised by the final notice. The Personnel Board may sustain or reject any or all of the charges and may recommend sustaining, rejecting or modifying the disciplinary action.~~
- ~~8. The findings and recommendations of the Personnel Board shall be advisory and shall be considered as a recommendation to the City Council. The proposed decision shall be filed with the charged employee, the department head and the Personnel Director. If the disciplinary action involves dismissal and dismissal is not sustained, the proposed decisions shall set forth the recommended effective date the employee is to be reinstated, which may be any time on or after the date the disciplinary action went into effect.~~
- ~~9. The written findings and recommendations shall be transmitted by the Personnel Director to the City Council. The City Council shall consider the recommendations at the first regular Council meeting following receipt of the written findings and recommendations. The decision of the City Council shall be final. The employee shall be notified of the City Council's decision within five (5) business days.~~
- B. All permanent employees subject to disciplinary action will be accorded to such prior hearings as are prescribed by State and Federal law.

In the event that the discipline involves a suspension in excess of 40 hours, a disciplinary demotion, or termination, and upon request of the employee, the matter shall be submitted to an independent arbitrator mutually selected by the parties who shall hear

and consider the matter in accordance with the City's adopted rules and regulations. In the event that the parties are unable to agree on an arbitrator, they will request from the American Arbitration Association or State Mediation and Conciliation Association a list of seven (7) arbitrators, experienced in public employer discipline. The arbitrator to hear the case shall be selected from the list by the parties, alternately striking names until one name is left. The order of striking shall be determined by lot. The arbitrator shall decide in the matter which shall be final and conclusive, subject only to review pursuant to CCP §1094.5.

SECTION 6. EMPLOYEE STATUS PENDING FINAL DETERMINATION

Notwithstanding the provisions of the policies and procedures regarding Suspension with Pay, the action of the department head, or the City Manager if a department head is implicated, shall be final pending review by the City Manager, and no employee shall be entitled to compensation during said period unless the action of the department head and City Manager is modified and provides for compensation, or is revoked. The action of the City Manager shall be conclusive pending the ~~recommendation of the Board and final action~~ appeal and final action of the City Council. The City Council may order full reinstatement of the employee and grant full compensation for the period of suspension, demotion or dismissal.

ARTICLE XVI

GRIEVANCES

SECTION 1. RIGHT OF GRIEVANT

Any employee in the Classified Service ~~shall have the right to grieve disciplinary action, dismissal, demotion, suspension or any alleged violation of these policies and procedures, any rules which may be contained in the Personnel Ordinance, except in those instances where the right of appeal is prohibited by the Personnel Ordinance or these policies and procedures.~~ may grieve any alleged violation of these rules or any rules which may be contained in the Municipal Code, except in those instances where a grievance is otherwise specifically prohibited by the Municipal Code or these rules.

SECTION ~~5~~ 2. NON-GRIEVABLE MATTERS

This grievance procedure is not to be used to:

- A. ~~To~~ Change wages, hours, or working conditions.
- B. ~~To~~ Challenge the content of employee evaluations or performance reviews.
- C. ~~To~~ Challenge a reclassification, lay-off, transfer, or denial or reinstatement.
- D. Appeal disciplinary action of any type.

Nothing contained herein is intended to prevent ~~the grievability~~ a grievance of any matter ~~covered by permitted~~ by a MOU for a specific bargaining unit.

SECTION ~~2~~ 3. GRIEVANCE PROCEDURE

~~When an employee has a problem or complaint, he/she should first try to get it settled through discussion with his/her immediate supervisor without undue delay. If, after this discussion, he/she does not believe the problem has been satisfactorily resolved, he/she shall have the right to discuss it with his/her supervisor's immediate superior. Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. If the unit employee is not in agreement with the decision reached by discussion, he/she shall then have the right to file a formal grievance. Any formal grievance must be filed within 30 calendar days after the event giving rise to said grievance.~~

~~The procedures in this policy shall apply unless otherwise provided in an applicable Memorandum of Understanding.~~

A. Steps of the Grievance Procedure:

~~First Level of Review (Step 1) - The grievance shall be presented in writing to the employee's immediate supervisor, who shall render his/her decision and~~

comments in writing and return them to the employee within 15 calendar days after receiving the grievance. If the employee does not agree with his/her supervisor's decision, or if no answer has been received within 15 calendar days after submitting the grievance to the immediate supervisor, the employee may present an appeal in writing to the Director of Human Resources. Failure of the employee to take further action within 10 calendar days after receipt of the written decision of his/her supervisor, or within 25 calendar days following submittal of the written grievance to the supervisor if no decision by the supervisor is rendered, will constitute a withdraw/dropping of the grievance.

- ~~1. Grievances by an employee of the City involving alleged violations of these policies and procedures of the Personnel Ordinance shall first be stated clearly in writing and submitted to the department head by the employee within ten (10) days calendar of the date the employee knew or should have known of the alleged violation.~~
- ~~2. The department head (or the City Manager if the grievance is brought by a department head) shall forward to the employee within five (5) working days a reply in writing.~~
- ~~3. a. Within seven (7) working days after the employee has received a written reply, the employee shall be entitled to appeal the decision of the department head to the City Manager.~~
- ~~b. The City Manager shall review the matter with the employee and department head and uphold, modify or revoke the action taken within fifteen (15) working days. The action of the City Manager shall be documented in writing and shall be final and conclusive except as may be determined by appeal to the Personnel Board.~~
1. Department Review (Step 2) - The Department Head receiving the grievance, or his/her designated representative, shall discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The Department Head (or designee) shall render his/her decision and comments in writing and return them to the employee within 15 calendar days after receiving the grievance. If the employee does not agree with the decision reached or if no answer has been received within 15 calendar days, he/she may present the grievance, in writing, to the City Manager. Failure of the employee to take further action within 10 calendar days after receipt of the decision of the Department Head, or within 25 calendar days following submittal of the written grievance to the Department Head if no decision is rendered, will constitute a withdraw/dropping of the grievance.
~~If any of the above administrative remedies are not followed by a department head, the employee may appeal directly to the City Manager. If any of the above administrative remedies are not followed by the City Manager, the department head or employee may appeal directly to the Personnel Board. If the employee does not~~

~~appeal to the next level of the grievance process within the time specified, the grievance shall be considered settled on the basis of the City's last response.~~

2. ~~City Manager Review (Step 3) - The City Manager shall discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The City Manager may designate a fact-finding committee or an individual not in the normal line of supervision, to advise him/her concerning the grievance. The City Manager shall render a decision in writing to the employee within 20 calendar days after receiving the grievance. If the employee does not agree with the decision reached or if no answer has been received within 20 calendar days, he/she may submit the grievance to advisory arbitration, as outlined below. Failure of the employee to take further action within 10 calendar days after receipt of the City Manager's decision, or within a total of 20 calendar days following the submittal of the written grievance to the City Manager, if no decision is rendered will constitute a withdraw/dropping of the grievance. If the City does not respond within the time frames described above, the grievance shall be considered settled on the basis of the employee's last response.~~

B. Conduct of Grievance Procedure:

The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.

The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her appeal at any level of review. The employee and his/her representative may be permitted to use a reasonable amount of work time, as determined by the Police Chief, in conferring about and presenting the appeal.

Employees shall be assured freedom from reprisal for using the grievance procedure.

SECTION 3. RIGHT OF APPEAL OTHER THAN DISCIPLINARY

~~Any employee in the Classified Service shall have the right to appeal to the Personnel Board in writing relative to any violation, misinterpretation or misapplication of any City or department rule or regulation affecting the employee's welfare, safety, employment status or conditions of employment. The Board shall make such investigation as it may deem warranted under the circumstances and shall hold a hearing on the matter within not less than twenty (20) working days nor more than sixty (60) days if so requested, after which it shall render its findings and conclusions to the City Council and Personnel Director as in other cases. No appeal shall be taken until the employee has complied with the policies and procedures established for appealing grievances.~~

SECTION 4. DESIGNATION OF APPEAL BOARD

~~For the purpose of assuring all employees and officers fair and impartial treatment under these policies and procedures and the Personnel Ordinance, the Personnel Board shall serve as the appeal board and hear all grievances and appeals as provided under these policies and procedures.~~

SECTION 4. ARBITRATION

- A. General Provisions: After having exhausted the provisions of the Grievance Procedure set forth herein, an eligible employee shall have the right to submit to advisory arbitration any grievance which has not been resolved to his/her satisfaction, except in instances where such submission is specifically prohibited by the Personnel Ordinance, City Personnel Rules or this Memorandum of Understanding. Such appeal may be filed only after completion of Step 3 of the Grievance Procedure and in accordance with the time limits provided herein. Advisory arbitration, as provided in this Article, shall be the sole and exclusive procedure for final resolution of unresolved grievances.
- B. Procedures: If the grievant is not satisfied with the decision rendered at Step 3 of the Grievance Procedure, he/she may submit the matter to advisory arbitration within the time limits set forth in the Grievance Procedures by filing written notice of such submission with the Director of Human Resources. The written notice shall set forth the issue being submitted to advisory arbitration, the provision(s) allegedly violated, and the remedy requested.

The City's representative and the grievant, or his/her designated representative(s), shall select an impartial third party to serve as the arbitrator.

If the City's representative and the grievant, or his/her designated representative(s), are unable to agree upon an impartial third party, then the arbitrator shall be selected by mutually striking and ranking names from a list of professional arbitrators supplied by the American Arbitration Associations. Failure of the employee to participate in obtaining a list of arbitrators, selecting a single arbitrator, or scheduling an arbitration date, within 30 calendar days of being requested to do so by the City, shall constitute a dropping of the grievance.

Each party to the dispute shall have the opportunity to present testimony and relevant evidence and to cross-examine witnesses before the arbitrator. After hearing the case, the arbitrator shall, in writing, submit to the parties his/her decision for resolution of the grievance. The decision of the arbitrator shall be final and advisory upon both parties.

- C. Conditions: The arbitrator shall have no power to add to, subtract from, nor to modify any of the terms of any memorandum of understanding between the parties. The arbitrator's award shall be consistent with, and controlled by, the Personnel Rules, Ordinances, and Charter of the City of Placentia, as well as the laws and Constitution of the State of California.

All expenses of arbitration shall be borne equally by the parties.

The provisions of this Section shall in no way apply to the "meet-and-confer" process.

ARTICLE XVII

EMPLOYEE BENEFITS LEAVES

SECTION 1. VACATION

- A. Purpose: The purpose of annual vacation is to provide a rest period which will enable each eligible employee to return to work physically and mentally refreshed.
- B. Entitlement: All employees in the Classified Service shall be entitled to annual vacation with pay except for the following:
1. Employees who have not completed at least six (6) months of full-time service with the City. ~~An employee's department head has the discretion, however, to approve the use of accrued vacation for such employees.~~
 2. Employees who work on an intermittent, temporary or part-time basis.
- C. Vacation Allowances: ~~Regular Paid vacation~~ leave shall be granted in accordance with ~~an~~ approved Memoranda of Understanding, Resolution, or ~~employment contract~~.
- D. Accrual of Vacation Time:
1. Time worked during the probationary period shall count toward computation of vacation benefits. An employee who has completed less than one (1) year of service shall accumulate vacation time during the year on a pro-rata basis based upon the number of months worked during the year. ~~However, the employee shall not be entitled to any regular vacation until completion of twelve (12) months of continuous service.~~
 - ~~Exception: If, in the opinion of the department head, the interest of the City may best be served, an employee, with the approval of the Personnel Director, may take a vacation not to exceed six (6) working days at the expiration of six (6) months of continuous uninterrupted service with the City.~~
 2. Vacation shall not be accrued in excess of ~~two hundred and forty hours~~ 240. All hours in excess of 240 will be paid annually.
 3. ~~Vacation time will not be earned during an unpaid leave of absence.~~
- E. Scheduling Vacation Leave: ~~Department heads shall schedule all vacations with due consideration for the wishes of the employee and particular regard for the needs of the department. Requests for time off shall be submitted at least one (1)~~

week in advance if requesting less than a week off, and at least three (3) weeks in advance if requesting more than a week off. Each request shall be evaluated based on operational needs. An employee may not use vacation until it is earned. Use of sick leave accruals is not permitted during a scheduled vacation.

- F. Vacation ~~Benefits Hours~~ for Terminating Employees: ~~In the event of termination of~~ Upon separation of City employment ~~with the City,~~ employees will be paid for all accrued and unused vacation hours on their final paycheck, at their current rate of pay. ~~the employee shall receive, in lieu of vacation, a sum of money equal to the number of days of accrued vacation time for the total number of months of service with the City. No vacation time is earned during an unpaid leave of absence~~
- G. Holidays Occurring During Vacation: When a ~~legal municipal~~ City ~~observed~~ holiday falls within a vacation period, such day(s) shall not be charged against the vacation allowance. Under these circumstances, an employee's vacation shall be extended by the day(s) recognized as City ~~legal observed~~ holidays.

SECTION 2. HOLIDAYS

- A. ~~Holidays Observed:~~ ~~Full time employees, within the classified service, shall have holidays off with pay and shall not be required to work on such holidays as provided in approved Memoranda of Understanding or resolution, except as hereinafter provided. Full-time employees within the classified service shall be entitled to holiday pay. The City of Westminster observes the following holidays:~~
1. New Year's Day - January 1
 2. Martin Luther King Jr. Day – 3rd Monday in January
 3. Presidents' Day – 3rd Monday in February
 4. Memorial Day - Last Monday in May
 5. Independence Day - July 4
 6. Labor Day - First Monday in September
 7. Veterans Day – November 11
 8. Thanksgiving Day – 4th Thursday in November
 9. Day after Thanksgiving – 4th Friday in November
 10. Christmas Eve – December 24
 11. Christmas Day – December 25

If a holiday falls on a Saturday, the Friday before will be observed as the holiday.
If a holiday falls on a Sunday, the Monday after will be observed.

- B. ~~Working on Holidays – Public Necessity:~~ Notwithstanding any other provision, when it appears necessary, the department head may require any employee to work on any holiday prescribed by these policies and procedures.
- C. ~~If an employee receives a holiday bank and terminates his/her employment prior to the holiday(s) on which time would have been earned, those credited hours will~~

be reimbursed to the City on his/her final paycheck. If an employee terminates his/her employment after the holiday(s) on which time has been earned, the unused hours shall be paid by the City on his/her final paycheck. If the employee has exhausted their holiday bank, the equivalent hours will be taken from existing accruals.

C. ~~Holiday Pay~~

- ~~1. Payments for Holidays Worked: Any permanent, full-time employee who is required to work on a holiday shall be entitled to pay, in addition to their regular salary, for the number of hours worked on the holiday, not to exceed eight (8) hours, at an hourly rate based upon the regular monthly pay, or shall be entitled to eight (8) hours of compensatory time off or any lesser amount equal to actual time worked. Compensatory time off shall be scheduled at the discretion of the department head within one (1) year from the date of the holiday.~~
- ~~It is the intent of the City that all permanent, full-time employees except temporary employees of the City be allowed an equal number of holidays with pay throughout the year.~~
- ~~2. Payment for Part of a Holiday: When the work period or shift of certain employees includes part of a day which day is declared to be a holiday, and part of another day which is not such a holiday, the employee shall be paid as though the entire work shift were on the holiday, provided that no employee shall receive compensation for more than eight (8) hours for the same holiday period.~~
- ~~3. No employee shall be entitled to compensation for any holiday unless such an employee is employed by the City on the day preceding and the day following the holiday.~~

SECTION 3. ~~SICK LEAVE LEAVE PROVISIONS~~

- A. Definition: ~~Sick leave shall mean the time during which an employee is permitted to be absent from the duties of City Service by reason of being officially quarantined or by reason of sickness or injury not arising out of and in the course of employment, which incapacitates or prevents the employee from performing assigned duties, without any deduction being made from salary or compensation.~~ The purpose of this policy is to ensure consistency with the administration of sick leave throughout the City and is intended to ensure compliance with applicable leave laws, including the Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), Americans with Disabilities Act (ADA), Pregnancy Disability Leave (PDL) Law, California's Labor Code section 233, California's Paid Sick Leave Law (SB 616), and any other leave-related laws. Sick leave is a privilege, and not a right, and is

intended to be used only when necessary to recover from illness or injury, to care for an ill or injured family member, or for taking time off for medical, dental, and vision appointments to the extent that such appointments cannot be scheduled outside of the workday.

B. Sick Leave Accrual:

1. ~~All~~ Full-time employee shall ~~be entitled to one (1) eight hour day~~ accrue eight (8) hours of sick leave for each full calendar month of continuous service or majority part thereof. Sick leave accrual begins on the first day of employment and may be accumulated without limit. ~~There shall be no limit on the number of days sick leave which may be accumulated, and sick leave may be accumulated from the original date of employment.~~
~~b. When sixteen (16) or more calendar days are taken for sick leave, no sick leave shall be earned for the month in which sick days are taken.~~
2. Sick leave accruals shall be suspended when an employee on a leave of absence has exhausted their protected leave entitlement unless they work more than 40 hours per pay period.
3. Part-time, seasonal, and temporary employees who have been employed by the City for at least 30 days shall accrue sick leave pursuant to California's Paid Sick Leave Law, at the rate of one hour for every 30 hours worked. Paid sick leave is not to exceed a maximum accrual cap of 80 hours. Accrued paid sick leave shall be limited to 5 days or 40 hours per year (measured by employee's anniversary date). Sick leave can be utilized after the completion of 90 days of employment.

C. Permitted Usage of Sick Leave: Sick leave can be used:

- To seek diagnosis, care, treatment or preventive care for the employee or the employee's family member. Family members include the employee's parent, child, spouse, registered domestic partner, grandparent, grandchild, sibling or designated person.
- For survivors of domestic violence, sexual assault or stalking to seek medical treatment for injuries, receive services from a shelter, program or crisis center, psychological counseling related to the experience, participate in safety planning, or to relocate.

D. Unacceptable Usage of Sick Leave: The City will not tolerate abuse or misuse of an employee's sick leave privilege. Excessive use of sick leave, tardiness, and failing to adhere to the call-in procedures when absent or tardy can negatively impact the performance of the employee's job or affect others in the performance of their job.

- Sick leave accruals may not be used during personal leaves, or as an extension of the employee's vacation.
- Substitution of other leave accruals, including, but not limited to, vacation, holiday accrued, CTO, etc., may not be used in place of sick leave unless an employee is on an approved medical, family care, parental, or pregnancy disability leave of absence.

E. Employer Notification and Recordkeeping:

1. Pay stubs: The City shall provide employees with written notice that sets forth the amount of paid sick leave available for use and the amount of accrued sick leave. The notice will be provided either on the employee's itemized wage statement or in a separate document provided on the designated pay date with the employee's paycheck. The City shall retain paid sick leave accrual and usage records for a period of at least three (3) years.
2. Universal Notification: The City shall display a poster at each worksite that contains information informing employees of their rights.

F. Reemployment After Separation: If an employee separates from City employment and is re-hired by the City within one (1) year of the date of separation, previously accrued, unused and/or unpaid paid sick leave hours shall be reinstated to the extent required by law. However, if the employee who separated from City employment and previously worked for the City for fewer than 90 calendar days, upon rehire the employee must work a collective total of 90 days over the periods of employment with the City before any sick leave can be used.

G. Anti-Retaliation: The City shall not retaliate or discriminate against an employee who requests paid sick days or uses paid sick days, or both. However, this provision does not limit the City's ability to discipline an employee for abuse of the City's sick leave policy, unless prohibited by law.

H. Termination of Employment: Employees whose employment is terminated due to layoff or retirement shall be paid for any unused sick leave in accordance with applicable MOU or resolution.

SECTION 4. PROTECTED LEAVES (FMLA, CFRA, and PDL)

A. Family Medical Leave Act (FMLA): Leave under the Family and Medical Leave Act provides unpaid, job-protected leave, job restoration, and continuation of health benefits in the event an employee or an employee's covered family member has a qualifying health condition. FMLA regulations include two (2) military family leaves known as "Caregiver Leave" and "Qualifying Exigency Leave." These leave

provisions are to care for a covered service member with a serious injury or illness, and/or any qualifying exigency for a covered military member.

- B. California Family Rights Act (CFRA): The California Legislature established the California Family Rights Act which contains family care and medical leave provisions for California employees. Like FMLA, the act was established to ensure secure leave rights, and it provides eligible employees with unpaid, job-protected leave for medical reasons and specific family care. This leave may be up to 12 workweeks in a 12-month period for the birth, adoption, or foster care placement of your child, or for your own serious health condition or that of your child, parent, spouse, domestic partner, grandparent, grandchild, sibling, or someone else related by blood or in family-like relationship with the employee (“designated person”). Unlike FMLA, CFRA does not provide leave for disabilities or related medical conditions due solely to pregnancy or childbirth. In most cases, CFRA and FMLA leaves will run concurrently.
- C. Eligibility, Qualifying Reasons, and Leave Entitlement: The FMLA and CFRA provide eligible employees up to a maximum of 12 workweeks of leave in a 12-month period for one or more FMLA and/or CFRA qualifying reasons. The 12-month period is measured backward, using the “rolling” method. Under the “rolling” 12-month period, each time an employee takes FMLA/CFRA leave, the remaining leave entitlement would be the balance of the 12 weeks that has not been used during the immediately preceding 12 months. Eligible Employees

To be eligible for a leave of absence with the City under FMLA/CFRA, an employee must:

- Have worked at least 12 months for the City of Westminster; and,
- Have worked at least 1,250 hours (work hours) during the 12-month period immediately preceding commencement of the leave.

- D. Qualifying Reasons: An employee may qualify for FMLA, CFRA, or both, depending on the qualifying reason. Once an employee meets the FMLA and/or CFRA eligibility requirement, leave can be taken for any of the following reasons:

Qualifying Reason	FMLA	CFRA
An employee’s own serious health condition	✓	✓
The serious health condition of family members:		
Child, Parent, Spouse	✓	✓
Registered Domestic Partner		✓
Adult child and/or the child of registered domestic partner		✓
Grandparent, Grandchild		✓
Sibling		✓
Designated Person		✓
Pregnancy or prenatal care	✓	
Bond with a new child (birth, adoption, or foster placement) within 1 year	✓	✓

Care for injured service member	✓	✓
Military “qualifying exigency”	✓	

E. FMLA for Armed Forces Members and Caregivers:

- 26 workweeks of leave for the spouse, child, parent or next of kin of an Armed Forces member who is recovering from illness or injury or for a veteran who is recovering from an injury sustained within the last five (5) years.
- 12 workweeks for any “qualifying exigency” arising from a spouse, child, or parent’s call to active duty.

F. Leave Usage: Eligible employees may take FMLA/CFRA leave in a single block of time, intermittently (in separate blocks of time), or by reducing the normal work schedule when medically necessary for the serious health condition of the employee or immediate family member, or in the case of a covered servicemember, his or her injury or illness. Eligible employees may also take intermittent or reduced-scheduled leave for military qualifying exigencies. Only the amount of leave actually taken may be counted against an employee’s FMLA/CFRA entitlement.

G. Baby Bonding under CFRA: Leave taken for child bonding, adoption, or foster care placement on a continuous basis or intermittently. The basic minimum duration of leave, under CFRA, shall be two (2) weeks. However, an employee may take a leave of less than two (2) weeks’ duration on any two (2) occasions. Any additional requests for intermittent leave or a reduced work schedule for child bonding, adoption, or foster care placement are subject to approval by the department of Human Resources as a personal leave.

H. Pregnancy Disability Leave (PDL): The California Civil Rights Department contains a provision related to Pregnancy Disability Leave (PDL). PDL provides employees with unpaid, job-protected leave due to pregnancy, childbirth, or a related medical condition regardless of time of employment with the City. PDL provides up to 4 months of leave for a pregnant employee who is certified as disabled by their health care provider. (The 4 months are defined as 17.3 weeks or 693 hours, which equals one-third of a calendar year based on a 40-hour workweek.)

PDL runs concurrently with FMLA (if applicable). If an employee is CFRA-eligible, they have certain rights to take both pregnancy disability leave and CFRA leave for reason of the birth of their child.

Employees affected by pregnancy, childbirth, or related medical conditions may also be entitled to receive an accommodation under the Pregnant Workers Fairness Act (PWFA), Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA).

As City of Westminster employees do not pay into State Disability Insurance (SDI), employees of the City are not eligible for disability benefits through the State of California.

- I. PDL Eligibility: There is no minimum service or work time requirement for a pregnant employee to take Pregnancy Disability leave.
- J. PDL Amount of Leave Entitlement: Qualified employees are eligible for a maximum of four months (17 and 1/3 weeks) of job protected leave for disabilities relating to pregnancy, childbirth, or related medical conditions. Employees who meet the 12 months of employment and 1250 hours worked eligibility requirements under FMLA/CFRA and continue to be absent due to disabilities relating to pregnancy, childbirth, or related medical conditions after exhausting their PDL entitlement, will continue to be protected for up to an additional 12 workweeks under CFRA.
 - FMLA leave runs concurrently with PDL, but CFRA leave does not. CFRA leave starts when PDL ends. This means that an eligible employee can take additional leave under CFRA for baby bonding once they exhaust their entitlement to PDL.
- K. PDL Definitions and Examples: PDL is defined as:
 - A physical or mental condition related to pregnancy or childbirth that:
 - Either prevents an employee from performing essential duties of the employee's job
 - The employee's job would cause undue risk to the employee or the employee's pregnancy's successful completion

The employee's health care provider should determine whether the employee has a pregnancy disability.

Pregnancy Disability Leave examples include, but are not limited to:

- Prenatal and/or postnatal care
- Severe morning sickness
- Childbirth, loss or end of pregnancy
- Doctor-ordered bed rest
- Gestational diabetes
- Pregnancy-induced hypertension
- Post-partum depression
- Recovery from childbirth, loss or end of pregnancy

L. Employee Rights Under PDL: An employee disabled by pregnancy, childbirth, or a related medical condition is entitled to:

- Up to four months (17 and 1/3 weeks) of job-protection for absences before, during, or after pregnancy
- Reasonable accommodation if the pregnancy prevents the employee from performing their usual and customary job duties
- Retain medical benefits during the duration of the pregnancy disability leave, even if all paid time is exhausted
- Return rights to the employee's original position

Employees are to utilize their sick leave accruals during a pregnancy disability leave. Employees may also choose to use vacation or other accrued time off during PDL. Sick leave accruals must be exhausted prior to electing for unpaid leave.

M. Medical Certification: When seeking FMLA/CFRA leave, you are required to provide a medical certification supporting the need for leave due to a serious health condition affecting you or an immediate family member within 15 calendar days of the City's request to provide the certification (additional time may be permitted in some circumstances). Second or third medical opinions and periodic re-certifications may also be required.

Medical Certification shall include (where appropriate):

- The date on which the employee or their family member's serious health condition commenced and the duration of the medical condition
- The estimated time frame the employee will be unable to perform the essential functions of their job
- Whether or not it's medically necessary for the employee to provide care for the employee's family member
- Whether or not the employee's medical condition is due to pregnancy/childbirth or related condition
- Whether or not the employee has been hospitalized overnight or that the employee or their family member is under the continuing care of a health care provider
- Whether or not intermittent leave, a reduced work schedule, or follow-up visits are medically necessary
- The duration and frequency of absences/flare-ups or follow-up medical visits

- N. Recertification: Recertification may be requested in connection with an absence by the employee for the FMLA qualifying reason.

Employees with medical conditions lasting longer than one year will require a new certification annually for their FMLA/CFRA leave and must meet eligibility requirements.

- O. Incomplete and Insufficient Certification: Whenever the City finds a medical certification “incomplete” or “insufficient,” the department of Human Resources will provide the employee a written notice indicating what additional information is necessary to make the certification complete and sufficient.

A certification is considered incomplete if:

- One or more applicable entries are incomplete.
- The information provided is vague, ambiguous, or non-responsive.

- P. Authentication and Clarification of Certification: In order to authenticate or clarify a certification, the Human Resources Representative may contact the employee’s health care provider after the employee has been given an opportunity to correct any deficiencies.

- Q. Fitness for Duty Certification: Under certain circumstances (e.g., reasonable safety concerns) an employee may be notified that a fitness for duty certification is necessary for their return to work from an FMLA/CFRA/PDL leave of absence.

An employee has an obligation to cooperate in the certification process. Additionally, the employee is responsible for providing clarification of the certification, if necessary, within seven calendar days.

SECTION 4a. EMPLOYEE RESPONSIBILITIES

- A. Requesting Leave: Employees should promptly inform their supervisor and/or Human Resources department of the need for an FMLA/CFRA leave and the duration of such leave, if known. An employee may do this by completing a Leave of Absence Request and returning it to the department of Human Resources.
- B. Foreseeable Leave/Unforeseeable Leave: When leave is foreseeable (e.g., expected date of birth or planned medical treatment), the employee must provide at least 30 days’ advance notice before FMLA and/or CFRA leave is to begin. If 30 days’ notice is impossible due to lack of knowledge or an emergency, notice must be given as soon as possible (same day or next business day), absent extenuating circumstances.
- C. Complete and Return the Required Forms: It is the employee’s responsibility to complete and return all the required leave forms provided by the City. The

employee will generally be expected to return the forms within 15 days of receipt for any of the leave entitlements to apply.

- D. Reporting Leave: Employees must continue to follow the City's call-in procedures for their absences and identify the absence as FMLA and/or CFRA.
- E. Payment of Insurance Premiums: If the employee's leave is on an unpaid status, the employee may be responsible for paying their share of insurance premiums (medical, dental, vision, health care flexible spending account, and optional life).
- F. Returning From Leave: The employee is required to return to work on the date indicated on the approved leave of absence request. The employee may be required to provide their supervisor with a medical release statement from their health care provider. A release to return to work is a statement from the employee's health care provider stating that the employee is able to resume their regular job duties. The City reserves the right to request a Fitness for Duty Certification, under limited circumstances.
- G. Reinstatement Following Leave: An employee who returns to work from an FMLA/CFRA/PDL leave, will be restored to their same position, or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.

There may be circumstances in which a returning employee's health care provider certifies that an employee is unable to perform the essential functions of their position because of a mental or physical condition, including the continuation of a serious health condition. In this situation, management will take into account the City's obligation and the employee's rights under the Americans with Disability Act (ADA) and/or the Fair Employment and Housing Act (FEHA).

SECTION 5. COMPENSATION DURING FMLA, CFRA and PDL

The FMLA, CFRA and PDL do not provide paid time off. However, while on FMLA/CFRA/PDL, employees are required to use accrued sick leave until exhausted. Once sick leave is exhausted employees may use accrued vacation (subject to MOU provisions), followed by all other accrued time off.

While on FMLA/CFRA for child bonding, employees are required to use available vacation accruals until exhausted followed by sick leave. An employee may also, at his/her discretion, use CTO for bonding leave. Refer to your MOU for further details.

If an employee exhausts their leave entitlement and transitions to an unpaid status, the insurance stipend/rebate and time-off accruals will be suspended until the employee returns from leave and works at least 40 hours per pay period.

SECTION 6. MAINTENANCE OF HEALTH BENEFITS

The City will continue to pay the employer's share of the cost of health care premiums while an employee is on an approved leave under the FMLA/CFRA or PDL. Employees who contribute toward group health insurance must continue their monthly contributions while on leave. Eligible health insurance plans include medical, dental, vision and health care flexible spending accounts if the employee is enrolled when the leave begins. If both the employee and the City contribute to a specific plan, the employee's premium payment must be paid before the City contribution can be made. The City will not contribute amounts that are normally employee-paid by payroll deduction. Once an employee exhausts their protected leave entitlement, they will not be entitled to any cash back from the insurance rebate/stipend during an unpaid leave.

Employer-paid health insurance contributions do not apply while on an extended leave unless the employee is utilizing accrued time, still eligible for provisions under the respective MOU that represents their job classification, and if the MOU allows for continuation of health insurance contributions

SECTION 7. REASONABLE ACCOMMODATIONS

- A. Reasonable Accommodations: Under the California Fair Employment and Housing Act, the City is required to provide reasonable accommodations for individuals with a physical or mental disability to apply for jobs and to perform the essential functions of their jobs unless it would cause an undue hardship. Reasonable accommodation can include, but are not limited to:

- Changing job duties
- Providing leave for medical care
- Changing work schedules
- Relocating the work area
- Providing mechanical or electrical aids

The City will initiate an "interactive process" when an applicant or employee requests reasonable accommodations. The City will also offer to initiate an interactive process when made aware of the possible need for an accommodation. This awareness might come through a third party, by observation, or when an employee has exhausted all leave benefits but still requires a medical leave.

- B. Interactive Process: In an effort to provide effective reasonable accommodation, the City will engage the employee in an Interactive Process meeting. The interactive process is a meeting, in person, by phone, or virtually, between the employee and the employer. The interactive process is a discussion to share information and to identify an effective accommodation. The interactive process allows communication, in good faith, to find reasonable accommodation that allows the employee to perform the essential functions of their job. Good faith implies ongoing communication (documented) in various forms. The interactive process is

a cooperative effort in a neutral environment. The interactive process meeting(s) will be documented and a confirmation document summarizing the discussion points and a “plan of action” with the appropriate follow-up date will be provided to the employee.

The Interactive Process meeting includes:

- Discussion and review of essential job functions;
- Review of medical certification and accommodation request; and
- Cooperative discussion to achieve an appropriate resolution to the employee’s status

The department of Human Resources is responsible for conducting and coordinating the interactive process meeting.

- C. Temporary Modified Work Assignments: Time spent performing “modified work” in a temporary modified work assignment does not count against an employee’s FMLA/CFRA/PDL leave entitlement unless the employee is also working a reduced schedule or otherwise utilizing intermittent leave under those statutes. Additionally, the employee will continue to occupy their regular position while performing temporary modified work.

SECTION 8. EXTENDED LEAVE OF ABSENCE

- A. Purpose: The purpose of an Extended Leave of Absence is to provide employees with leave as a reasonable accommodation under the Americans With Disabilities Act (ADA) and the Fair Employment and Housing Act (FEHA). An employee shall be permitted an extended leave of absence for up to 12 weeks for a medically verifiable disability. A disability is any illness or non-industrial injury, either physical or mental, including pregnancy, childbirth, or related medical condition which prevents an employee from performing their regular or customary work. This leave is only available for an employee to tend to his or her own serious health condition.
- B. Eligibility: An employee with a serious medical condition as defined under the FMLA who has exhausted leave available under the FMLA and/or CFRA may request an extended leave of absence for a total of twelve (12) weeks. An employee who does not meet the 1,250-hour FMLA/CFRA eligibility requirement may also qualify for leave under this policy.
- C. Requesting an Extended Leave:
- Employees must provide thirty (30) days advance written notice when the need for leave is foreseeable

- If the need for leave is not foreseeable (e.g., an emergency medical situation), employees must notify the department of Human Resources as soon as practicable and should comply with the City's normal call-in procedures for an absence or tardiness (Article XII, Section 4A). To initiate the leave process employees must notify their supervisors and Human Resources as soon as possible.
 - Employees must provide an appropriate completed medical certification form as part of the leave of absence process.
 - While on an extended leave of absence, employees are required to continue paying their portion of insurance premiums on the same terms as if they had continued to work.
- D. Compensation During Extended Leaves: This is an unpaid non-benefited leave. All leave accruals must be exhausted prior to electing time off without pay.
- E. Returning From Extended Leave: The City grants extended leaves of absence to employees with the intention of returning them to their positions. However, unless required by applicable law or covered by a concurrent job-protected leave, the job-protections available under FMLA and/or CFRA do not apply to an extended leave of absence, and the City cannot guarantee employees' positions when they are out on an extended leave.
- F. Coordination of Medical Benefits and Insurance Rebate: Employer paid health insurance contributions do not apply while on an extended leave of absence unless the employee is utilizing accrued time. An employee wishing to continue insurance coverage is responsible for payment of the total premiums (health/dental/life). Human Resources will provide the forms and information on the procedures to be followed.

SECTION 9. LONG TERM DISABILITY

The City provides all full-time employees with Long Term Disability (LTD) benefits through The Standard Insurance Company. Long Term Disability insurance provides partial income replacement when you're unable to work due to a qualifying disability. If you qualify, benefits begin once you satisfy the 90-day waiting period.

The monthly benefit is 66 2/3 percent of the first \$15k of monthly predisability earnings, reduced by deductible income (e.g., work earnings, workers' compensation, etc.) with a maximum monthly benefit of \$10,000.

Employees must exhaust all leave accruals prior to submitting a claim for Long Term Disability benefits.

To create an account with The Standard and file a claim, visit the following link: <https://www.standard.com/individuals-families/create-account>. The City's group number is 162101.

SECTION 10. CATASTROPHIC LEAVE

Catastrophic Leave is a program that allows donated leave credits to be used to cover an employee's absence due to a catastrophic illness/injury or to care for an immediate family member who has suffered a catastrophic illness/injury. Catastrophic leave donations for eligible employees will only be allowed in circumstances where an employee has exhausted all available leave accruals, and are no longer covered by LTD (if applicable).

SECTION 11. BEREAVEMENT LEAVE

All City employees regardless of status (full-time, part-time, exempt, etc.) are entitled to bereavement leave for up to five days from work following the death of an immediate family member. Immediate family member is defined as spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law. To be eligible for bereavement leave, an employee must have been employed for at least 30 days before taking the leave.

Employees are not required to take all five days of bereavement leave consecutively but must complete leave within three months of the date of death of the family member.

Requests for bereavement leave should be made on a Leave of Absence Request form and submitted to Human Resources.

SECTION 12. REPRODUCTIVE LOSS LEAVE

Reproductive Loss Leave (RLL), in accordance with Senate Bill 848, provides eligible employees with up to five (5) days of unpaid, protected leave for a reproductive loss. RLL is separate from other leaves offered to employees for their serious illness or to care for a family member with a serious illness.

A reproductive loss means a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction. If an employee experiences multiple reproductive losses, the employee may take up to a total of 20 days of RLL within a 12-month period. Employees may use any available accruals during a reproductive loss leave.

The leave must be taken within three months of the reproductive loss event.

SECTION 13. JURY DUTY LEAVE/SUBPOENAED OR COURT-ORDERED WITNESS LEAVE

Any employee including part-time, temporary, and seasonal, who is summoned to serve on a jury or subpoenaed to be a witness, must notify his or her supervisor or department

head as soon as possible. Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless authorized by his or her supervisor. (Gov. Code § 1230; Labor Code § 230; 28 USC § 1875(c).)

- A. Overtime-Eligible Employees: All overtime-eligible employees will be paid for actual work hours missed because of time spent in jury service or court. The time spent on jury duty is not work time for purposes of calculating overtime compensation. The City will offset from pay the amount the employee receives from the Court for jury fees.
- B. Overtime-Exempt Employees: All FLSA-exempt employees will continue to receive their normal salary while on jury duty or serving as a witness only for any work week in which they perform any work duties. (29 CFR § 541.602(a) & (b)(3).) The City will offset the amount from pay the employee receives from the Court for jury fees. (29 CFR § 541.602(b)(3).)
- C. Job Related Court or Administrative Proceeding Appearances:
 - 1. Testimony Pursuant to Subpoena: Any employee, including a part-time, temporary, or seasonal employee, who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of his or her City job duties, must give his or her supervisor as much advance notice as is possible. The City will determine whether the matter involves an event or transaction in the course of the employee's City job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time. The City will offset the amount from pay the employee receives for witness fees.
 - 2. Employee Initiated Proceedings: Any employee, including a part-time, temporary, or seasonal employee, who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that he or she initiated, is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent at these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time. (Gov. Code § 3505.3(a)(2) & (3).)
 - 3. Crime Victim/ Victim Family Member Court Attendance Leave: Any employee, including a part-time, temporary, or seasonal employee, who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the employer a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the employer, within a reasonable time after the leave

is taken, documentation from the District Attorney, victim's rights office, or court / governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off. (Labor Code § 230.2.)

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

SECTION 14. LEAVES FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING

- A. Leave to Obtain a Restraining Order or Injunctive Relief: An employee, including a part-time, temporary, or seasonal employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his or her child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or paid leave, or compensatory time off. (Labor Code § 230.5(f).)
- B. Leave to Obtain Medical Attention or Counseling or Safety Planning: Any employee, including a part-time, temporary, or seasonal employee, who is a victim

of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or to participate in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the employer within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or personal leave, or compensatory time off.

SECTION 15: TIME-OFF TO VOTE

An employee may request up to two (2) hours of paid leave, either at the beginning or end of a work shift to vote, only if the employee does not have sufficient time outside of his/her normal working hours. The employee must request time off to vote from their supervisor at least two (2) days prior to Election Day.

SECTION 16. SCHOOL RELATED LEAVE

Any employee who is a parent, guardian, or grandparent having custody of one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed day care facility, shall be allowed up to 40 hours each school year, not to exceed eight (8) hours in any calendar month of the school year, to participate in activities of their child's school or licensed child day care facility. The employee must provide reasonable advance notice to his/her supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, floating holiday, or compensatory time off. The employee must provide documentation from the school or licensed day care facility as verification that the employee participated in school or day care activities on a specific date and at a particular time. If either parents, guardians, or grandparents having custody work for the agency at the same City work site, only the first parent requesting will be entitled to leave under this provision. (Labor Code § 230.8(a).)

SECTION 17. MILITARY LEAVE

Under the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and California Military and Veterans Code, reservists and other employees who join the Armed Forces of the United States, the National Guard or the Naval Militia who are called to ordered military duty are entitled to a military leave of

absence. All employees applying for military leave shall give the department head, within the limits of military regulations, an opportunity to determine when such leave shall be taken. Employees may use compensatory time and vacation time for weekend drills.

SECTION 18. LEAVE OF ABSENCE WITHOUT PAY

Leave of absence without pay may be granted by the Director of Human Resources upon recommendation of the department head, and approval by the City Manager, once all leave accruals are exhausted. During periods of unpaid leave an employee will no longer accrue sick leave or vacation unless they work more than 40 hours per pay period. Additionally, the employee will no longer receive a flex dollar allowance (insurance rebate). If the employee is enrolled in the City sponsored medical plan, they shall receive an allowance that only covers the cost of medical, dental, vision and life insurance. If the cost of benefits is greater than the allowance the employee will need to reimburse the City for their portion of insurance premiums. Approved Leaves without pay can be reevaluated at the discretion of the City Manager.

SECTION 19. PAID ADMINISTRATIVE LEAVE

The City may place an employee on administrative leave with pay at any time if the Director of Human Resources or Department Head determines that it is in the employee or City's best interest. This is not a disciplinary action and therefore, employees do not have the right to appeal the decision to place an employee on administrative leave.

SECTION 20. INDUSTRIAL INJURY LEAVE

A. Work-Related Injury or Illness (Non-Safety): Employees that are on a leave of absence due to an injury or illness covered by Workers' Compensation shall be paid according to the following provisions:

- i. Salary Continuation: When a worker's compensation claim is accepted, an employee shall be entitled to salary continuation of up to 6 months. Employees will continue to accrue sick leave and vacation benefits while in a paid status.
- ii. Use of Accruals: An employee receiving workers' compensation may use available sick leave, holiday and/or vacation leave (or CTO, if applicable) to supplement temporary disability payments received under the California Workers' Compensation Act. Sick leave, holiday and/or vacation leave (or CTO) balances may be used to make up the difference between the amount payable to the employee under the California Workers' Compensation Act and the employee's regular salary.

B. Work-Related Injury or Illness (Safety Employees): Safety employees covered by Labor Code section 4850 are entitled to leave with full salary for a period of up to one

year if disabled by injury arising out of and in the course of their duties. Employees will continue to accrue sick leave and vacation benefits while in a paid status.

- i. Use of Accruals: In the event an injury or illness continues beyond one year, An employee receiving workers' compensation may use available sick leave, holiday and/or vacation leave (or CTO, if applicable) to supplement temporary disability payments received under the California Workers' Compensation Act. Sick leave, holiday and/or vacation leave (or CTO) balances may be used to make up the difference between the amount payable to the employee under the California Workers' Compensation Act and the employee's regular salary. Thereafter, the employee may receive an unpaid leave of absence and continuation of medical care consistent with state and/or federal law.
 - ii. Deferred Compensation: Contributions to a 457 retirement plan shall be suspended when an employee is on leave under California Labor Code section 4850.
- C. Disability Retirement: When an employee is believed to be disabled and unable to continue working due to a medical condition, nothing in this policy shall prevent the City from filing with CalPERS an employer originated disability retirement or industrial disability retirement application.

ARTICLE XVIII (NEW)

PAYROLL OVERPAYMENTS

SECTION 1. OVERPAYMENTS

Employees of the City of Westminster are not legally entitled to receive compensation exceeding the amount earned during each pay period. In the event that an overpayment is identified, the City will provide the employee with a detailed explanation of the overpayment. The employee will have the opportunity to repay the overpayment through a payment plan that is mutually agreed upon by both the employee and the City. If a mutual agreement cannot be reached, the City reserves the right to recover the overpayment through legal action, including seeking a judgment against the employee.

SECTION 2. COLLECTION OF OVERPAYMENTS

The following procedures and policies will be followed when collecting employee overpayments:

When a payroll overpayment is discovered and verified, the Payroll Department will calculate the total amount overpaid and notify the employee in writing. The employee will have the option to repay the amount due via cash, check, or payroll deduction. The City will work with employees to establish a mutually acceptable repayment plan. Repayment may be made through installment payroll deductions, ideally spread over the same number of pay periods during which the overpayment occurred. If the overpayments extended beyond one year, the City may require full repayment within a one-year period.

ARTICLE XIX

WORKPLACE VIOLENCE PREVENTION

The City of Westminster is committed to providing a workplace that is safe, secure and free of violence, threats and intimidation for all employees. It is every employee's duty to maintain a safe and productive workplace. A business-like workplace helps to ensure courteous treatment for both employees and the public we serve. This commitment is reflected in this Workplace Violence Plan, the City's core values statement, and the City's ongoing support for violence awareness/prevention programs and safety programs. All employees are required to report, as soon as possible, any conduct that violates the City's Workplace Violence Prevention Plan. This Plan and associated procedures may be modified by the Human Resources Director as needed to comply with changes in state or federal law, or for administrative reasons.

Purpose: The purpose of the "Workplace Violence Prevention Plan" (WVPP) is to ensure that the City provides employees and members of the public with a place to conduct the business of this City free of threats, intimidation, harassment, and acts of violence.

Scope: This Plan applies to all City employees, contractors and volunteers. This Plan applies to all locations where City employees work or represent the City including any City facility, City vehicles, customer and vendor premises and City sponsored events and activities. This Plan may apply to off-duty employee conduct depending on the nexus to the job and the impact on the City.

Policy: The purpose of this Article is to provide some measure of guidance to employees in those situations that may result in violence. Workplace violence is uncommon, and most City employees are not at risk; however, vigilance is crucial in minimizing the potential for problems.

On The Job: When relationships between employees or between an employee and the supervisor result in such strongly negative feelings that violence appears imminent, when verbal threats of violence are made, or when any employee observes what appears to be threatening behavior, the employee should immediately discuss it with his/her supervisor.

The City's policy on aggression in the workplace is one of zero tolerance. Any threat of violence, even a "joke", is unacceptable and may result in discipline.

Dealing With the Public: Contact can also result in violent confrontations. While excellence in customer service is a priority with the City, there is no requirement that employees be subjected to abuse by the customer. Call your supervisor immediately when a customer becomes abusive or if physical violence becomes a concern. If the threat is immediate, attempt to remove yourself from the situation and then call the Police

Department.

Danger Signs: Long before a person acts in a threatening or violent manner there are warning signs. Employees and supervisors should remain observant and note any of the following:

A. "Yellow Flag" Indicators: (None of these appearing alone is sufficient to suspect violence proneness, but multiple characteristics should begin to raise concern.)

1. History of violence, including military combat **or domestic violence**
2. Lack of social support system - a "loner"
3. Blames others for problems
4. History of substance abuse
5. Fascination with the tools and/or methods of violence including martial arts
6. Recent deterioration of general behavior and/or work performance
7. Low frustration tolerance

B. "Red Flag" Indicators: (When "red flag" indicators appear, it is time to take action.)

1. Belligerent behavior **including overt insubordination**
2. Using harassing or abusive language
3. Verbal threats to do physical harm
4. Threatening behaviors
5. Known substance abuse
6. Paranoid or irrational ideas
7. Obsessive romantic attraction
8. Angry threats of suicide
9. Remarks about access to weapons
10. Revealing a weapon
- 11. Violates active restraining order**

Non-Verbal Threats: Not all threats or acts of intimidation are verbal. Some of them are in the form of written notes which may be anonymous. Other types of threats or acts of violence are against property such as damage done to a personal vehicle. Still other threats or acts of intimidation take the form of a "warning" in which certain objects are left in an employee's work area signifying a future threat or act of retribution. None of these nonverbal threats are to be ignored.

Any threatening, anonymous notes or electronic communication, or object left for an

employee should not be touched so as to avoid the destruction of fingerprints. Keep in mind that you do not want to contaminate evidence that may be needed in a criminal or disciplinary investigation.

Personal Conduct to Minimize Violence:

1. Project calmness: move and speak slowly, quietly and confidently.
2. Be an empathetic listener; encourage the person to talk and listen patiently.
3. Focus your attention on the other person to let them know you are interested in what they have to say. **Maintain a relaxed yet attentive posture and position yourself at a right angle rather than directly in front of the other person.**
4. ~~Maintain a relaxed yet attentive posture and position yourself at a right angle rather than directly in front of the other person~~
5. Acknowledge the person's feelings. Indicate that you can see that he or she is upset.
6. Ask for small, specific favors such as asking the person to move to a quieter area.
7. Establish ground rules if unreasonable behavior persists. Calmly describe the consequences of any violent behavior.
8. Use delaying tactics which will give the person time to calm down. For example, offer a drink of water.
9. Be reassuring and point out choices. Break big problems into smaller, more manageable problems.
10. Accept criticism in a positive way. When a complaint might be true, use statements like "you're probably right" or "it was my fault". If the criticism seems unwarranted, ask clarifying questions.
11. Ask for his/her recommendations. Repeat back to him/her what you feel is being requested.
12. Arrange yourself so that a visitor cannot block your access to an exit.

Meetings with employees should include at least two (2) employees from HR and/or department head. Seating placement is based on recommendation of HR.

Any employee who has received a threat or been subject to intimidating behavior needs to report it to their supervisor. When the threat comes from a family member or some other person known to the employee and the employee believes he/she may be endangered at work, it is imperative that the threat be reported immediately to the supervisor. **Any matters involving domestic violence should be reported to the police department immediately.** The City's concern and the intent of this ~~policy Plan~~ is to protect the well-being of its employees ~~in the performance of their duties and to ensure a violence~~

~~free workplace.~~

Legal Authority:

California Labor Code Section 6400: Requires every employer to furnish a safe and healthful place of employment.

California Government Code Section 19572: Prohibits workplace violence, discourteous treatment, negligence and/or recklessness, and constitutes cause for discipline.

California Penal Code Section 171(b): Prohibits the unauthorized possession of certain weapons in public buildings and meetings that are open to the public. This includes weapons such as:

- Firearms
- Knives with blades longer than four inches
- Tear gas
- Tasers
- Pellet guns
- Spot marker guns or paint guns

Any person in possession of any of these items is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison.

Instruments that eject metallic bullets, such as BBs or pellets However, there are some exceptions to PC 171b, including:

- Police officers
- People transporting weapons into court for evidence
- People with a valid license to carry a firearm
- People with permission to possess weapons and are also in charge of securing the public building

California Penal Code Section 71: Prohibits any person from threatening or inflicting unlawful injury upon any public officer or employee, which would cause the public officer, or employee to refrain from doing any act in the performance of his/her duties.

Definitions

Act of Violence - An act of violence is the attempt (coupled with the ability), or actual use of force of violence with the intent to threaten, harass, intimidate, commit a violent injury, or damage/destroy property.

City Workplace - A City workplace shall be any City facility or job site where a City employee is conducting authorized City business, or enroute to and from (excluding

normal commute) a location where City business is, will be, or has been, conducted. A City Workplace does not include any telecommuting arrangements by the City employees.

Domestic Violence – Penal Code 13700 PC defines the crime of domestic violence in California as an act or attempted act to inflict injury on a current or former intimate partner. It also encompasses direct and indirect threats, such as acts that cause the victim a reasonable fear of imminent harm.

Harassment - The creation of a hostile work environment through unwelcome words, actions, or physical contact not resulting in physical harm. Verbal harassment may include disparaging or derogatory comments or slurs, unreasonable or excessive criticism, or name calling.

Intimidate - To make afraid; to frighten, alarm, annoy, or scare. To force a person into, or deter them from, some action by inducing fear by, or as if by, threats.

Stalking - Stalking occurs when any person willfully engages in a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear, follows or harasses another and makes a credible threat with the intent to place that person in reasonable fear for his/her safety or the safety of his/her immediate family.

Threat - A threat is a statement (verbal, written or physical) which is intended to intimidate by expressing the intent to either harass, hurt, take the life of another person, or damage/destroy property. This includes threats made in jest, but which others could perceive as serious.

Workplace Violence - The three major types of workplace violence are:

- Type I - The aggressor has no legitimate business relationship to the workplace and usually enters the affected workplace to commit a robbery or other criminal act such as robbery.
- Type II - The aggressor is either the recipient or the object of a service provided by the affected workplace or the victim, such as a current or former client, patient, customer, passenger, criminal suspect, inmate or prisoner.
- Type III - The aggressor has some employment-related involvement with the affected workplace such as a current or former employee, supervisor, manager; a current/former spouse or significant other, a relative, friend; or some other person who has a dispute with an employee of the affected workplace.

Responsibility: All City work sites are required to adhere to the City's "Workplace Violence Prevention Plan," which may in some cases be included as part of the Injury and Illness Prevention Plan (IIPP). The IIPP is required by Cal/OSHA Title 8.

Crime/Workplace Violence Prevention Coordinators – Westminster HR will provide the list of all individuals responsible for the administration of the WVPP. This list should be posted in all work areas and will include emergency contacts and phone numbers.
Manager/Supervisor - Managers and supervisors are responsible for ensuring

compliance with the provisions of the Workplace Violence Prevention Program.

City employees are expected to act professionally, courteously, and responsibly at all times, which ensures compliance with the State of California's workplace violence policy requirement (Government Code Section 19572). It is the responsibility of each and every employee to immediately report any and all acts of workplace violence to their supervisor or manager without fear of reprisal. All reports must be taken seriously. The initial verbal report must be followed up with written documentation which should include the following critical information:

- Names of the parties involved (i.e. perpetrator, victim and witnesses)
- Exactly what occurred
- When the incident occurred
- Where the event took place
- If known, why it happened

The City of Westminster, Department of Human Resources (HR), will ensure use of the WVPP approved Incident Log and Incident Investigation forms. Forms and processes included in the WVPP will not replace or supersede policies and procedures included in the City's Policies and Procedures manual and employee Memorandum of Understandings.

Compliance: The City is committed to ensuring that all safety and health policies and procedures involving workplace violence prevention are clearly communicated and understood by all employees. All employees are responsible for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe, healthful and secure work environment. Our system of ensuring that all employees, including supervisors and managers, comply with work practices that are designed to make the workplace more secure, and do not engage in threats or physical actions which create a security hazard for others in the workplace, include:

1. Training employees, supervisors, and managers of the provisions of the City's Workplace Violence Prevention Program (WVPP) when they are hired and periodically through memos, electronic mail, staff meetings, and training.)
2. Evaluating employees to ensure compliance with the City's WVPP.
3. Recognizing employees who demonstrate work practices that promote the WVPP in the workplace by memos of accommodation from the director.
4. Providing training and/or Employee Assistance Program services to employees whose compliance is deficient with the WVPP.
5. Disciplining employees for failure to comply with WVPP
6. Ensuring proper public notice of WVPP.

Communication: The City recognizes that to maintain a safe, healthful and secure workplace we must communicate to all employees, including managers and supervisors, all workplace safety, health and security issues. We have a communication system designed to encourage a continuous flow of safety, health and security information between management and our employees without fear of reprisal and in a form that is readily understandable. We will communicate the WVPP policies and procedures through:

1. New employee orientation.
2. Periodic (designate weekly, monthly, quarterly, yearly based on the frequency and severity of workplace violence incidents) review of our WVPP with all employees.
3. Training programs designed to address specific aspects of workplace violence prevention and security unique to our location.
4. Posting and distributing workplace violence prevention information.
5. Reporting workplace violence/security hazards or threats of violence. (Talk to your supervisors first, if that isn't possible, call your (Workplace Violence Prevention Coordinator or the HR Office)
6. Protecting employees who report incidents of workplace violence from retaliation by the person making the threats. Employees who report incidents of workplace violence will be protected from the person making the threats by the Department immediately taking the appropriate actions such as removing the person, making the threats, from the work area until the situation is resolved. For serious threats or acts of violence, Westminster Police, via 9-1-1 or Watch Commander, will be called.
7. Addressing security issues at our workplace violence prevention/security team meetings. Security issues will be discussed at safety/workplace violence/joint Labor Management safety committee meetings. The committee will recommend solutions to management. The Crime/Workplace Violence Prevention Coordinator will implement approved solutions.
8. Ensuring proper public notice of WVPP.
9. Other: _As appropriate, exercise objectives related to workplace violence will be incorporated into emergency drills and exercises by the City's Emergency Services Coordinator.

Incident Reporting Procedures:

1. Call 9-1-1 if there is a conflict or emergency situation or if someone has been seriously injured.
2. Report all threats or acts of workplace violence to your supervisor or manager. If that's not possible, report incidents to your supervisor and Human Resources.
3. The supervisor or manager should complete a Violence Incident Report form and give it to HR. You can get these forms from the HR shared drive (hardcopy or

request email), download from City Intranet SharePoint, or request from immediate supervisor.

a. Workplace Violence Incident Report Form

Hazard Assessment: The City will perform workplace hazard assessment for workplace violence prevention/security in the form of periodic inspections. Periodic inspections to identify and evaluate workplace violence/security hazards and threats of workplace violence are performed by the Director of HR or designee. Periodic inspections are performed according to the following schedule:

1. No less than once a quarter
2. When the Workplace Violence Prevention Plan is implemented
3. When new, previously unidentified workplace violence/security hazards are recognized.
4. When occupational injuries or threats of injury occur.
5. Whenever workplace conditions warrant an inspection.
6. Within 30 days of reported incident a follow-up inspection is warranted.
7. Periodic inspections for violence prevention/security hazards consist of identification and evaluation of workplace hazards and changes in business practices and may require assessing for more than one type of workplace violence. Our establishment performs inspections for each type of workplace violence by using the methods specified below to identify and evaluate workplace hazards.

Inspections for Type I workplace security hazards include assessing:

1. The exterior and interior of the workplace for its attractiveness to robbery or other criminal acts.
2. The need for security surveillance measures, such as mirrors or cameras.
3. Posting of signs notifying the public that limited cash is kept on the premises.
4. Procedures for employee response during a robbery or other criminal act.
5. Procedures for reporting suspicious persons or activities.
6. Posting of emergency telephone numbers for law enforcement, fire and medical services where employees have access to a telephone with an outside line.
7. Limiting the amount of cash on hand and using safes for large amounts of cash, or armor car pickup.
8. Building alarm systems and Crime Prevention through Environmental Design.
9. Other: Including landscaping, lighting, building design.

Inspections for Type II workplace security hazards include assessing:

1. Access to, and freedom of movement within the workplace.
2. Adequacy of workplace security systems, such as door locks, security windows, physical barriers, and restraint systems.
3. Frequency and severity of threatening or hostile situations that may lead to violent acts by persons who are service recipients of our establishment.
4. Employee's skill in safely handling threatening or hostile service recipients.
5. Effectiveness of systems and procedures to warn others of a security danger or to summon assistance, e.g., alarms or panic buttons.
6. The use of work practices such as "buddy" systems for specified emergency events.
7. The availability of employee's posted escape routes.
8. Other: _____

Inspections for Type III workplace security hazards include assessing:

1. How well our establishment's workplace violence prevention plan has been communicated to employees, supervisors, or managers.
2. How well our establishment's management and employees communicate with each other.
3. Our employees', supervisors' and managers' knowledge of the warning signs of potential workplace violence.
4. Access to and freedom of movement within the workplace by non-employees, including former employees or persons with whom one of our employees is having a dispute.
5. Frequency and severity of worker reports of incidents of physical or verbal abuse by managers, supervisors or other employees.
6. Any prior violent acts, threats of physical violence, verbal abuse, property damage or other signs of strain or pressure in the workplace.
7. Worker progressive disciplinary procedures.
8. Other: _____

Incident Investigations: The City has established the following procedures for investigating incidents of workplace violence. These procedures include:

1. Reviewing all previous incidents.
2. Ensuring WVPP forms are completed and submitted as soon as possible.
3. Visiting the scene of an incident as soon as possible.

4. Interviews with employees involved and witnesses.
5. Examining the workplace for security risk factors associated with the incident, including any previous reports of inappropriate behavior by the perpetrator.
6. Determining the cause of the incident.
7. Taking corrective action to prevent similar incidents from occurring.
8. Recording the findings and ensuring corrective actions are taken.
9. Obtain any reports completed by law enforcement.
10. Other: _____

Retaliation: The City will not retaliate against any person who reports or supports others who report violent acts or threats of violence in the workplace. In addition, it is a violation of this policy for any employee to retaliate against any person who reports or supports others who report violent acts or threats of violence in the workplace.

Hazard Correction: Hazards, which threaten the security of employees, shall be corrected based on severity when they are first observed or discovered. For immediate emergencies (impacting life/safety), employees should call 9-1-1. For non-emergency situations, employees should contact Westminster Police Dispatch.

Corrective measures for Type I workplace security hazards can include:

1. Making the workplace unattractive to robbers and other criminal acts.
2. Utilizing security guards and surveillance measures, such as cameras or mirrors, to provide information as to what is going on outside and inside the workplace.
3. Reporting procedures for notifying designated employees of suspicious persons or activities.
4. Posting emergency telephone numbers for law enforcement, fire and medical services where employees have access to a telephone with an outside line.
5. Posting signs to notify the public that limited cash is kept on the premises.
6. Limiting cash on hand and using time access safes and armored car services for large amounts of cash.
7. Training on emergency action procedures for employees, supervisors and managers.
8. Using alarm systems and access control systems.
9. Applying Crime Prevention through Environmental Design practices.
10. Other: Each Department will document facility-specific hazards and corrections and report to HR for plan updates, as appropriate.

Corrective measures for Type II workplace security hazards include:

1. Controlling access to the workplace and freedom of movement within it, consistent with business necessity.
2. Ensuring adequate workplace security/access control systems, such as door locks, security windows, physical barriers, and restraint systems.
3. Providing worker training in recognizing and handling threatening or hostile situations that may lead to violent acts by persons who are service recipients of our establishment.
4. Placing effective systems to warn others of a security danger or to summon assistance, e.g., alarms or panic buttons.
5. Providing procedures for a "buddy" system for specified emergency events.
6. Ensuring adequate emergency escape routes.
7. Other: _____

Corrective measures for Type III workplace security hazards include:

1. Communicating effectively our City's workplace violence prevention policy to all employees, supervisors, and managers.
2. Improving how well our establishment's management and employees communicate with each other.
3. Increasing employees, supervisors', and managers' awareness of the warning signs of potential workplace violence.
4. Controlling access to, and freedom of movement within, the workplace by non-employees, including recently discharged employees or persons with whom one of our employee's is having a dispute.
5. Providing counseling to employees, supervisors or managers who exhibit behavior that represents strain or pressure which may lead to physical or verbal abuse of coworkers.
6. Ensuring all reports of violent acts, threats of physical violence, verbal abuse, property damage or other signs of strain or pressure in the workplace are handled effectively by management and that the person making the report is not subject to retaliation by the aggressor.
7. Ensuring worker disciplinary and discharge procedures address the potential for workplace violence.
8. Applying crime prevention measures through environmental design and administrative measures that may include but are not limited to:
 - a. Well-lit areas
 - b. Security/controlled access to work area
 - c. Employees must visibly display employee ID badge at all times while in a

City facility

- d. Code word recognized by coworkers to indicate you need help
- e. Visitor/Vendor sign-in
- f. Visitor/Vendor badges
- g. Well-lit parking lots and area surrounding the building
- h. Buddy system for walking to parking structures or locations away from the building
- i. Security cameras
- j. Bullet resistant glass
- k. Mounted area mirrors
- l. Onsite security guards
- m. Identify and evaluate hiding places in areas surrounding the building (e.g. overgrown shrubs, dark areas)
- n. Panic buttons
- o. Locks on restroom doors
- p. Remove sharp objects from view that could be used as a weapon in offices open available to the public
- q. Caller ID on phones
- r. Field staff check in (cell phones)
- s. Cash locked in vault

Training and Instruction: The City has established the following policy with respect to training all employees on workplace security. All employees, including managers and supervisors, shall have training and instruction on general and job-specific workplace security practices. Training and instruction shall be provided when the Workplace Violence Prevention Plan (WVPP) is first established and periodically thereafter. Training shall also be provided to all new employees, to other employees for whom training has not previously been provided and to all employees, supervisors, and managers given new job assignments for which specific workplace security training for that job assignment has not previously been provided. Additional training and instruction will be provided to all personnel whenever the employer is made aware of new or previously unrecognized security hazards.

General workplace security training and instruction includes, but is not limited to, the following:

- A. Specific WVPP and crime prevention training for the Department Crime/Workplace Violence Prevention Coordinator to develop and maintain the workplace violence/crime prevention program.

- B. Explanation of the WVPP including measures for reporting any violent acts or threats of violence.
- C. Recognition of workplace security hazards including the risk factors associated with the three types of workplace violence.
- D. Measures to prevent workplace violence, including procedures for reporting workplace security hazards or threats to managers and supervisors.
- E. Ways to defuse hostile or threatening situations.
- F. Measures to summon others for assistance.
- G. Routes of escape.
- H. Notification of law enforcement authorities when a criminal act may have occurred.
- I. Emergency medical care to be provided to a victim of any violent act upon a worker.
- J. Post-event trauma counseling for those employees desiring such assistance.
- K. California Victim Compensation and Government Claims Board.
- L. Department of Personnel Administration Rules.
- M. Union Contracts.

ARTICLE XX

USE OF ELECTRONIC EQUIPMENT OR OTHER CITY RESOURCES

- A. Policy: City equipment and resources may only be used to conduct City business, except for incidental personal use that is consistent with this Policy.
- B. Agency Equipment or Resources: City equipment or resources is any City-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, City network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through City electronic resources or equipment.
- C. No Expectation of Privacy: The City periodically and without prior notice, monitors, reviews, accesses, or retrieves data from, its equipment or resources, including electronic communications and content contained in or transmitted through City networks or electronic resources. City employees may be asked to provide the employee's username or password for any City issued equipment or resource. The existence of passwords or delete functions does not restrict the City's access. As a result, City employees have no expectation of privacy in their use of any City equipment or resources.
- D. Appropriate Use Only – No Misuse: Employees may only use City equipment or resources in compliance with City policies. Except as authorized by this Policy, employees are expected to avoid any use or communication which is unrelated to City business, destructive, wasteful, or illegal. The City has discretion to restrict or rescind employee access to City equipment or resources. The following are examples of misuse of City equipment or resources:
1. Any use that violates applicable law and/or City policies, rules, or procedures.
 2. Exposing others to material which is offensive, harassing, obscene, or in poor taste. This includes information which could create an intimidating, offensive, or hostile work environment.
 3. Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status, or any other basis protected by law.
 4. Communication of confidential City information to unauthorized individuals within or outside of City.

5. Unauthorized attempts to access or use City data or break into any City or non-City system.
 6. Theft or unauthorized transmission or copying of paper or electronic files or data.
 7. Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication.
 8. Misrepresentation of one's identity for improper or illegal purposes.
 9. Personal commercial or business activities (e.g. "for sale" notices, personal ads, etc.).
 10. Transmitting/accessing obscene material and/or pornography.
 11. E-Commerce.
 12. Online gambling.
 13. Installing or downloading unauthorized software or equipment.
 14. Violating terms of software licensing agreements.
 15. Using City equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
 16. Any unauthorized access to City equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to his or her email or other electronic resources; or making City equipment or resources available to others who would otherwise have no authorized access.
 17. Using City equipment or resources to speak on the City's behalf without authorization.
- E. City Email Address Must be Used for City Business: The City's email system is an official communication tool for City business. The City establishes and assigns official email addresses to each employee as the City deems necessary. Employees must send all City communications that are sent via email to and from his or her official City email address. Employees are prohibited from using their private email address (such as Gmail, Yahoo, MSN/Hotmail, etc.) when communicating City business via email. Should an email related to City business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's City email account and responded to accordingly.
- F. Incidental Personal Use of City Communications Equipment Permitted: Employees may use City telephones, cell phones, internet access, and e-mail for incidental

personal communications provided that the use:

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

- G. Keys, Badges, and Other City Property: All keys, badges and other City property assigned to the employee shall be controlled through the immediate supervisor and the department head. The supervisor shall maintain appropriate records of all City property assigned to employees and shall ensure that all said property is returned prior to an employee's termination from City employment.

Employees shall be prohibited from using the badge, uniform, prestige or influence of City employment for private gain or outside employment.

ARTICLE XXI

VEHICLE USAGE POLICY

SECTION 1. APPLICABILITY

This policy shall apply to all City employees, except where indicated. Employees of specific operating departments may be subject to additional departmental rules and regulations. This policy shall also apply to any other personnel authorized by the City Manager to use City vehicles (e.g., Council Members, members of Boards and Commissions, and volunteers). The term "employees" is used throughout this policy to refer to all persons authorized to use City vehicles or to use their personal vehicle for official City business.

SECTION 2. GENERAL GUIDELINES

- A. Employees shall obey all traffic laws and wear seat belts when operating a City vehicle and when operating their personal vehicle for official City business.
- B. Employees shall maintain a valid California Driver's License when operating a City vehicle and when operating their personal vehicle for official City business. Employees shall notify their supervisor immediately in the event that their license is suspended or restricted.
- C. Except as provided by Section 3 (D) below, any passengers riding in City vehicles must be accompanied by a City employee and must be engaged in official City business.
- D. City vehicles are for use while conducting City business only. Use of City vehicles for personal use is prohibited, except as provided in Section 3 below. **Such vehicles may be equipped with a GPS tracking system.**
- E. Except as provided in Section 3 below, City vehicles are not to be driven outside of City limits unless official City business requires leaving the City.
- F. Smoking, **including vaping**, is prohibited in City vehicles.
- G. Certain field personnel may be assigned to a City vehicle. Vehicle assignment shall be at the discretion of the City and may be modified at any time.
- H. The City shall not be responsible for theft or damage to personal property transported or stored in a City vehicle.
- I. City vehicles may be inspected at any time. Employees shall have no expectation of privacy in connection with use of a City vehicle **which may include GPS tracking.**
- J. Employees shall be held accountable for the unsafe operation of a City vehicle. Unsafe operation of a City vehicle and/or violation of this policy may be grounds

for disciplinary action, in accordance with the City's Personnel Policy Manual and other applicable departmental rules and regulations.

SECTION 3. AUTHORIZED PERSONAL USE OF CITY VEHICLES

A. Lunch and Break Periods: Employees that are already out in the field at the time of their regular break or lunch period, may use the City vehicle during their break or lunch period. Use of City vehicles to go to break or lunch is subject to the following restrictions:

1. The employee may not travel more than two (2) miles beyond City limits.
2. If going to or returning from an authorized out-of-town trip, the employee may take the City vehicle to lunch provided the location is on the route to or from the place of official City business.
3. *Exception*: Police Department employees shall follow the Police Department's rules and regulations regarding use of City vehicles during lunch.
4. Out-of-Town Travel: Subject to Department Head approval, employees may be assigned a City vehicle for out-of-town travel.
5. ~~Employees who are assigned a take-home vehicle or who are authorized to take a City vehicle home overnight may make incidental stops on their regular route to and from work (e.g., dry cleaners, grocery store, coffee stop, etc.).~~
6. ~~Employees who participate in the City's rideshare program may check out a City vehicle for use during lunch if they did not drive their own vehicle to work. Employees who participate in the City's rideshare program may also check out a City vehicle to take home after work if they did not drive their own vehicle to work and their rideshare partner is required to work unscheduled overtime.~~
7. ~~Employees who are assigned a take-home vehicle or who are authorized to take a City vehicle home overnight may make incidental stops on their regular route to and from work (e.g., dry cleaners, grocery store, coffee stop, etc.).~~
8. ~~Employees who participate in the City's rideshare program may check out a City vehicle for use during lunch if they did not drive their own vehicle to work. Employees who participate in the City's rideshare program may also check out a City vehicle to take home after work if they did not drive their own vehicle to work and their rideshare partner is required to work unscheduled overtime.~~

SECTION 4. OPERATION AND USE OF CITY VEHICLES

To check out a City-owned vehicle, employees must fill out a sign in sheet.

Exception: Police Department employees shall follow the Police Department's rules and regulations regarding the operation of City vehicles.

- A. No employee shall operate a City vehicle found to be in an unsafe condition. Before entering the vehicle, the employee shall visually inspect the tires, lights, body, and windows. If any defects are found, the employee shall select another vehicle, note any defects on a Vehicle Condition Report, and notify the Fleet Division.
- B. The employee shall locate the service decal and note the mileage when the vehicle is due for its next service. If the vehicle is due for service, the employee shall select another vehicle, note that service is due on a Vehicle Condition Report, and notify the Fleet Division. If the vehicle service mileage is reached during use of the vehicle, the employee shall note that service is due on a Vehicle Condition Report and notify the Fleet Division upon return of the vehicle. **Employees must fill out a vehicle condition report every time a vehicle is checked in or out.**
- C. Before driving the vehicle, the employee shall adjust the seat, mirrors and seat belt for best comfort and visibility. It is the employee's responsibility to ensure that all passengers in the vehicle have their seat belts fastened.
- D. The employee is responsible for reporting any damage to the vehicle or mechanical malfunctions. Upon return of the vehicle, the employee shall notify the Fleet Division by completing a Vehicle Condition Report.
- E. When the vehicle is checked back in, the employee shall return it to an appropriate parking spot. The employee shall remove all tools, equipment, trash and personal items, and shall ensure that the vehicle is **locked up** ~~secured~~. If authorized by the employee's Department Head, employees that have regularly assigned vehicles may keep work-related materials in the City vehicle.
- F. Vehicle keys shall be returned to the appropriate keyboard at the City Yard or City Hall. Employees shall not take keys home.
- G. When cargo, materials or tools are being transported, the employee is responsible for assuring that all items are secured properly.
- H. No person shall be allowed to ride in or on a vehicle in a manner not specifically approved by the vehicle manufacturer for passenger seating.
- I. If you have any questions or concerns regarding any City vehicles, please contact Fleet services at the yard.

SECTION 5. USE OF CELL PHONES **AND OTHER ELECTRONIC WIRELESS COMMUNICATIONS DEVICES**

California Vehicle Code Section 23123 et seq. prohibits the use of cell phones and other electronic devices by drivers unless the driver is using a hands-free device. The Vehicle Code also prohibits writing, reading, and sending text messages while driving. Certain exceptions are made for use of a cell phone to contact emergency services and for emergency services professionals using a cell phone while operating an emergency vehicle in the performance of his/her duties.

In recognition of the safety hazards caused by driver distraction, the City of Westminster recommends the following guidelines for use of a cell phone while driving in connection with City employment:

- A. The employee should pull over to a safe location before making or receiving a cell phone call or text message, or to retrieve missed calls and messages.
- B. If using an appropriate hands-free device, employees are encouraged to keep their cell phone conversations brief.

SECTION 6. FUELING CITY VEHICLES

- A. Employees shall fuel City vehicles at the Corporation Yard fueling station only (except when out-of-town travel dictates otherwise). The City's fueling station is for fueling City vehicles only.
- B. Employees shall fuel City vehicles if and when the gas gauge reads less than 1/2 full. Employees shall not return City vehicles less than 1/2 full. Employees may obtain fueling instructions from the Fleet Division.
- C. While fueling, please open the hood, locate the engine oil dipstick, and check the engine oil. Oil is provided at the fuel island. Also perform a basic visual inspection of the engine compartment (battery, fluids, belts, hoses, etc.) If an employee notices anything out of the ordinary or is unsure, they should notify a member of the Fleet Division staff.

SECTION 7. ACCIDENTS OR DAMAGE TO CITY VEHICLES

Exception: Police Department employees shall follow the Police Department's rules and regulations regarding reports of accidents and damage.

In the event of an accident or damage to a City-owned vehicle, an employee should proceed in the following manner:

- A. If emergency medical attention is required, call 911 immediately.
- B. In the event of an accident involving another vehicle or person, contact the Westminster Police Department at 714-898-3315. A Police Department

accident report is mandatory when a City vehicle is involved. If outside of City limits, contact the local Police Department to request an accident report.

- C. Attempt to collect pertinent information from the other party (name, address, phone number, CDL #, insurance contact). If the other party is uncooperative or you feel uncomfortable, wait for the Police to arrive.
- D. Provide the other party with the City's self-insurance information, available in the glove compartment of all City vehicles.
- E. Contact your supervisor as soon as possible and complete an incident report. This should be done in the event of ANY accident or vehicular damage and accident reports should be forwarded to the Fleet Division and HR.
- F. If an accident results in injury or damage over \$750, it must be reported to the DMV within 10 days. A copy must also be provided to the employee's supervisor and the Fleet Division. Forms are available from the Fleet Division.

SECTION 8. USE OF AN EMPLOYEE'S PERSONAL VEHICLE

- A. Subject to supervisory approval, an employee may be authorized to use his/her vehicle for official City business. As a condition of approval, employees shall maintain automobile insurance in accordance with State law. Employees may be required to furnish proof of insurance annually to the Human Resources & Risk Management Department. An employee shall notify his/her supervisor in the event that his/her insurance coverage lapses.
- B. The City shall not be liable for any damage to an employee's personal vehicle and shall not be responsible for theft or damage to personal property transported or stored in an employee's personal vehicle.
- C. Employees using their personal vehicle for official City business shall be entitled to mileage reimbursement according to the prevailing I.R.S. mileage reimbursement standard. The employee may be required to provide mileage records in support of the reimbursement request.

SECTION 9. CITATIONS AND ACCIDENTS

- A. Employees shall be personally responsible for moving violations or parking citations received while using a City vehicle.
- B. Any citations received for vehicle equipment defects (i.e., "fix-it" tickets) should be given to the Fleet Division upon return of the City vehicle.
- C. The employee shall report any citation to his/her immediate supervisor upon return of the City vehicle.

- D. Employees will be personally liable for vehicle accidents when deemed at fault.

SECTION 10. ROADSIDE ASSISTANCE

- A. If the City vehicle being driven requires roadside assistance Monday – Friday, 6:30 am – 5:00 pm, the employee should contact the Fleet Division at 714-895-2876.
- B. If roadside assistance is needed after hours, on weekends or on holidays, the employee should contact the City's towing contractor, Carr Towing, at 714-895-7141 and have the vehicle towed to the City Yard.

ARTICLE XXII

WORKPLACE SAFETY AND EMERGENCY PREPAREDNESS (NEW)

SECTION 1. WORKPLACE SAFETY

- A. Every employee shall be entitled to a safe and healthful place in which to work. To this end, every reasonable effort shall be made in the interest of accident prevention, fire protection, and health preservation.
- B. The City shall maintain a safe and healthful workplace. It shall provide safe working equipment, necessary personal protection and, in the case of injury, provide first aid and medical services.
- C. The City shall exert every effort to abide by all regulations as they pertain to governmental agencies which are set forth in Federal and State standards and maintain good practices as dictated by location and circumstances.

SECTION 2. DISASTER SERVICE WORKERS

California Emergency Services Act: Pursuant to the California Emergency Services Act ("ESA"), Gov. Code § 8551 *et seq.*, all City employees except those expressly exempt by law are considered disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law. (Gov. Code, § 3100.) Disaster services workers may be required to respond to emergencies as defined herein and in the City's Emergency Disaster Plan. An emergency includes a state of war emergency or a state of emergency as proclaimed by the Governor of California or a local emergency as proclaimed by a local governing body. In accordance with the ESA:

- 1. All City employees, except those expressly exempted by law, will be required to file with the City an executed loyalty oath or affirmation swearing or affirming to support and defend the Constitution of the United States and the Constitution of the State of California before beginning employment with the City. The City will also collect and maintain the employee's contact information in case of emergency.
- 2. The City may file with the State Office of Emergency Services or other appropriate authority an employee's oath or affirmation and his or her name, address, date of enrollment and classification of disaster service to which the employee belongs.
- 3. The Governor may direct the City and its employees to take necessary actions to effectuate a State Emergency Plan.
- 4. An employee's supervisor may delegate work assignments outside the normal scope of assigned duties during an emergency.
- 5. City employees may be required to engage in training necessary or proper to respond to emergency conditions and effectuate the ESA, including but not limited

to classroom instruction, disaster drills/exercises, or activities designed to enhance the disaster response skills of City employees.

6. City employees may otherwise be required to respond to emergencies as mandated by the City's Emergency Disaster Plan, applicable MOU, multi-district or agency Standardized Emergency Management System ("SEMS") procedures, or state or federal law.

The City will compensate employees for actual work performed in the course of carrying out their duties as disaster service workers to the extent required by law.

- A. Emergency Disaster Plan: The City separately maintains an Emergency Disaster Plan policy. For more information, an employee should contact his or her department head or the Human Resources department.

(Formerly Article XX)
ARTICLE XXIII

DRUG AND ALCOHOL TESTING POLICY FOR EMPLOYEES
WITH COMMERCIAL DRIVER'S LICENSE

SECTION 1. PURPOSE

The City of Westminster has a strong commitment to provide a safe workplace and establish high standards of employee health and safety. This policy establishes procedures for administering the Department of Transportation (DOT) anti-drug and alcohol misuse prevention program as set forth pursuant to the Federal Highway Administration (FHWA) Drug Testing Regulations of the Omnibus Transportation Employee Testing Act of 1991. ~~To establish a policy to provide for drug and alcohol testing of those employees who are required to have a commercial driver's license, as required by the Federal Highway Regulations.~~

The DOT asserted the general framework by mandating that all applicants, employees, and volunteers who are required to obtain commercial driver licenses (CDLs) and operate a Commercial Motor Vehicle (CMV) in the performance of their job function (on City time) are considered to be in a "safety-sensitive function" under the regulations and are subject to drug and alcohol testing (applicants - drug only).

~~The City of Westminster recognizes that its employees are its most important resource. This outlines the City's policy regarding drug and alcohol testing for individuals required to have a commercial driver's license ("CDL") in order to accomplish the following goals:~~

- ~~1. To provide a safe working environment for City employees;~~
- ~~2. To protect the safety of persons and property;~~
- ~~3. To provide the highest quality of public service;~~
- ~~4. To promote efficiency and productivity;~~
- ~~5. To prevent loss of public confidence and damage to the City's reputation;~~
- ~~6. To encourage employees who are concerned about their alcohol and/or drug use to voluntarily seek assistance;~~
- ~~7. To comply with the Federal Highway Administrative regulations for Drug and Alcohol Testing that became effective January 1, 1995.~~

A commercial vehicle is any vehicle which:

- Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds, or
- Has a gross weight rating of 26,001 or more pounds, or
- Is designed to carry sixteen (16) or more passengers including the driver, or
- Is of any size and is used to transport hazardous waste.

NULL AND VOID:

~~This policy shall become null and void if the Omnibus Transportation Act of 1991 is superseded by an Act that does not require testing of drivers, is revoked, or is declared contrary to law by a court of competent jurisdiction.~~

~~POLICY:~~

~~The City, pursuant to the Federal Highway Administration regulations, effective January 1, 1996, requires all individuals possessing commercial drivers' licenses be tested for drugs and alcohol when performing safety sensitive functions under the following conditions:~~

- ~~1. Pre-employment/transfer into such a position;~~
- ~~2. Where there is a reasonable cause/suspicion that an employee is impaired by the use of drugs and alcohol;~~
- ~~3. After a major accident involving a commercial vehicle;~~
- ~~4. Upon an employee's return to duty after testing positive for drugs and/or alcohol;~~
- ~~5. Random testing;~~
- ~~6. Follow-up testing after it has been determined that an employee has tested positive for alcohol or drug use.~~

~~If a test shows that the employee is under the influence of drugs or alcohol, the employee may be eligible for treatment or rehabilitation. If the first positive tests, as defined by the DOT regulations, are the result of random testing or reasonable suspicion testing, the employee shall be eligible for rehabilitation. A second positive result, within a five (5) year period, may subject the employee to discipline up to and including termination.~~

~~If a post accident test is positive, according to the applicable DOT regulations, employee will be subject to disciplinary action up to and including termination.~~

~~All affected employees shall be given a copy of this policy.~~

SECTION 2. SAFETY SENSITIVE FUNCTIONS

~~The federal regulations focus on the driver's performance of safety-sensitive functions. For example, they prohibit a driver from performing a safety-sensitive function while under the influence of drugs or alcohol. In addition, the timing of certain alcohol testing is key to the driver's performance of, or readiness to perform, safety-sensitive functions. For such purposes, the regulations define safety sensitive functions as any of the following:~~

- ~~• Inspect, service or condition any commercial vehicle.~~
- ~~• Drive a commercial vehicle.~~
- ~~• Load, unload, or assist in the loading or unloading of a commercial vehicle, attend a commercial vehicle being loaded or unloaded, or give or receive receipts for shipments loaded or unloaded.~~
- ~~• Perform the driver requirements related to an accident of a commercial vehicle.~~
- ~~• Spend time in or on a commercial vehicle (except time spent in a sleeper berth).~~
- ~~• Inspect equipment as required by the Federal Motor Carrier Safety Regulations.~~

- Repair, obtain assistance, or remain in attendance upon a disabled commercial vehicle.

Please note that existing state policy (CCR, Article 29) prohibits employees from being under the influence of drugs or alcohol at any time while on duty, regardless of the duties being performed.

SECTION 3. PROHIBITED CONDUCT

The Federal regulations specifically prohibit the following conduct:

1. Refusal to submit to an alcohol or controlled substance test.
 - No driver shall refuse to submit to any of the required controlled substance and/or alcohol tests, including post-accident, random, reasonable suspicion, or follow-up tests
2. Prohibited conduct related to controlled substances:
 - No driver shall report for duty or remain on duty performing a safety-sensitive function when the driver uses a controlled substance, except when the substance is prescribed by a physician, and the physician informs the driver that the substance does not adversely affect the driver's ability to perform the safety sensitive function.
 - No driver shall report for duty, remain on duty, or perform a safety sensitive function after testing positive for a controlled substance
3. Prohibited conduct related to alcohol:
 - No driver shall report for duty or remain on duty requiring the performance of a safety sensitive function with a breath alcohol concentration level of 0.04 or greater
 - No driver shall use alcohol while performing a safety sensitive function
 - No driver shall possess alcohol while on duty or operating a commercial vehicle
 - No driver shall perform a safety sensitive function within four (4) hours after using alcohol.
 - No driver shall use alcohol within eight (8) hours after an accident, or until an alcohol test has been completed, whichever comes first.

SECTION 4. TESTING REQUIREMENTS ~~DRUG TESTING~~

~~Drug testing is a two-stage process. First a screening test is performed. If it is positive for one or more drugs, then a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. The GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.~~

~~All urine specimens are analyzed for the following drugs:~~

The Federal regulations specify various circumstances under which commercial drivers are required to submit to testing for alcohol and the following drugs:

- Marijuana (THC Metabolite)
- Cocaine
- Opiates (including heroin)
- Phencyclidine (PCP)
- Amphetamines

~~For information on the Specimen Collection and Testing Procedure, individuals should refer to page 76.~~

ALCOHOL TESTING

~~The following acts are prohibited:~~

- ~~_____ Having an alcohol concentration of 0.02 or greater as indicated by an alcohol breath test.~~
- ~~_____ Using or possessing alcohol on the job.~~
- ~~_____ Consuming alcohol within four (4) hours of reporting for duty.~~
- ~~_____ Refusing to submit to an alcohol test.~~
- ~~_____ Using alcohol within eight (8) hours after an accident or until tested.~~

~~Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first using evidential breath testing devices (EBT) required and approved by the Federal Highway Administration (FHA). Any result less than 0.02 alcohol concentration is considered a negative test. If the alcohol concentration is 0.02 or greater, a second or confirmation test is conducted.~~

~~For information on the Alcohol Testing Procedure, individuals should refer to page 79~~

Testing for these substances is required under the following circumstances:

Job Applicant/Pre-Placement

- A. Pre-employment Testing: A commercial driver is subject to pre-employment testing for drugs prior to first performing safety-sensitive functions for an employer. Pre-employment testing will be required under FHWA regulations for current employees if they obtain a commercial driver's license and will be performing safety sensitive functions during the course of their employment. ~~Pre-employment physical performed on individual covered by the FHWA regulations will include drug and alcohol.~~

~~All job announcements or other promotional materials for covered positions shall specify that drug and alcohol screening tests shall be part of the physical examination.~~

~~3. Only applicants who have been given a job offer conditioned upon passing a physical examination shall be given drug and alcohol screening tests.~~

~~4. The applicant for the affected position shall be given a copy of this policy at the time of their conditional offer of employment, sign a consent form and submit to pre-~~

~~employment drug and alcohol testing. Applicants who do not consent to such testing will not be considered for employment.~~

~~5. If the consent form is signed, the pre-employment physical is conducted.~~

~~6. Any applicant whose alcohol test is positive, or whose drug screen does not indicate a verified negative result shall be disqualified for employment with the City for a period of one (1) year.~~

~~7. Results of any laboratory test will be sent to the Personnel Director or designee.~~

~~8. If the test results are positive, the City will inform the individual that he/she has not passed the pre-employment physical. No other elaboration will be made.~~

~~9. No prospective employee may begin work prior to completion of a pre-employment physical.~~

~~10. Drug and alcohol testing is required when employees transfer to a safety sensitive position~~

B. Random Testing: FHWA regulations require employers to conduct random alcohol tests on 25 percent of their commercial drivers annually and random drug tests on 50 percent of their commercial drivers annually. Random testing is unannounced.

A commercial driver is subject to this random testing for:

- Controlled substances (drugs) anytime the driver is on duty.
- Alcohol, anytime the driver is ready to perform or immediately available to perform a safety-sensitive function, is performing, or has just performed a safety-sensitive function.

~~The following will apply for all employees affected by random selection for drug and alcohol testing covered by the Federal Highway Administration regulations.~~

~~1. The minimum annual percentage for random drug testing shall be 50% of the average number of employees for which testing is required.~~

~~2. The minimum annual percentage for random alcohol testing shall be 25% of the average number of employees for which testing is required.~~

~~3. The City shall use a random selection process to select and request an employee to be tested for the use of alcohol or drugs.~~

~~4. An employee shall submit to alcohol or drug testing when selected by the random selection process used by the City. Failure to submit to testing will be treated as a positive test.~~

~~Covered employees shall be assigned numbers. Under a computerized system, a random number generating program will be loaded into a computer along with the names or identification numbers for covered employees. The computer will generate a list of employees to be tested for each testing period.~~

~~To assure that the process is random, all covered employees, whether or not they have been chosen for testing in the past, will be included in the pool of employees for each~~

~~testing period. This will assure that the probability of any individual being selected each period is always the same.~~

~~Once the list of test subjects is generated, employees shall not be informed that they have been selected until they must report for testing.~~

- C. Reasonable Cause Suspicion Testing: This testing occurs when the employer has reasonable suspicion that the driver has violated the controlled substance or alcohol rules. ~~A supervisor's belief must be based on specific, contemporaneous, articulable observations concerning the~~ This is based on observations of the driver's appearance, behavior, speech or body odors or indications of the chronic or withdrawal effects of controlled substances.

A commercial driver is subject to reasonable suspicion testing for alcohol anytime preceding, during or after the driver has performed a safety-sensitive function. A commercial driver is subject to reasonable suspicion testing for controlled substances anytime the driver is on duty.

~~The behavior/conduct of the employee must be witnessed by a supervisor or City official who has received training consisting of a least one (1) hour for drugs and one (1) hour for alcohol.~~

~~The documentation of the employee's behavior/conduct shall be prepared and signed by the witness(es) utilizing the Reasonable Suspicion Checklist within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.~~

~~Drug and/or alcohol testing may be performed only if the observations are based on behavior during, just before or after the work shift that the employee is required to be in compliance. An employee may be directed to undergo a reasonable cause/suspicion alcohol test just before, during or just after the work shift.~~

~~If an alcohol test is not administered within two (2) hours following a reasonable cause/suspicion determination, the supervisor shall document the reasons for the delay. If not administered within eight (8) hours, the test shall not be conducted. The supervisor shall document the reasons.~~

~~An employee who has an alcohol concentration of 0.02 to 0.04 must be removed from duty for 24 hours or until another breath test is administered and the result is less than 0.02. If the employee has greater than 0.04, the employee must be referred to a SAP.~~

~~Once a reasonable cause/suspicion determination is made, it is the responsibility of the employer/supervisor to assure that the employee under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine and/or breath sample.~~

~~Any driver tested for reasonable cause/suspicion will be placed on paid administrative leave until test results are received. If tests results are negative, the employee resumes regular work duties.~~

Post-Accident Testing: As soon as practicable following an accident ~~alcohol and drug tests shall be administered to every driver.~~ involving a commercial vehicle, each surviving commercial driver shall be tested for drugs and alcohol when either:

- The accident caused a fatality; or
- The driver receives a citation under state and local law for a moving violation arising from the accident.
- For the purposes of post-accident testing, an accident is defined as an incident involving a commercial vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle with damage requiring that it be towed from the scene.
- ~~Post-accident drug and alcohol tests must be given as soon as practicable during the eight (8) hours following an accident.~~
- ~~The employee must be readily available for the test or the employee will be deemed to have refused the test.~~
- ~~The alcohol test should be administered as soon as possible. If not within two (2) hours, the supervisor must prepare and maintain a record stating why they were unable to administer the test. If eight (8) hours have passed, the attempts should be discontinued. The supervisor must prepare and maintain a record of why the test could not be administered.~~
- ~~If a drug test is not administered within 32 hours following the accident, the test shall not be administered and the supervisor shall document the reasons.~~
- ~~Following an accident, the employee shall remain available for such testing, or may be deemed to have refused to submit to testing. This does not require the delay of necessary medical attention for injured people following an accident, nor prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.~~

Note: If a ~~drug test~~ post-accident test is required, the commercial driver must be tested for alcohol within two hours of the accident and within 32 hours for drugs. ~~An employee subject to post-accident testing~~ The driver may not consume alcohol for eight hours after an accident requiring post-accident testing or ~~before~~ until such time as a test for alcohol has been administered, whichever occurs first.

- D. Return-to-Duty Testing: ~~Employees who violate the City's policy and are accepted into Return-to-Duty and Follow-up status must have a negative drug and/or alcohol test. Employees are responsible for providing written documentation that treatment recommended by the SAP is being followed. Employees who return to duty are A commercial driver is subject to follow-up return-to-duty testing before he/she resumes safety-sensitive duties after having been found in violation of the FHWA drug and alcohol misuse rules.~~

- E. Follow-Up: A commercial driver is subject to follow-up testing after returning to safety-sensitive duties. ~~Employees will be subject to a minimum of~~ The federal regulations require at least six ~~unannounced~~ follow-up tests ~~over the following~~ during the first 12 months, ~~The SAP can direct and there may be additional testing during this period or for an additional period lasting up to a maximum of 60 months from the date the employee returns to duty.~~ Within these limits, the specific follow-up testing requirements are determined by a substance abuse professional. Follow-up testing is announced.

~~All employees identified by the Substance Abuse Professional (SAP) as needing assistance will be subject to follow-up testing upon return to duty.~~

~~The SAP can terminate the requirement for the follow-up testing in excess of the minimum at anytime, if the SAP determines that the testing is no longer necessary and is supported by the employer.~~

~~Follow-up testing may include tests for other substances beyond the employee's initial positive test for alcohol and/or drugs when the SAP has reason to suspect other drug or alcohol use during the follow-up period.~~

SECTION 5. DRIVER OBLIGATIONS

The Federal regulations require covered drivers to submit to drug and alcohol testing under the circumstances specified above. The following shall constitute a refusal to submit, and shall lead to various corrective actions, including the driver's immediate removal from the performance of safety-sensitive functions:

- Failure to provide adequate breath for alcohol testing without a valid medical explanation after having received notice of the requirement for breath testing.
- Failure to provide adequate urine for controlled substance testing without a valid medical explanation after having received notice of the requirement for urine testing.
- Engaging in conduct that clearly obstructs the testing process.

SECTION 6. TESTING PROCEDURES

Breath testing will be used for alcohol, and urine testing will be used for drugs. This will be conducted in accordance with strict federal standards. For further information, please contact the Constructive Intervention Unit, DGS Substance Abuse Program Administrator.

SECTION 7. CONSEQUENCES

~~The City may impose disciplinary measures, up to and including termination, for policy violations and work-related problems, separate and apart from violations of the drug and alcohol policy even if such rule violations or work-related problems result from drug and alcohol abuse.~~

Any commercial driver who has engaged in prohibited conduct shall be immediately removed from the performance of any safety-sensitive function related to a commercial vehicle, including driving, and may not perform any safety-sensitive functions until:

- He/she has been evaluated by a Substance Abuse Professional (SAP)* who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use.
- If the driver has been identified by a SAP as needing assistance in resolving problems associated with alcohol or controlled substances, the driver must be re-evaluated by a SAP to determine whether he/she has complied with any rehabilitation program prescribed by the original evaluating SAP.
- The commercial driver has undergone a return-to-duty alcohol test with a result indicating a breath alcohol level of less than 0.02 if the conduct involved alcohol, or a controlled substance test with a verified negative result if the conduct involved use of controlled substances.

If the driver has been identified by a SAP as needing assistance in resolving problems associated with alcohol or controlled substances, the driver will be subject to follow-up testing after returning to duty for a minimum of six tests in the first 12 months.

In addition to the above, the department may take adverse action up to and including dismissal for any driver who engages in conduct prohibited by the Federal Highway Administration's Controlled Substances and Alcohol Use and Testing Rules (49 CFR 382, et.al.).

DEFINITIONS:

~~The following definitions shall apply for drug and alcohol testing of individuals with Commercial Driver's Licenses:~~

~~**Alcohol** – Any beverage containing alcohol.~~

~~**Alcohol Abuse** – Using or possessing alcohol on the job; consuming alcohol within four (4) hours of reporting for duty; employees who have an alcohol concentration of 0.02 or greater.~~

~~**Breath Alcohol Technician (BAT)** – An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device.~~

~~**Commercial Driver's License (CDL)** – Class A, Class B or Class C license for transporting hazardous materials issued by the State of California.~~

~~**Commercial Motor Vehicle (CMV)** – Vehicles weighing over 26,001 Gross Vehicle Weight Rating (GVWR), Department of Transportation (DOT) placarded vehicles under~~

~~hazardous material regulations or vehicles designed to transport more than fifteen (15) passengers, including drivers.~~

~~**Drug Abuse**—The excessive use of drugs or controlled substances. The City's Policy provides for testing to detect the presence of the following drugs or their metabolites: (1) marijuana; (2) cocaine; (3) opiates; (4) amphetamines; and (5) phencyclidine. Excessive use of these drugs or controlled substances in prescription form is drug abuse as well.~~

~~**Drugs/Controlled Substances**—Amphetamines, cocaine, marijuana, opiates and phencyclidine (PCP).~~

~~**Employee**—For the purpose of this policy only, any person employed by the City who is required to have a valid commercial driver's license as a condition of employment and who may be required to perform a safety sensitive function.~~

~~**5 Panel Drug Test**—Five categories of drugs established by the federal government which fall under "controlled substances". They are amphetamines, cocaine, marijuana, opiates and phencyclidine (PCP).~~

~~**Medical Review Officer (MRO)**—A licensed physician certified to review and interpret all drug tests before they are reported to the Personnel Director or designee.~~

~~**Premises**—Buildings, property, work areas, vehicles, parking lots and any place the employee happens to be during the course and scope of City employment during regular or overtime working hours.~~

~~**Pre-Placement**—Conducted before applicants are hired or after an offer to hire. Testing is also required when employees transfer to a position requiring a CDL.~~

~~**Reasonable Cause/Suspicion**—The employer/supervisor believes that the actions, appearance, speech, body odors or conduct of an on-duty employee are indicative of the use of drugs/controlled substances or alcohol.~~

~~**Safety Sensitive Personnel**—Employees holding a Commercial Driver's License and driving a commercial vehicle, on a full time, part-time or intermittent basis.~~

~~**Substance Abuse Professional (SAP)**—A licensed physician, licensed or certified psychologist, social worker, employee assistance professional or an alcohol and drug abuse counselor certified by the National Association of Alcohol and Drug Abuse Counselors Certification Commission (NAACA) with specific knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.~~

CONFIDENTIALITY

~~Confidentiality is an essential element of this policy:~~

- ~~1. Any employee violating confidentiality shall be subject to discipline and may also be civilly or criminally liable.~~
- ~~2. The results of any testing shall be used for employment purposes only.~~
- ~~3. All records pertaining to drug and alcohol testing shall be contained in a separate confidential medical file that will be securely kept under the control of the Personnel Director or designee. It shall be separate from the employee's other personnel records.~~
- ~~4. Without the employee's consent, test results may be disclosed only to City management and only on a strictly need to know basis.~~
- ~~5. The employee may request the results of the tests.~~
- ~~6. The City may disclose test results without the employee's consent only when:
 - ~~a. All information is compelled by law or by judicial or administrative process;~~
 - ~~b. The information has been placed at issue by the employee in a formal dispute between the employee and the City;~~
 - ~~c. The information is necessary to administer an employee benefit plan; or,~~
 - ~~d. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.~~~~
- ~~7. Any positive results determined by a second test to be negative shall be removed from the employee's file and destroyed.~~

RECORD-KEEPING

~~The Personnel Director or designee shall retain the records as follows:~~

RECORD	RETENTION PERIOD
Results of an employee's alcohol concentration level of .02 or higher	5 years
Results of an employee's drug test which is positive	5 years
Documentation of any employee who refused to submit to a required alcohol/drug test	5 years

~~Calibration documentation 5 years~~

~~Employee Assessments and referrals
by substance abuse professionals 5 years~~

~~Records documenting the collection
process or the alcohol and drug
tests and training of supervisors 2 years~~

~~Results of any alcohol test which
is less than .02 1 year~~

~~Documentation of any negative or
canceled drug test 1 year~~

~~FOLLOW UP FOR POSITIVE TESTING~~

~~The City supports an opportunity for treatment to be made available to affected employees. The City will provide for a SAP evaluation to assess employees with possible drug and/or alcohol problems. The Substance Abuse Professional (SAP) will provide referrals for counseling, treatment programs or other sources.~~

~~Each affected employee who violates this policy must be evaluated to determine whether the employee needs assistance resolving problems associated with drug and/or alcohol misuse, and if necessary, a referral for further treatment. The City has no obligation to provide or pay for treatment. This is the responsibility of the employee.~~

~~Before returning to duty, each employee identified as needing assistance/rehabilitation must: (1) be evaluated again by a SAP to determine whether the employee has successfully complied with the treatment prescribed following the initial evaluation; (2) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; and (3) be subject to a minimum of six (6) unannounced, follow-up drug and/or alcohol tests over the following twelve (12) months.~~

~~SUPERVISORY PROCEDURES FOR DOCUMENTING REASONABLE SUSPICION OF DRUG AND/OR ALCOHOL USE~~

~~BACKGROUND: Reasonable cause/suspicion means that an employer/supervisor believes that the actions, appearance, speech, body odors, or conduct of an on duty employee are indicative of the use of drugs/controlled substances or alcohol. The City shall require an employee to be tested upon reasonable cause/suspicion for the use of drugs or alcohol.~~

~~The supervisor must use the following process to validate the reasons for considering a drug and/or alcohol test. All observed behaviors must be documented on the Observed~~

~~Behavior Reasonable Suspicion Record. In all cases of reasonable cause/suspicion, the Personnel Director or designee must be contacted.~~

- ~~1. The Supervisor should personally escort the employee to an office or other private area. Another supervisor should be present as a witness.~~
- ~~2. The Supervisor should state the definition of reasonable suspicion to the employee and give the reasons the supervisor suspects drug and/or alcohol usage.~~
- ~~3. Using the Reasonable Suspicion Checklist, the supervisor will question the employee and document information and behavior. The supervisor will complete the form and following a conversation with the employee make a determination as to whether or not employee appears to have used drugs and/or alcohol during, just before or after the workshift.~~
- ~~4. If the employee does not appear to be under the influence of drugs and/or alcohol, the supervisor should release the employee to perform regular work duties.~~
- ~~5. If the supervisor believes that the employee is under the influence of drugs and/or alcohol, the supervisor notifies the Personnel Director or designee, who will then refer the employee to the approved drug and alcohol testing site.~~
- ~~6. If the employee refuses drug and/or alcohol testing, the Personnel Director or designee refers the employee to the Substance Abuse Professional.~~
- ~~7. If the employee consents to drug and/or alcohol testing, the supervisor personally escorts the employee to the Substance Abuse Professional.~~
- ~~8. At the collection site, the employee meets with the Collection Site Technician who will conduct the testing process.~~
- ~~9. The supervisor remains at the collection site and after the collection process, transports the employee back to the work site.~~
- ~~10. The supervisor notifies the employee that, until the drug test results are complete, the employee will be on leave with pay.~~
- ~~11. If it is believed that the employee is impaired, the supervisor makes arrangements to have the employee taken home. If the employee refuses assistance, a witness should verify that the employee refused assistance. If the employee cannot control his/her actions and leaves without assistance the supervisor must call the Police Department immediately to inform them of the employee's condition and refusal for assistance. Give the Police Department the employee's name and description of the employee's vehicle including the license number.~~

SPECIMEN COLLECTION PROCEDURE

Drug Testing

- ~~1. The employee arrives at the collection site.~~
- ~~2. If the employee does not arrive at the assigned time for testing, the Personnel Director or designee should be contacted for instructions.~~
- ~~3. The identity of the employee to be tested is verified by examining a photo identification or by verifying with the employer's representative. If the identity cannot be established, the process stops.~~
- ~~4. If the employee being tested requests it, the Collection Technician (TC) should present their identification as well.~~
- ~~5. Once the employee identification has been verified, the first portion of the chain of custody requisition should be completed.~~
- ~~6. The CT requests that the employee remove unnecessary outer garments, such as a coat or jacket, and relinquish any briefcases, purses, or similar item along with the outer garments for safekeeping during the collection process. The employee may retain his or her wallet. If requested, a receipt for personal items will be provided.~~
- ~~7. The CT instructs the employee to wash and dry hands. Once this is done, the employee must remain in the presence of the CT. He or she is not to be permitted access to a fountain, faucet, soap dispenser, cleansing agent, or other materials that could be used to adulterate the urine specimen.~~
- ~~8. The CT provides the employee with a specimen bottle and allows him/her to provide the specimen in the privacy of a stall or other partitioned and secured area.~~
- ~~9. If the employee refuses to provide a specimen or otherwise fails to cooperate with the process, the Personnel Director or designee is notified and the refusal is documented on the custody and control form.~~
- ~~10. The CT will note any unusual behavior on the custody and control form. If the CT suspects tampering or substitution, the CT will consult with the test site supervisor before requesting a direct observation specimen collection.~~
- ~~11. Upon receiving the specimen, the CT will make certain that the sample contains at least 60 milliliters of urine.~~
- ~~12. In the case of post-accident or reasonable suspicion testing where the employee has difficulty providing adequate sample, the CT will request that he or she~~

~~consume reasonable quantities of fluids until he or she can provide a sufficient sample or, until eight (8) hours have expired without an acceptable sample, the CT will request guidance from the Medical Review Officer.~~

- ~~13. In the case of pre-employment or random testing where the individual has difficulty providing an adequate sample, the CT will consult the employer who may elect to:
 - ~~a. Proceed as in the case of post-accident or reasonable suspicion testing, by having the individual to consume fluids to stimulate urination, or~~
 - ~~b. Reschedule the test for a later time.~~~~
- ~~14. If a second specimen is indicated, the CT makes certain a fresh container is used. The original inadequate specimen is discarded.~~
- ~~15. Once an adequate sample is provided, the CT allows the individual to wash his/her hands.~~
- ~~16. The CT tests the specimen for temperature within four (4) minutes of collection. The acceptable range is 32.5 degrees – 37.7 degrees C (90 – 100 F). If the temperature is outside this range, the individual may request to have his or her oral temperature taken to counter any suspicion of tampering with or substitution of specimen. The temperature is noted in the appropriate space on the custody and control form.~~
- ~~17. The CT inspects the sample for color and any sign of contamination or tampering. Any unusual signs are noted on the custody and control form. In the case where tampering is suspected, the collector will consult with a test site supervisor before collecting a second specimen under the direct observation of a testing site person.~~
- ~~18. The CT keeps the specimen in view at all times prior to sealing and labeling. The specimen also remains in view of the individual. In full view of the individual, the CT transfers the collected specimen to the primary and to split specimen containers.~~
- ~~19. The CT inspects the collection area to ensure that specimen adulteration did not occur. Any unusual findings will be noted on the chain of custody form. If adulteration of the specimen did occur, the CT will contact the employer or the laboratory for instructions.~~
- ~~20. The date of collection is written on the peel-off labels located at the side of the requisition.~~
- ~~21. The CT peels off one label and places it on the lid of the collection container. The remaining label is placed on the lid of the split specimen container.~~

- ~~22. The CT and individual complete the tamper-evident tape included in the collection kit. The CT completes the individual ID, insures that it matches the requisition, fills in the collection date and signs the tape. The tamper-evident tape is placed on the container in such a manner that both peel-off labels are covered.~~
- ~~23. The CT removes the "laboratory original" and "laboratory duplicate" copies of the chain-of-custody requisition and places them in the outside pocket of the chain of custody bag.~~
- ~~24. The CT places the specimen into the tamper-evident pocket of the chain of custody bag and seals the specimen in the bag.~~
- ~~25. The individual initials the chain-of-custody bag in the appropriate locations to document that the correct specimen is being sent to the laboratory. The CT signs and dates the same seal.~~
- ~~26. The CT retains the "collector copy" of the chain-of-custody requisition and give the "donor copy" to the individual. The "company copy" of the chain-of-custody requisition will be forwarded to the Personnel Director or designee. The MRO copy will be sent to the Medical Review Officer.~~
- ~~27. The sealed chain-of-custody bag remains in control of the CT or in a secured area within the collection site until shipment to the laboratory.~~
- ~~28. When the test results are received by the MRO, a thorough review of documentation, test results, and circumstances will be made before making a decision regarding an individual. A final decision will be made and communicated to the individual within three days unless there are extenuating circumstances. In all cases where alcohol or drug involvement is confirmed, the employee will be referred to a SAP.~~

Alcohol Testing

- ~~1. The employee arrives at the testing site.~~
- ~~2. If the employee does not arrive at the assigned time for testing, the Personnel Director or designee should be contacted for instructions.~~
- ~~3. The ID of the employee to be tested is verified by examining a photo ID or employer's representative. If the ID cannot be established, the process stops.~~
- ~~4. If the employee being tested requests it, the Breath Alcohol Technician (BAT) should present their ID.~~
- ~~5. Once the employee's ID has been established, Step 1 will be completed on the U.S. Department of Transportation Breath Alcohol Testing Form (DOT).~~

- ~~6. The employee will complete Step 2 on the DOT form, signing the certification. If the employee refuses to sign the certificate, it is regarded as a refusal to take the test.~~
- ~~7. The employee and BAT shall read the sequential test number displayed on the Evidential Breath Analyzer Tester (EBT) for the test.~~
- ~~8. The employee will open an individually sealed mouthpiece in view of the BAT and attach it to the EBT according to instructions.~~
- ~~9. The employee will blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT indicates that an adequate amount of breath has been obtained.~~
- ~~10. The BAT completes Step 3 of the DOT testing form.~~
- ~~11. The employee will sign STEP 4 of the DOT Test 1 stating that the information on the form is accurate and that the employee must not perform safety sensitive duties or operate heavy equipment if the results are 0.02 or greater.~~
- ~~12. If the test results are less than 0.02 on the screening test, a copy of the form will be provided to the employee. One will be forwarded to the employer and one will be retained by the BAT.~~
- ~~13. If the results are greater than 0.02, a confirmation test will be conducted as follows:~~
 - ~~a. The BAT will explain that a confirmation test will be conducted~~
 - ~~b. The employee must stay in the room observed for a fifteen (15) minute waiting period. During this time, they may not eat, drink or put any object or substance into their mouth.~~
 - ~~c. The confirmation test will be conducted no less than fifteen (15) minutes after the screening test, but within twenty (20) minutes of the completion of the screening test.~~
 - ~~d. The confirmation test will be completed according to Steps 1-11 of this procedure.~~
 - ~~e. If the result of the confirmation test is different than the screening test, the confirmation test will be considered the accurate results.~~

Work Status -- Alcohol

~~Employee with a positive test shall be relieved from duty a minimum of twenty-four (24) hours or until a second test is negative. Banked leave time may be used for such time off.~~

ARTICLE XXIV

PERSONAL APPEARANCE GUIDELINES

PURPOSE

The purpose of this policy is to provide guidelines to supervisors and employees regarding acceptable and appropriate dress and appearance in the workplace.

POLICY

The City of Westminster desires to ensure that all employees dress in an appropriate and safe manner that is in good taste and conducive to a professional work environment. Since the way in which employees dress is a significant factor in how the public and fellow co-workers perceive and evaluate our competence, quality, and professionalism, employees are required to present a neat, clean, and professional image at all times.

The City subscribes to a “business casual” dress code. “Business casual” is described as a relaxed version of formal business wear. For men, that means slacks, button-downs and blazers. For women that means, slacks, blouses, knee length skirts and dresses and blazers. The regulations set forth in this administrative policy have been established to address personal appearance standards and expectations in the workplace.

The workplace is defined as the field, the office, at an event representing the City, any city facility; and the policy applies to employees who are on the clock at any function in any location, or any employee on or off the clock who is visiting any facility during regular business hours.

REGULATIONS

A. GROOMING/PERSONNEL HYGIENE

All employees are expected to follow good personal hygiene habits that promote a professional appearance. Grooming and personal hygiene should be maintained, so as not to offend others. This also includes the avoidance of heavy fragrance usage such as perfume, cologne, lotions, etc.

Hair and/or facial hair must be maintained to present a professional appearance-extreme colors or styles are not permitted. It must also be maintained as not to interfere with job duties or jeopardize safety in the workplace.

Employees are expected to use common sense, self-respect, and respect for others with regard to good grooming and personal hygiene standards.

B. BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible that is a deviation from normal anatomical features, and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

- Tongue splitting or piercing.
- Complete or transdermal implantation of any material other than hair replacement.
- Abnormal shaping of the ears, eyes, nose or teeth.
- Branding or scarification.

C. TATTOOS

Employees may display markings including tattoos, body art, branding, or scarification on arms or legs. Employees shall not visibly display markings on the following body parts/areas:

- Head
- Neck
- Ears
- Mouth
- Scalp
- Face
- Hands (Exception: Wedding band tattoo on ring finger)

Any tattoo, brand, or mutilation on the head, neck, scalp, face, or hand must be covered by a business attire, or neutral-colored skin patch. Tattoos, brands, or mutilations that are "inappropriate," as determined by Human Resources, must also be covered at all times. "Inappropriate" may include but is not limited to marks that depict sexually explicit acts or other obscene material; or advocate discrimination against gender, gender identity, race, religion, ethnicity or national origin; or other protected class; or advocate or promote gang, supremacist, or extremist group affiliation; or drug use is also prohibited.

D. INAPPROPRIATE DRESS

Employees must always present a clean, professional appearance. Everyone is expected to be well-groomed and wear clean clothing, free of holes, tears, or other signs of wear. The following are considered inappropriate for the workplace:

- Clothing with offensive or inappropriate designs or stamps.
- Tank tops, tube tops, or any top not covering the midriff or shoulders.
- Blue jeans or denim jackets, colored denim, or jean skirts (Exception: Denim may be worn only on casual last workday.)
- Bib-overalls.
- Workout or athleisure attire (i.e. jogging ensembles/exercise wear, yoga pants, leggings, jean-leggings, or spandex-like clothing.).
- Ripped, faded, bleached, or revealing clothing.
- Bare back or low-cut dresses or tops.
- Beach sandals, thongs, and slippers.
- Shorts of any type or length.
- See-through or sheer blouses without appropriate undergarment.

- Micro-mini dresses or skirts. Garments shall have a sewn hem and be no shorter than 3" above the top of the knee.
- Spaghetti-strap dresses or blouses unless worn under a jacket.
- Tennis or athletic shoes. (Exception: Clean tennis shoes may be worn on casual last workday.)
- Tight clothing

E. FIELD PERSONNEL OR UNIFORMED STAFF

Field Employees shall wear durable clothing in good condition, appropriate for the job (according to the season), and in conformance with safety rules and regulations. Clothing shall generally be clean at the beginning of each workday.

Shorts shall be plain in color and not be of a style or pattern typical of swimwear. Shorts shall not be "cutoffs." Shorts shall have a sewn hem and be no shorter than 3" above the top of the knee.

Shirts are to be worn at all times and shall be long enough that the midriff is completely covered.

With the goal of providing safe working environment, the requirements of CAL/OSHA and City safety rules shall be met at all times.

F. EXCEPTIONS

The City Manager or his/her designee may authorize exceptions to this policy to celebrate holidays, promote or highlight special events, and/or to meet temporary needs of the City.

If any employee has a medical condition that requires a certain type of clothing or shoes, the City will make every effort to accommodate that employee's needs, as long as they provide the department head with certification from their treating physician, specifying the need of the employee.

Employees, after a second warning, who do not adhere to the above standards may be sent home to change into appropriate attire. The time away from work shall not be considered time worked. In this case, time will be charged to vacation, floating holiday, or Compensatory Time Off (CTO).

RESPONSIBILITY

This policy applies to all City personnel, including supervisory and non-supervisory employees. Each executive director is responsible for ensuring that the work environment is free from all types of unlawful harassment, discrimination, and/or retaliation. Managers and supervisors are also responsible for taking prompt, appropriate action within their work units to avoid and minimize such incidents. The words harassment, discrimination,

and retaliation need not be used to trigger the duty to act. It is the involved behavior as described above that triggers the duty to act.

ARTICLE XXV

EMPLOYEE IDENTIFICATION BADGE (FOB) POLICY

PURPOSE: To establish guidelines regarding the issuance and use of photo identification badges provided to City employees.

POLICY STATEMENT: All employees will be issued, must wear, and are expected to visibly display their photo identification badges as provided by the Human Resources Department while at work or when representing the City of Westminster in any official capacity. Identification badges must be worn in a manner that allows the identification of an employee by photo, first and last names, and position title. However, if the wearing of the badge creates any potential safety issue for an employee, the employee will not need to display their badge. This badge may also provide access to City facilities through keyless entry.

EXEMPTIONS

POLICE DEPARTMENT EMPLOYEES: This policy does not apply to Police Department employees, who instead are covered by Policy Number 205 *"Physical Security of Police Facilities"* of the Westminster Police Department Policy Manual.

VOLUNTEERS AND CONTRACTORS: Volunteers and/or contractors may be provided with a City ID badge on a case-by-case basis, as recommended by the department head.

DEFINITIONS

For the purposes of this Employee Identification Badge (FOB) policy, the following definitions shall apply:

CONTRACTOR: Any individual paid for performing services to the City but not through the City's payroll.

EMPLOYEE: Any individual performing services to the City and receiving compensation via City payroll, including those employed on a full-time, part-time, or seasonal basis.

EMPLOYEE ID BADGE: The official City ID for all employees which identifies employees by name and position title. ID badges also provide access to certain work locations, as determined by City management.

OFFICIAL CAPACITY: Any employee's time spent while on duty, including time spent on or off City property, where the employee is representing the City. This also includes time spent while operating any vehicle owned or leased by the City.

VOLUNTEER: A person who performs services to the City without receiving any compensation.

REQUIREMENTS

- A. Because the policy and procedures described herein are intended to provide for the safety and security of City employees, all employees are expected to fully comply with all provisions of this policy. Any employee who is found to be in violation of this policy may be subject to disciplinary action.
- B. The Human Resources Department staff will provide all new employees with a copy of this policy at the time of new employee orientation. The policy can also be found on the City's shared drive as part of the Personnel Policy Manual.
- C. All employees are required to wear, and are expected to have their ID badge visibly displayed while serving in their official capacity, unless wearing the badge creates any potential safety issue for an employee.
- D. The Human Resources Department staff suggests that each employee wears their ID badge around their neck or on a clip on their belt, unless wearing the badge creates any potential safety issue for an employee. The ID shall not be defaced or altered with pins, stickers, decals, etc.
- E. Employees are responsible for safeguarding their own ID badge. Any lost or damaged ID badge should be reported immediately to the Human Resources Department.

PROCEDURE:

- A. New employees will be issued a photo identification badge at time of hire. All identification badges shall contain the City logo or graphic and the employee's name and position title.
- B. Human Resources staff will be responsible for preparing and issuing one encoded proximity ID badge to each employee at orientation.
- C. Employee ID badges will be activated upon initial issuance of the card by Human Resources staff.
- D. Employees should report lost or damaged ID badges to Human Resources immediately. The employee should print out and complete an "Employee ID Badge Request Form" and bring the completed form to Human Resources to receive a replacement ID badge.
- E. Replacement ID badges will be issued at no cost to employees who receive a promotion, title change, reclassification, demotion, or name change.

- F. A fee will be assessed to replace all lost or damaged ID badges according to the schedule below. Cash or checks made payable to “City of Westminster” are the only acceptable methods of payment for replacement of a lost or damaged ID badge.

The replacement fees for lost or damaged identification badges are as follows:

1 st Replacement ID Badge	Free
2 nd and all Subsequent Replacements	\$12.00 each

Fees are subject to change by the Human Resources Department.

- G. Any lost ID badge that is found should be turned into Human Resources.
- H. Upon separation of employment for any reason, an employee must turn in their ID badge to their supervisor. The department is then required to send the ID badge to Human Resources. Failure of an employee to turn in his or her ID Badge upon separation of employment shall result in a fee of \$12.00 which will be withheld on the exiting employee's final paycheck.

ID CARD HOLDER RESPONSIBILITIES

As a City of Westminster Employee, do not:

1. Lend your ID badge to anyone.
2. Allow unauthorized individuals into any secure area.
3. Leave your ID badge on the dashboard of a vehicle or other locations where exposed to extreme temperatures. Keep the badge away from any magnetic forces.
4. Fold, bend, pry open, mutilate, or wash your ID badge.
5. Use your ID badge improperly.
6. Leave your ID badge unattended.

In addition, you are expected to:

- Immediately notify your supervisor and Human Resources if your ID badge is no longer in your possession; and
- Immediately notify your supervisor and Human Resources of any difficulties or problems with any ID badge.

ARTICLE XXVI

SOCIAL MEDIA POLICY

In the expanding world of electronic communication, social media can mean many things. In general, social media encompasses the various activities that integrate technology, social interaction, and content creation. Through social media, individuals can create web content; organize, edit, or comment on content; and/or combine and share content on their own web site or on someone else's. Social media uses many technologies and forms, including Web feeds, blogs, wikis, photography and video sharing, web logs, online journals or diaries, chat rooms, bulletin boards, affinity web sites, podcasts, social networking, fan sites, mash-ups, and virtual worlds.

This policy is intended to provide guidelines for:

- a) The use of social networking and social media on behalf of the City of Westminster, and
- b) The personal use of social networking and social media as an employee of the City of Westminster.

To address the fast-changing landscape of the Internet and the way residents communicate and obtain information online, the City uses social media tools to reach a broader audience. The City encourages the use of social media to further the goals of the City, and to engage the community we serve.

The City also understands that its employees use social media sites to share events in their own lives, and to communicate and discuss their opinions with others, including family, friends, and co-workers. However, the use of social media may present certain risks and therefore carries certain responsibilities. To assist employees in making responsible decisions about their use of social media, the City has established this policy to guide appropriate use of social media.

Employees must never use City electronic communication resources, or work time, for personal social media use. Furthermore, employees may not use City email addresses to register on social networks, blogs, or other online tools utilized for personal use.

A copy of this policy will be made available to all City employees. All employees using social media sites are directed to familiarize themselves with the policy. Employees' use of social media sites for official business is governed by this policy as well as applicable City Rules and Regulations. Violation of this policy may result in disciplinary action up to and including termination.

THE USE OF SOCIAL MEDIA ON BEHALF OF THE CITY

1. Furthering the City's Mission

Social media platforms offer many advantages – they help us open up government to encourage citizen participation, strengthen our community, and support a civic culture. The use of social media platforms allows the City to:

- Expand communication through these networks and distribution systems;
- Increase transparency of government;
- Enable response to problems;
- Listen to the community – enabling us to improve services, programs, practices - and let them know they are being heard; and
- Provide helpful information.

2. Rules about City Social Media Accounts

- The City's website at www.westminster-ca.gov will remain the City's primary and predominant internet presence.
- No City Department nor individual may establish a City Social Media Site without prior approval from the City Manager.
- Any employee posting to City Social Media Sites or making content changes to the City's website must be authorized to do so by their supervisor or department head.
- City Social Media Sites should make clear that they are maintained by the City and that they follow this policy.
- All City Social Media Sites shall adhere to applicable federal, state, and local laws, regulations, and policies.
- All City Social Media Sites are subject to the California Public Records Act. Therefore, any content maintained in a Social Media format that is related to city business, including a list of subscribers, posted communication, and communications submitted for posting, may be a public record subject to public disclosure. This requirement may not be changed to exclude social media content.
- The City reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.
- All City Social Media Sites shall contain the "Commenting Notice" and clearly indicate that any content posted is subject to public disclosure. The City reserves the right to restrict or remove any content that is deemed in violation of this policy, the Commenting Notice, or any applicable law as it applies to comments.

3. Originating Posts

Only content that is appropriate for public release, that supports the City's mission, and conforms to all policies regarding the release of information may be posted on any of the City's Social Media Sites. Examples of appropriate content include:

- Announcements;
- Requests for participation, e.g., community meetings, recreational events, etc.;
- Traffic or road closure information stemming from capital improvements, signal outages, maintenance, etc.;
- Press releases;
- Recruitment of personnel;
- Personnel engaging in job activities;

- Community activities that may not be City-sponsored, but are open to the public, e.g., TET Parade;
- Shared information from other local government agencies impacting residents, e.g., OCFA, Midway Sanitation District, Westminster School District, etc.;
- Public health and safety tips or recommendations from another government agency, e.g., CDC or FBI that are directly relevant to the community. *Note: no social media posting should be worded or visually depicted to induce feelings of fear or immediate threat. See “Crisis Communications” for more information;*
- Pictures taken from within the city that portray a positive, unique, or engaging image of the community or environment; and
- Sharing accolades or awards for Westminster residents or businesses published in local newspapers.

4. Social Media Engagement Guidelines on City Social Media Sites

- What you write is ultimately your responsibility. Participation in social computing on behalf of the City is not a right and it therefore needs to be taken seriously and with respect. When responding, be sure you’re the correct person in your department.
- It's a conversation. Talk to your readers like you’d talk to real people if they called you at work. Avoid bureaucratic or formal language. Don't be afraid to bring in your own personality, but remain professional – don’t be combative.
- Be open. One of the great benefits of social media is the interaction between us (you) and our customers. Take in ideas. Share relevant feedback and input with relevant colleagues. When in doubt, talk to your department head.
- Are you adding value? Communication should help our residents, employees, and others in the region. Adding phone numbers, websites, or other resources and points of contact can also be useful.
- Be transparent. Your honesty, or dishonesty, will be quickly noticed in social media environments. When commenting about your work, use your real name, identify that you work for the City, and be clear about your role.
- Be careful of tone. Tone is hard to read online and people often assume the worst. Aim to be light-hearted and helpful.
- Perception is reality. In online social networks, the lines between public and private, personal and professional are blurred. Just by identifying yourself as a Westminster employee, you are creating perceptions about the City. Be sure all content associated with you is consistent with your work and with the City’s values and professional standards.
- Be judicious. All statements must be true and not misleading. Strive for accuracy and full disclosure in any post.
- Don't post rumors. Never post information or rumor that you know to be false about the City, City employees, City partners, or City clients.

- *Did you screw up?* If you make a mistake, admit it. Be upfront and quick with your correction. You may choose to modify an earlier post; just make it clear that you have done so.
- *If it gives you pause, hold off.* If you're about to publish something that makes you even the slightest bit uncomfortable, stop. Take a minute to review this policy and try to figure out what's bothering you, then fix it. If you're still unsure, check with your department head. Ultimately, the decision about what you publish is yours, as is the responsibility. So be sure.
- *When posting your comments, refrain from posting about controversial or potentially inflammatory subjects.* including but not limited to politics, sex, religion, or any other non-business related subjects. Never disclose proprietary or confidential information.
- *Be wary of "trolling" activity or other negative engagement.* If you have offered help and resources to someone expressing a frustration without success, no further engagement is appropriate.
- *See something, say something.* If you are concerned with any threatening or disturbing language or behavior of any kind, do not keep it to yourself. Contact your supervisor or the Westminster Police Department immediately.
- *Follow the rules.* Employees who fail to comply with this policy when posting on behalf of the City are subject to disciplinary action, up to and including termination.

5. Use of Images

Credit for images or information externally sourced should be given on the post. Written permission to use a specific, identifiable image of a person, besides a City employee, should be obtained prior to posting when possible.

6. City Websites

City websites offer an opportunity to provide insight and transparency on City operations. Though City websites may not be as well suited to interaction as a social media account, they remain a critical forum for communication. City websites are the appropriate place for in-depth information, resources, and tools that improve transparency and foster understanding of the City's mission and operations. Content on City websites, though more detailed and abundant, should generally uphold the same guidelines as social media posts: be helpful, responsible, respectful, and transparent.

7. Crisis Communications

In the event of an emergency, all employees with access to City social media accounts should limit messaging to public safety and/or disaster related services instructions. Content should be clear, concise, and instructional. Posts may include those previously published by the Westminster Police Department or other leading public safety organizations, such as the Orange County Fire Authority or the Orange County Sheriff's Department, or new content from City departments such as the water utility

or other public works-related safety notices. Every effort should be made to cancel previously scheduled posts that are not relevant to public safety.

8. Commenting Notice on City Social Media Accounts

By its nature, social media sites allow for a participatory, interactive experience, with members of these sites being able to comment or respond to information posted on the City's behalf. The City is committed to serving our community in a civil and unbiased manner. To ensure that this commitment is fulfilled, the City has established this comment notice with regards to comments and content from third parties posted on City Social Media Sites.

Comments containing any of the following inappropriate forms of content shall not be permitted on any City Social Media Sites and are subject to removal and/or restriction:

- Comments not related to the original topic, including random or unintelligible comments;
- Profane, obscene, violent, sexual, or pornographic content and/or language;
- Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, national origin, status with regard to public assistance, physical or mental disability, or sexual orientation;
- Libelous, defamatory, or personal attacks or comments;
- Threats of violence or illegal activity to any person or organization;
- Comments infringing on copyrighted or trademarked material;
- Solicitations of commerce;
- Comments in support of, or in opposition to, any political candidate, campaign, ballot measure, or proposition;
- Encouragement of illegal activity;
- Information that may tend to compromise the safety or security of the general public;
- Information revealing private data of any person such as addresses, credit card information, medical information, financial information, social security numbers, etc.;
- Comments containing specific or imminent threats; and
- Links leading to any of the above inappropriate forms of content.

Comments made by individuals who are not employees of the City are the expressed opinions of those individuals, and the availability of these comments on City Social Media Sites does not imply any endorsement of nor agreement to by the City, nor do these comments necessarily reflect the opinions or policies of the City.

The City reserves the right to deny access to a City social media site to any individual who violates the City's social media policy and/or commenting notice without prior notice, at any time.

Commenting Notice to be posted on all City Social Media Sites:

The City's Social Media Sites are intended to serve as a forum for communication between the public and the City of Westminster. The City reserves the right to restrict or remove inappropriate comments including those that include obscene language or sexual content, threaten or defame any person or organization, violate intellectual property rights or the legal ownership interest of another party, support or oppose political candidates or ballot propositions, encourage illegal activity, promote commercial services or products, or are not topically related to the particular posting. Comments made by individuals are the expressed opinions of those individuals, and do not necessarily reflect the opinions or policies of the City.

CODE OF CONDUCT & GUIDELINES FOR CITY EMPLOYEES AND PERSONAL SOCIAL MEDIA ACCOUNTS

The following guidelines apply to City employees when posting to personal sites other than the City's Social Media Sites. Employees who violate this policy may be subject to disciplinary action, up to and including termination.

1. Confidentiality

- Do not discuss privileged or other confidential City information, including preliminary plans, interim strategies, pending or anticipated litigation, or personnel matters.

2. Responsibility

- Employees are personally responsible for the content they publish on wikis, blogs, videos, or any other form of social media related to the City's business. Do not post slurs, personal attacks, or threats of harm.
- Don't infringe on copyrights or trademarks. Cite the source of information if it is not your own thought or idea.
- If posting to personal networking or social media sites and speaking about job-related content or about the City, authors can identify themselves as a City employee but should make it clear that you are not speaking on behalf of the City. It's best to use a disclaimer such as *"The opinions expressed on the site are my own and do not necessarily reflect the views of the City."*
- Many social media sites blur the lines between business and personal. Keep this in mind and make sure to have a balance of information that clarifies the author's professional and personal viewpoints.

3. Respect

- Use common sense when posting on social media sites; remember that what you write is public, may be public for a long time, and may spread to large audiences. Refrain from posting information that you would not want your supervisor or other employees to read or that you would be embarrassed to see in the newspaper or on television.
- If you see disrespectful opinions, negative comments, or criticism about yourself or the City and its employees, do not try to have the post removed (unless the post violates this policy or the commenting notice); do not send a reply that may escalate the situation.

4. Other Guidelines and Advice

Use good and ethical judgment. To the extent your social media use impacts City employees and clients, follow City policies and regulations as applicable, including but not limited to those that protect individual privacy rights, anti-discrimination and harassment policies, the anti-violence policy, and other relevant City policies.

Keep in mind that if your conduct adversely affects your job performance or the performance of your co-workers; is detrimental to the mission and function of the City; or otherwise adversely affects members of the public served by the City, people who work on behalf of the City, or the City's legitimate business interests, the City may take disciplinary action against you up to and including termination.

Further, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers or via other channels such as speaking with the City's Human Resources Department, discussing concerns with your supervisor, or by filing an internal complaint or grievance, if applicable. Nevertheless, if you decide to post complaints or criticism, avoid using statements, photographs, video, or audio that reasonably could be viewed as malicious, obscene, or threatening, or that might

constitute harassment or bullying. Examples of such conduct might include offensive posts that could contribute to a hostile work environment on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or any other status protected by law or City policy. Examples of threatening conduct include posting material that would make a reasonable person afraid for his or her safety or the safety of his or her family.