



Posted: Friday, August 03, 2018

NOTICE AND CALL OF A REGULAR MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold a regular meeting on
WEDNESDAY, AUGUST 08th, 2018, at 6:00 PM
In the Trinidad Town Hall, 409 Trinity Street, Trinidad, CA

CLOSED SESSION BEGINS AT 4:30PM

- I. **CALL TO ORDER**
- II. **PUBLIC COMMENT REGARDING CLOSED SESSION AGENDA ITEMS**
- III. **ADJOURN TO CLOSED SESSION**
 1. Real estate negotiations between the City of Trinidad and Verizon Wireless regarding the Trinidad Head cell site. Pursuant to California Government Code section 54956.8
 2. Real estate negotiations between the City of Trinidad and Charles Garth regarding 1 North Westhaven Dr. Pursuant to California Government Code section 54956.8
 3. Public Employee Performance Evaluation for City Manager Pursuant to Government Code Section 54957
- IV. **RECONVENE TO OPEN SESSION – CLOSED SESSION REPORT**
- V. **PLEDGE OF ALLEGIANCE**
- VI. **APPROVAL OF AGENDA**
- VII. **APPROVAL OF MINUTES – 06-14-18 scc, 06-27-18 cc2**
- VIII. **COUNCIL REPORTS/COMMITTEE ASSIGNMENTS**
- IX. **STAFF REPORTS**
- X. **ITEMS FROM THE FLOOR**

At this time, members of the public may comment on items NOT appearing on the agenda. Individual comments will be limited to 3 minutes or less. Comments should be directed to the Council as a whole and not to individual Council Members or staff. Council and staff responses will be minimal for non-agenda items.
- XI. **CONSENT AGENDA**

All matters on the Consent Agenda are considered routine by the City Council and are enacted in one motion. There is no separate discussion of any of these items. If discussion is requested by any Council member, that item is removed from the Consent Calendar and considered separately. A single opportunity for public comment on the Consent Agenda is available to the public.

 1. Staff Activity Report July 2018
 2. Financial Statements June 2018
 3. Law Enforcement Report July 2018
 4. Resolution 2018-09; Recognizing the 2nd Annual Trinidad Bay Arts and Music Festival, August 10-12 & 17-19.
- IX. **DISCUSSION/ACTION AGENDA ITEMS**
 1. Discussion/Decision regarding City Response to Grand Jury Report.
 2. Discussion/Decision regarding the City Personnel Policy Handbook.
 3. Discussion/Decision regarding Cell Tower Lease Negotiations.
- X. **FUTURE AGENDA ITEMS**
- XI. **ADJOURNMENT**

APPROVAL OF MINUTES FOR:

Supporting Documentation follows with: _____ **10 PAGES**

Minutes for the following dates are pending:

- 07-25-18 cc2

MINUTES OF THE SPECIAL MEETING OF THE TRINIDAD CITY COUNCIL
THURSDAY, JUNE 14, 2018

I. CALL TO ORDER

Mayor Rotwein called the meeting to order at 6:00 pm. Council members in attendance: West, Ladwig, Rotwein, Miller, Baker. City Staff in attendance: City Manager Dan Berman, City Clerk Gabriel Adams, City Planner Trever Parker.

II. PLEDGE OF ALLEGIANCE

III. PUBLIC COMMENT ON CLOSED SESSION ITEMS

1. Jim Cuthbertson: Renegotiate the cell lease.
2. Dorothy Cox: STR complaints from last October still haven't been responded to.

IV. CLOSED SESSION

1. Public Employee Performance Evaluation and Contract Negotiations for City Manager Pursuant to Government Code Section 54957
2. Conference with legal counsel regarding real estate negotiations between the City of Trinidad and Verizon Wireless regarding the Trinidad Head cell site. Pursuant to California Government Code section 54956.8

V. CLOSED SESSION REPORT

The City is considering a 1-year, \$58,000 lease extension with Verizon.

VI. APPROVAL OF AGENDA

*Motion (Miller/Baker) to approve the agenda as amended, moving discussion agenda item 5 up to number 2 in order. **Passed unanimously.***

VII. APPROVAL OF MINUTES – 04-30-18 scc

*Motion (West/Baker) to approve minutes as written. **Passed unanimously.***

VIII. COUNCIL MEMBER REPORTS, COMMITTEE ASSIGNMENTS

West: Nothing to report.
Baker: Nothing to report.
Miller: Nothing to report.
Ladwig: Nothing to report.
Rotwein: Working with the Trinidad Rancheria on an application to raise the tsunami siren. Waiting for a support letter from the OES. Trails Committee is discussing vegetation management.

IX. STAFF REPORTS

City Manager Berman's written staff report was included in the packet. Various highlights included 1) Solar feasibility study being done on the Town Hall by RCEA. 2) Administrative support staff Nicole Provolt resigned effective May 31. 3) TPW Director Bryan Buckman is expected to return soon from his leave of absence. 4) TPW working to get the City ready for the upcoming Fish Festival. 5) Stormwater Construction project start date has been delayed. 6) Law enforcement activity recap.

Mayor Rotwein noted that the STR Committee recruitment was stalled out due to staffing shortage.

X. ITEMS FROM THE FLOOR

(Three (3) minute limit per Speaker unless Council approves request for extended time.)

Jim Cuthbertson – Trinidad

Status of the Van Wycke Trail? Complained about the status of the Wagner Street Trail. City Planner Trever provided a brief response/update on the Van Wycke Trail status.

Dorothy Cox – Trinidad

Ask for the law enforcement report on the consent agenda to be pulled for discussion. Read a letter from Arcata resident Kim Tays that 1) Asked the city to contact Google and request the Trinidad Head road be removed from their map program, 2) The City Planner shouldn't have to take minutes and run the meetings at the same time, and 3) Disagree with the Council catering to Mike Morgan's request to limit parking on the bluff.

WRITTEN COMMENTS SUBMITTED PRIOR TO THE MEETING

Kathleen Lake & Tom Davies – Trinidad

Submitted a 4 page letter that covered topics such as written comments, TOT allocation suggestions, the City Website, STR's, public access to documents, ADU Ordinance, General Plan, OWTS permits, Minutes pending,

Law Enforcement, parking impacts, detached living spaces, the budget, and City Manager performance evaluation.

XI. CONSENT AGENDA

1. Financial Status Reports for April 2018.
2. Staff Activity Report for May 2018
3. Law Enforcement Report – May 2018
Pulled for discussion at the request of resident Dorothy Cox, who argued that the reports weren't thorough enough and do not include numerous, significant events that occurred recently. Mayor Rotwein requested that City Manager follow up and ensure the reports are submitted on time and complete.
4. Approve Resolution 2018-06; Authorizing the City Manager to sign a USDA SEARCH Grant Agreement
5. Amendment to Consultant Agreements for Services for Ocean Protection Council Citywide LID Grant Project
6. Resolution 2018-07; Implementing the Civic Club request to Consolidate the Coastal Development Permit Process for the Follow-up Permits from the Memorial Lighthouse Relocation.

Motion (Ladwig/Miller) to approve the consent agenda. Passed unanimously.

XI. DISCUSSION/ACTION AGENDA ITEMS

1. Discussion/Decision regarding Time-Limited Parking Restriction on Edwards Street Bluff between Trinity Street and Ocean Ave.
City Berman explained that this Ordinance would amend the City Code to establish time limits on parking at the Upper Edwards St. View area (the south side of Edwards St. between Ocean Ave. and Trinity St.) This is a very popular view area for residents and visitors. There is currently nothing preventing people from parking there all day. Staff agrees with the Council's direction that this area is appropriate for time limited parking so that more people can stop, enjoy the view, and move on for the next person.

In order for this restriction to be enforceable, it needs to happen through an Ordinance and become part of the Municipal Code. The current draft Ordinance proposes 20-minute parking. This has the advantage of being easy to indicate with a green painted curb that is familiar to people, with '20 min parking, View Area'

The Council could instead set a 1-hour or 2-hour limit. Staff see 20-minute parking as consistent with the idea that this is a place to stop and enjoy the view, but not an appropriate place to park for any extended periods. That can be done away from the bluff edge view locations. As with most City ordinances, voluntary compliance will be the primary approach, but enforcement will be possible through the Humboldt County Sheriff's Office. City staff cannot issue parking tickets, but we can help document the time someone has been parked, and create formal warning 'tickets' to facilitate compliance.

Berman also added that a representative from the Coastal Commission informed him that the change may require a Coastal Development Permit before it can be implemented and enforced. **City Planner Trevor Parker** stated it was unclear whether a CDP is required. It is not addressed in the City's LCP, and the City has the authority to regulate parking and traffic concerns. She reminded the Council that policies and infrastructure is slowly being eliminated throughout town, and suggested developing parking in other places at some point.

Public comment included:

Mike Morgan – Owner, Trinidad Bay Bed & Breakfast

We don't like having to be the parking police. We brought this to the Council. Enforcement will be more efficient and affective if the Deputy only has to wait 20 minutes to determine whether they need to remove a nuisance vehicle from the area. Our main problem is people parking there all day camping and using drugs. I'm not concerned with comments made by the Coastal Commission, or the B-S comments submitted by Kim Tays.

Jim Cuthbertson – Trinidad

Handicapped individuals can stay there all day if they want to.

Dorothy Cox – Trinidad

I am offended by Mr. Morgan's inappropriate comments. RV's are the issue, and I'm concerned these restrictions may cause more parking problems on Ocean Avenue.

Council comments included:

Miller: I support decorum in meetings, as well as the 20-minute parking limit.

Baker: 20-minutes seems short. 1-hour is appropriate, but I support whatever makes sense from an enforcement perspective.

Ladwig, West, and Rotwein agree support 20-minutes.

*Motion #1 (Rotwein/Miller) to support the 20-minute restriction. **Passed unanimously.***

*Motion #2 (Miller/Ladwig) to waive the full reading of Ordinance 2018-01 and conduct the first reading by title only. **Passed unanimously.***

2. Discussion/Decision regarding Planning Commission Recommendations; Definition of a Kitchen, Detached Living Spaces, and Administrative Fines

City Planner Trever Parker explained that in March 2017, the Council directed the Planning Commission to discuss the issue of regulating detached living spaces. At their regularly scheduled meeting on April 18, 2018, the Commission adopted two different policies to help staff determine appropriate use of and improvements allowed in detached living spaces. These include definitions for a kitchen and wet bar that would apply to all spaces, not just detached living spaces, and the standard conditions for future approvals of detached spaces.

The Planning Commission also considered the possibility of recommending administrative rules for STR's for adoption by the City Manager per the STR ordinance. However, the Planning Commission felt that the City needs to step up enforcement of existing regulations, but did consider enforcement and fines as part of the detached living spaces discussion. The discussions resulted in two unanimously approved recommendations to the Council;

1. *The Planning Commission finds that real-time enforcement and complaint follow-up is critical to public safety and the well-being of the Trinidad community and recommends that the city Manager and City Council pursue Measure Z funding for a code enforcement officer and additional law-enforcement coverage, and immediately engage the Sheriff's Office to negotiate increased patrols that include enforcement of City codes as well as other applicable laws.*
2. *The Planning Commission recommends that the City Council adopt and implement a comprehensive administrative fine ordinance.*

Public comment included:

Mike Morgan – Trinidad

Asked how the City will approach enforcing detached living spaces. **City Planner Parker** explained it would be done on a case-by-case basis, on new construction, or by complaint.

Council comment included:

Baker: The policies for detached living spaces and definitions for kitchens are not ordinances. They are intended to be guidance for staff.

Rotwein: I am in favor of moving forward on fines and fees. Enforcement is critical. City Manager Berman stated he would ask the City Attorney to help draft the ordinance for fines and fees.

*Motion (Miller/West) to support definitions and authorize Staff to develop an ordinance that establishes administrative fines and fees. **Passed unanimously.***

3. Discussion/Decision regarding Trails Committee Bench Policy

Mayor Rotwein explained that the Trails Committee has developed the attached Bench Policy and is recommending the Council review and approve it. Staff supports the recommendation. As a policy and procedures guide, it can be reviewed and revised over time as appropriate. The Policy sets a \$1000 fee to establish and mark existing benches in memorial for 10 years, and addresses the details of how to handle existing memorials, notify 'owners', and provide opportunities for new individuals or families to designate benches in memory of loved ones. The Public Works Staff are working with local high school wood and metal shops on an improved standard design for the benches.

Public comment included:

Dorothy Cox – Trinidad

My bench needs repairs, so please clarify the repair process. The price seems high.

Shirley Laos – Trinidad Rancheria

I'm on the trails committee and participated in the process to develop the policy. The committee felt that making payments would be too laborious to track, so the full fee would be required up front.

Mike Morgan – Trinidad

Offered to pay ½ of Kay Cameron's bench renewal fee. There should be a page on the website that is dedicated to the bench dedication process.

*Motion (Ladwig/Baker) to approve the updated Bench Policy as submitted. **Passed unanimously.***

4. Discussion/Direction regarding FY2018-19 Budget and Workplan

City Manager Berman presented information prepared in response to questions brought up at the May budget workshop.

Public comments included:

Jim Cuthbertson – Trinidad

I'm not satisfied with the job being done by Public Works.

Dorothy Cox – Trinidad

Spending \$8,000 on a salary comparison study is ridiculous. We can do this internally. The Town Hall does not need \$15,000 of work at this time, and although I appreciate the Museum and Chamber, they shouldn't be getting subsidies from the City. Please do a thorough review of the City fees for services.

Council comments included:

Rotwein: Does the City have a capital improvement plan for Town Hall? We need to prioritize hiring full-time administrative support. We still have not been provided a staffing plan. Administrative support is a core position and can be funded with the contributions the General Fund is making to the Grant Administrator position if necessary.

Miller: I'm concerned about hiring a full-time position and leaving gaps in future years, but we need it. I also support a salary increase and taking a serious look at the impacts that losing the Trinidad Head cell site revenue will have on the budget. We owe it to the City and Staff to perform a salary study. I support contributing to the Chamber, Library, and Museum, but we must keep our revenue sources in mind. I also support the Grant Admin position being partially funded by the General Fund.

Baker: Prioritizing workloads for limited Staff is the reason why things aren't getting done. Training is expensive. I support the salary study.

Ladwig: I'd rather hire ¾ time and upgrade when we know the budget forecast, and I definitely support including merit increases for Staff. Sources of grants seem variable, as many have match components. The water fund seems self sufficient, but a City fee study is warranted. We have a responsibility to make the full-time position happen.

West: I agree with Ladwig, and would like the City Manager to inform the Council of why the Grant Administrator position is so important to the City at the next meeting. The City needs full-time Administrative Support, and I think we'll attract better candidates if we hire for that now.

*Motion (Ladwig/Baker) to begin the recruitment process to hire a full-time Administrative Support position immediately, and commit to reviewing possible revenue streams for future funding as needed. **Passed unanimously.***

By consensus, the Council supports the discretionary expenditures proposed and authorized the City Manager to include them in the upcoming final budget preparation.

The next meeting will be held on June 27, but the first regular meeting in July was canceled due to Council scheduling issues.

5. Discussion/Decision regarding Parker Street Right-of-Way Encroachments.

City Manager Berman explained that Parker St. is quite narrow as it passes between the four-plex apartments on the south side of the Street and 640 Parker St. on the north side of the street. This narrow spot results in part from significant encroachments on the street right of way that are occupied by rocks, soil, and vegetation in front of 640 Parker St. and (to a lesser extent) in front of the 'Picker's Paradise'. There are also encroachments on the opposite side of the street, where the cherry tree and the parking for the apartments are partially in the right of way. When people park on the north side of the street in front of these encroachments, it becomes a one lane street trying to handle two-way traffic. The angled intersection of Underwood and Parker further limits visibility.

These encroachments have been in place for many decades, predating the current owners of these homes. Encroachments in the street right of way require an approved encroachment permit from the City; however many such encroachments exist throughout town without any permit, including these. Many residences farther along Underwood also have unpermitted encroachments, including fencing, vegetation, and other landscaping within the right of way, some of which prevent safe street-side parking.

Staff's general approach with the issue of encroachments is to:

- a) Prevent new encroachments from occurring without a permit;
- b) Inform residents of the location of the right of way line, the need for encroachment permits within the right of way, and the potential that the City may reclaim this area for the public benefit; and
- c) Consider reclaiming the right of way on a case by case basis

The City has received concerns from residents who find this situation hazardous due to the narrow street, people parking within this narrow spot, and the vegetation on the north side of the street obstructing the view of oncoming traffic. Staff has discussed the situation with the residents of 640 Parker St. They were surprised to find so much of their front yard was actually in the street right of way, and would prefer not to see it removed. They agreed as an initial measure to have the vegetation trimmed back further for visibility, and supported the idea of restricting parking in front of the encroachment. Staff thinks the current situation is not safe, and sees two primary options for consideration by the Council: limited restoration and a restriction on parking in this location, or full restoration of the right of way.

Limited Restoration: This would involve trimming existing vegetation in the encroachment to improve visibility for drivers, and marking this narrow spot as 'no parking' with red paint and signage. The City would retain the right to reclaim the right of way in the future. This would remain a narrow point in the road, but with better visibility and no parked cars to obstruct the street. The paved width would not change.

Full restoration: This would involve heavy equipment work to remove rocks, soil, and vegetation in the right of way, effectively widening the street. The reclaimed area would be leveled and graveled, creating two or three (safe) parking places along the north side of the street where the encroachments currently exist. Visibility would be improved. The City would bear the cost of the work, roughly estimated at \$5,000. Some savings would likely result if the work was done during the Hector St. Rain Garden improvements, as the equipment and manpower would already be present.

Pros and Cons:

Each of these situations is unique. In this case, the location represents a 'break' between the commercial businesses on Trinity and Parker St., and the dead end residential street of Underwood. There is an aesthetic and engineering argument that narrower streets can be beneficial in helping slow traffic and creating a buffer between the commercial and residential areas. Full restoration would have the benefit of creating (or at least moving farther out of the road) two to three safe parking places, which are in demand in this area of town. The limited restoration option would eliminate two very unsafe parking places.

Staff recommends that the City first try the limited restoration option with parking restrictions. The vegetation work is largely complete. The City would 'red stripe' this zone and place a no parking sign. We would see how it goes, and reassess based on the results and feedback from the neighborhood. If it seems safe, and the neighborhood concerns are resolved, this would be a cheaper and easier solution with less disruption to the residents. If it does not resolve concerns, full reclamation of the Right of way could be pursued.

Council questions included:

Baker: Who determined the location of the property lines? It's important to follow the law and understand where the property lines are. People have been allowed to landscape public right-of-way's all over town. I'd like to see a standard Engineering practice take place to ensure property lines are accurately located.

Ladwig: I think we should table this discussion until we know what we're talking about.

West: I'm concerned with eliminating up to 3 more parking spaces.

Miller: I support the City Manager's recommendation to restrict parking in the area and re-assess this in the near future.

Public comment included:

Jim Cuthbertson – Trinidad

I bought that property in the mid 1990's. There are stakes on the property corners.

Anne Pinske – Trinidad

I drive by that spot everyday. The person that built that home extended the landscaping into the roadway. I support adding the red stripe to prohibit parking there until the encroachment is addressed.

Mike Morgan – Trinidad

I apologize for my choice of words earlier. Has this concept gone through the Planning Commission yet?

Dorothy Cox – Trinidad

A new hedge was planted on in the Underwood right-of-way and the City Manager ok'd it. Ocean Avenue is much safer now with the encroachments removed. Why should anyone ask for permission when this other people just do it?

Mike Pinske – Trinidad

This is a dangerous and congested area. Cars should not be parking there. Paint it red asap.

City Planner Parker suggested the Council consider the huge right-of-way on Hector street and continue developing it into public parking.

Council comments included:

Ladwig: Add the red stripe now to make the situation safer right away.

Miller: We need to develop a policy that is legal and reasonable for the City to analyze future encroachment issues. I support the red strip and prohibiting parking in that area immediately.

Rotwein: I'm in favor of removing the encroachment immediately, while heavy equipment is already on site. I'm ok with the red strip for now, but think we should ask the Planning Commission to weigh in on this soon.

Baker: These are Planning issues that need to be dealt with.

*Motion (Miller/West) to direct Public Works to red stripe the encroachment area on Parker Street, and for the City Manager to determine – by survey – the road right-of-way and bring this issue back to the Council at a future meeting. **Passed unanimously.***

XII. FUTURE AGENDA ITEMS – None

XIII. ADJOURNMENT: 9:15 pm

Submitted by:

Approved by:

Gabriel Adams
Trinidad City Clerk

Susan Rotwein
Mayor

MINUTES OF THE SPECIAL MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, JUNE 27, 2018

I. CALL TO ORDER

Mayor Rotwein called the meeting to order at 6:00 pm. Council members in attendance: West, Ladwig, Rotwein, Baker. **Miller – Absent.** City Staff in attendance: City Manager Dan Berman, City Clerk Gabriel Adams.

II. PLEDGE OF ALLEGIANCE

III. CLOSED SESSION – No closed session.

IV. APPROVAL OF AGENDA

Motion (Ladwig/Baker) to approve the agenda as written. Passed 4-0.

V. APPROVAL OF MINUTES – 05-09-18 cc, 05-29-18 scc

Motion (West/Ladwig) to approve minutes as corrected. Passed 4-0.

VI. ITEMS FROM THE FLOOR

(Three (3) minute limit per Speaker unless Council approves request for extended time.)

Kathleen Lake – Trinidad

Submitted a written complaint/statement regarding an incident that occurred at a recent Planning Commission meeting that involved Commissioner Mike Morgan and a self-defense/taser device. Intimidation and bullying is unacceptable behavior and must not be tolerated.

Pat Morales – Trinidad

I support Kathleen Lake's statement. Mr. Morgan has a reputation for harassment. I experienced it first-hand while he was on the Council many years ago. The Council should investigate the complaint.

Tom Davies – Trinidad

The Planning Commission should not spot-zone the 4-plex on Parker Street, and should not allow there to be 4 STR's onsite. I also do not support the 20-minute parking limit on the bluff. It will push parking onto the interior streets. These issues benefit very few people, and the City should not do favors like this.

Brett Gregory – Trinidad

Vice-Chair of the Planning Commission. I do not support the 20-minute parking limit. It will be a waste of public resources to have to enforce this.

Councilmember Baker asked that the Staff Reports section should be included on every agenda. The Council agreed. He also asked to see City Manager Berman first thing in the morning regarding the complaint referenced tonight.

VII. CONSENT AGENDA – No consent items.

XI. DISCUSSION/ACTION AGENDA ITEMS

1. Discussion/Decision regarding Resolution 2018-08; Adopting the FY 2018-2019 Budget.

City Manager Berman explained that the proposed FY 2019 City of Trinidad budget is submitted to the Council for review tonight. The budget has been discussed at four prior Council meetings this spring.

A brief summary of City Program Areas is included below.

General Fund Administration (2.1 FTE)

This budget unit funds pro-rated employee salaries, liability, property and casualty insurance, contracted planner, building official, attorney, financial contractor, bookkeeper, auditor, lease of city annex and library, utility costs, distribution of transient occupancy taxes (TOT), and office supplies. This budget includes a new full time administrative assistant position that is currently being advertised.

Planner activities are budgeted as follows*

- General Plan/LCP \$ 22,000

• STR Ordinance	3,000
• Planning Commission	8,000
• Permits (offset by revenue)	net zero
• City Projects	4,000
• Miscellaneous, general planning	14,000
• OWTS Permits (<u>offset by OWTS fees</u>)	
	\$51,000

Attorney costs are estimated at \$20,000, which includes \$10,000 toward defense of litigation.
 Building Official \$7,000 plus reimbursable permit process fees.
 Distribution of a portion of TOT receipts (~\$15,000)

General Fund Law Enforcement (.1 FTE - counting City staff time only)

\$75,000 in Measure Z funds will be used to maintain 1.5 full time Deputy Sheriffs. This provides an assigned deputy working a 10 hour shift six days a week. \$105,000 is anticipated to be funded by Community Oriented Policing Services (COPS) revenue.

General Fund Fire

The Fire budget includes \$5,000 to start replacing outdated SCBA (Breathing Apparatus) equipment.

General Fund Public Works (1.9 FTE)

Budget includes pro-rated staffing costs, town hall, annex and library supplies, street paint, signs, trail and park maintenance. Specific Projects include:

Town Hall Maintenance work	\$15,000
OWTS Permitting	(costs are in staff time)
Trail Maintenance	\$3,500
Contracting for Grounds Maintenance	\$20,000

Completing Implementation of the OWTS Permit system across the City is a priority project this year. Staff are utilizing CalFire crews for trail maintenance and working to develop a contract with HCAR (Humboldt Community Access and Resource Center) for some grounds-keeping work.

Integrated Waste Management (.28 FTE)

This Budget includes pro-rated staffing costs, franchise revenue and AB939 pass through from Humboldt Waste Management Authority.

Revenue:	\$ 16,700
Expenditures:	\$ 22,944
Difference (from fund balance)	\$ (6,244)

The expected deficit of \$6,244 can be absorbed from the remaining IWM fund balance of ~\$9,000. The auditor recommends incorporating this program into the General Fund once the fund balance is depleted.

Cemetery (.35FTE)

Budget includes pro-rated staffing costs and plot sales.

Revenues:	\$ 6,200
Expenditures:	\$ 24,343
Difference (from reserve)	\$ 18,143

Cash assets in this fund are approximately \$90,000, and will cover this deficit. The cemetery fund is steadily declining. The auditor recommends that the City plan for the General Fund to absorb cemetery maintenance costs in the long run.

Water Fund (2.1 FTE)

The City's Water Enterprise Fund is doing well. We have completed major improvements to the Water Treatment Plant in recent years. This budget includes setting \$20,000 aside for reserves and budgeting for water line repairs. Water line replacement work is planned for East St., to be done concurrently with storm water grant work in summer 2018.

Looking Ahead - Budget Planning for future years: The City faces General Fund budget challenges in the coming years, due to both anticipated losses of revenue (cell tower, Harbor area revenue, TOT reductions) and increasing expenses (staffing to accomplish increasing administrative duties, rising personnel costs, capital maintenance and replacement for our streets and buildings). The City is well positioned in having healthy reserve funds, but should not put off planning for what could become structural deficits going forward.

Staff recommends the City Council discuss and address longer-term budget challenges on a recurring (quarterly?) basis over the coming year. Possibilities to reduce expenses and increase revenue should be evaluated and prioritized.

Council questions included:

Rotwein: Concerned about decreasing future revenue projections, and requested information regarding various sources such as franchise fees, harbor lease, business licenses, sales tax, occupancy tax, interest income, and updating the fee schedule. The auditor recommended folding the cemetery into the general fund, and the City needs to relieve the general fund from funding the Grant Administrator position.

Public comment included:

Tom Davies – Trinidad

Questions about police services. Regarding the Administrative Support position, it is not responsible to hire for a position that you may not be able to afford in future years.

Kathleen Lake – Trinidad

1) Concerned about payroll allocations and would like to see how each position is funded. 2) A fee analysis must be done. 3) Grant Administrator position should be fully supported by grants. I'm very concerned about transparency and how this budget has been presented. If the policy and procedures manual include a merit-based pay scale, then why are we talking about a COLA increase? The policy ensures employees are treated fairly. Future budgets should show salary steps. The Council should be careful hiring for a position that may not be sustainable in the future.

Dorothy Cox – Trinidad

How have last year's Council approved raises been implemented?

Council comments included:

Ladwig: Grants don't always cover 100% of salaries, and that can't be expected. There's a big difference between a grant writer and a grant administrator. I'm in favor of COLA increase this year, but I'd rather see merit increases that will make up for the unimplemented increases from last year. Based on the information presented tonight, it's clear that the City can afford it and I can support the budget as submitted. If we continue the discussion, at the next meeting we should focus on the issues we ask the City Manager to review, and focus on being financially responsible.

Baker: It would be useful to see the salary allocation for each employee. The information should be presented in a way that's easy to understand to both the Council and public. I'm not seeing what I need to see to make an informed decision. Budgets change quickly. I'm concerned about the COLA salary increase. It is important to retain good employees.

West: I agree with Baker. At the last meeting I requested a presentation that explains why the Grant Administrator position is so important to the City. Maybe we should hire someone to explain how this works. Why did some people get raises last year and other's did not? I want to make sure our topped-out employees are retained and I support merit increases this year - not necessarily an across-the-board COLA increase.

Rotwein: The Council needs to determine how much money is available for raises before considering a COLA increase. I suggest backing out the COLA in the budget presented and re-evaluate by using merit and longevity increases. The Grant Administrator position is fluff and should be funded 100% by grants.

No final decisions were made. Continued to the July 25 meeting.

2. Discussion/Presentation regarding the November Election Schedule and Upcoming Deadlines.

City Clerk Adams explained that the City's November 06, 2018 Election ballot may include one item; Three (3) Councilmember seats. The seats that expire this year are currently filled by **Susan Rotwein, Jim Baker, and Dwight Miller**.

The list of deadlines related to the Election is as follows:

- **On or before July 14 - Election Notice:** A notice will be published in the 3 locations throughout the City (City Hall, Murphy's Market, and the Trinidad Post Office), and in the Mad River Union announcing the November Election and the Council positions available.
- **July 16 – Candidate Nomination Period Opens:** Anyone who wants to file as candidate for one of the (3) open positions may pick up nomination packets from the Clerk's office at the Town Hall. Fee for filing a candidate statement in the election ballot is \$375. Payment must be made when the nomination packets are submitted. **Deadline for incumbents to file nomination papers is 2:00pm, Friday, August 10.**
- **August 10 – Deadline for Incumbents to file Nomination Packet**
- **August 15 – Deadline for Nomination Packets IF NO INCUMBENTS file for the positions.**
- **August 23 – Deadline to Appoint Council Candidates:** If only 3 or less candidates apply for 3 open positions, the Council may choose to appoint the members and cancel the election. If this ends up being the case, the Council will have to hold a Special Meeting sometime between the August 15 and August 22 and make their announcement to the public. If not, by default the election process will be held with the qualified candidates running unopposed.
- **November 06 – Election Day**

No decision was made. Informational item only.

VIII. FUTURE AGENDA ITEMS

- Morgan Complaint
- Update on Van Wycke Trail
- County Cannabis Permit Referrals

XIII. ADJOURNMENT: 9:15 pm

Submitted by:

Gabriel Adams
Trinidad City Clerk

Approved by:

Susan Rotwein
Mayor



CONSENT AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 0 PAGES

1. Staff Activity Report July 2018

NO DOCUMENTS WERE SUBMITTED FOR THIS AGENDA ITEM, BUT MAY BE DISTRIBUTED AND PUBLISHED PRIOR TO THE MEETING.



CONSENT AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 6 PAGES

1. Staff Activity Report July 2018



*Susan Rotwein, Mayor
Dan Berman, City Manager*

STAFF ACTIVITIES REPORT

For Council Meeting of August 8th 2018

City Administration:

Grand Jury Report on Short Term Rentals –

The Humboldt County Civil Grand Jury completed a Report regarding Short Term Rentals in Trinidad which was provided to the City in late June.

See Action Agenda item – where Council will consider a first draft response.

Construction in Trinidad

The stormwater infiltration work funded by the Ocean Protection Council is currently underway on Hector/Underwood, and on East Street.

Trails Advisory Committee- Recommendation re: dogs on Trinidad Head is now part of City Code. Memorial Bench Policy is complete. Trail Maintenance Policy is under development.

OWTS Permits - Staff progress on OWTS Permits has slowed with the departure of our Administrative Assistant, but should resume as that position is filled in August.

Trinidad Rancheria Efforts to put the Harbor Property in Federal Trust Status.

The City requested an update from the Bureau of Indian Affairs and was informed that BIA is still working on responses to the comment letters received. No timetable for next steps was provided, but the City and other commenters are on the notification list for this project.

STR Ordinance

The revised (2016) Ordinance is now in effect. 28 STR licenses have been issued. The UR zone is near its cap (21 licenses, cap of 19). The SR zone is below the cap. The new ordinance has resulted in at least three licenses going away upon property sales, and the number of guests in the UR zone has come down by 26 due to lower allowed occupancy and some rentals losing their license upon sale.

Tsurai Study Area Settlement and Land Transfer.

A draft settlement and land transfer was conditionally approved by Council in December 2016. Additional agreements were deemed necessary because of prior legal settlements involving multiple state agencies. Efforts to resolve this complication and complete the settlement and land transfer are ongoing.

Planning

Detached Living Spaces

The Planning Commission has completed their effort to provide recommendations to the Council on this issue and are returning to the Local Coastal Plan update as well as regular permit applications.

General Plan Update

We are about a year behind the ambitious schedule presented in the last major update to the Council that was provided in a memo dated January 19, 2017. Since then, City staff did apply for supplemental funding and an extension to the Coastal Commission grant period to complete much of the work. That was approved, and the grant period now runs to October 31, 2018. I am still hopeful that we can meet our grant obligations within that time. The following is an update on the various tasks.

- *Planning Commission Review* – The Planning Commission has reviewed all the draft elements of the General Plan again. That occurred from January 2017 through July 2017. Although the Planning Commission had several special meetings to keep that discussing going, it still took well over the estimated two months.
- *Background Reports and Information* – Staff held two harbor area stakeholder meetings on April 17, 2017 (one during the day and one in the evening). Informal Tribal consultation has not been very fruitful so far, but staff continues to seek input.
- *Update Draft General Plan* – Staff have been working on incorporating the Planning Commission comments into the draft, as well as information from recent background reports such as the one regarding climate change and sea level rise. In addition, comments from the harbor stakeholder meeting have been incorporated. Staff have also been adding to the draft elements where deficiencies were identified after an analysis based on the Coastal Commission's LCP update guidelines. In addition, the State adopted new General Plan Guidelines in 2017, which staff have been reviewing for consistency with the existing draft. Staff have finalized revisions to the Land Use Element, and Conservation and Open Space Element, and are currently working on the Circulation Element and Cultural Resources Element. We have been waiting for updated maps in order to start submitting elements to the Coastal Commission for their staff review, but plan on starting to submit drafts this week regardless of whether all the maps are complete.
- *Zoning Ordinance* – Staff have started drafting zoning ordinance updates to make it consistent with the draft general plan and current Coastal Act requirements.

Cell Towers – See agenda

Memorial Light House – The permit for work to date will be before the Planning Commission in August.

CalFire Water Line Extension

The City has approved the LCP/General Plan amendment process required for this. CalFire will be returning soon with an application to the City (and County) for the CDP and other necessary permits for the physical construction of the water line.

WATER SYSTEM

Install Streamflow Monitoring on Luffenholtz Creek (Water Fund)

This is complete, with flow monitoring being conducted to calibrate the automated monitoring system. The data can be viewed at the following link, soon to be on the City Website: <https://m2x.att.com/dashboards/shared/483d35e70ccd5170cf6646115b13a19d?>

Resolving Title at Water Plant The Water Plant was built on the old County road right of way, and that has never been cleaned up. The County has indicated they are open to helping us resolve this.

Water Distribution System - A major water line under East St. is being replaced.

PUBLIC WORKS

Staffing

Bryan Buckman is back at work as our Public Works Director. Paul Rosenblatt has left the City to take a position with the Westhaven CSD Water System. The City is currently advertising to fill his position.

Trinidad Head Trail Maintenance – City staff worked with a Calfire CDCR crew to implement trail vegetation and view maintenance around Trinidad Head.

Ground Water Level Monitoring – Additional monitoring and report are included in new grants.

Town Hall ADA Improvements. A push button automatic door opener is in place. A complete ADA assessment of the Town Hall has been completed.

Trinidad Library/Saunders Park ADA Improvements. A county review of ADA compliance issues in and around the library was recently completed.

PROJECT & GRANT COORDINATOR ACTIVITIES

Manage Grant Projects – Provide administrative support for all grants. Coordinate with staff, consultants and project partners. Work on specific tasks reported for each grant below.

Work on non-grant (general fund) tasks as assigned:

- Staff City Hall when City Clerk is out of the office

- Provide administrative support for the City Council Trails Advisory Committee
- Assist with budget preparation, review budget to actual, and payroll

Work with funders to increase grant budgets and develop new grant funding. A total of \$997,273 in new and additional grant funding has been secured by the Project and Grant Coordinator since June.

- **\$77,150 funding increase of the Proposition 1 Ocean Protection Council grant** for the Citywide Low Impact Development Planning and Construction Project. (June 2018)
- **\$25,000 awarded by USDA Rural Development** for developing a Project Engineering Report (PER) for the Storm Water Management Improvement Project Phase 2. The PER is used to prepare the Storm Water Project NEPA Environmental Assessment (EA). (June 2018)
- **\$895,123 increase of the awarded Proposition 84 Storm Water Grant Program** funding for the Storm Water Management Improvement Project phase 2. (July 2018)

Project Name	Clean Beaches OWTS Repair & Replacement Grant		
Grant Budget	\$480,075	Funding Source	Prop 84 Clean Beaches Initiative Grant
Match	\$119,500	Match paid by	Property owners, City and Consultant
Term	6/1/15 - 3/31/19	City Personnel Costs	Reimbursed by grant funds

Project Summary: The OWTS Repair Project identifies and prioritizes failing OWTS (septic systems) that threaten water quality in Parker, Luffenholtz and Joland Creeks, then works with interested property owners to upgrade (repair or replace) their failing system. Partial funding assistance is offered to eligible homeowners as an incentive to bring their systems up to code. The public outreach and education component provides information to residents about care and maintenance of their OWTS as well as explaining the funding assistance program.

Status: All construction of OWTS repairs and replacement with funding assistance through this grant project must be completed by October 1, 2018. Two projects are scheduled for construction in August and September, including Hidden Creek RV Park, and replacement of 9 systems were completed in 2016 and 2017.

Project Name	Citywide Low Impact Development Planning and Construction Project (OPC Project)		
Grant Budget	\$848,650	Funding Source	Prop 1 Ocean Protection Council
Match	\$0	Match paid by	NA
Term	10/25/16-6/30/19	City Personnel Costs	Reimbursed by Grant

Project Summary: The purpose of the Citywide LID project is to develop storm water infiltration policies to protect the bluff based on groundwater modeling data and construct storm water system improvements on Hector and East Streets to eliminate the discharges

to the Trinidad Bay (ASBS) from these areas in the upper part of town. These improvements were planned in 2012 during the Phase 1 and were funded as a shovel-ready project.

Project Status: The construction on Hector and East Streets is currently underway. After the rainy season has started, after completion of the construction, the Hector Street raingarden will be landscaped.

Project Name	Storm Water Management Improvement Project Phase 2 (ASBS Storm Water Project)		
Grant Budget	\$4,833,000	Funding Source	Prop 84 Storm Water Grant Program
Match (City)	\$15,000	Match paid by	General Funds-staff costs through Aug 2017 to develop project
Match (Other)	\$26,000	Paid by	USDA SEARCH Grant for Project Engineering Report
Match (Other)	\$500,000	Application Pending	USDA Rural Development Storm Water Grant/Loan Financing
Term	9/1/17 - 6/30/20	City Personnel Costs	Reimbursed by Prop 84 grant beginning September 2018

Project Summary and Background: This is the final phase of the ASBS Storm Water project to eliminate the storm water discharge into the Trinidad Bay (Area of Biological Significance or ASBS) by improving the system along Underwood, Edwards, Ewing, Gallindo, Van Wycke, and down to the harbor parking lot area. Phase 1 of the Project improved the storm water system on Trinity and Ocean Streets to redirect and treat storm water from much of the upper part of town that had been discharging into the ASBS. The OPC Citywide LID Construction project is a component of the overall project.

Status: The SWGP grant agreement has been finalized, and is being processed for execution. The NEPA Environmental Assessment (EA) has been completed and submitted to USDA (the Lead Agency for the Project). The USDA Grant/Loan Application will be underwritten by USDA when the NEPA has been approved. USDA anticipates approving the application for funding in September or November of this year.

Project Name	LCP Planning and Sea Level Rise Update Project		
Grant Budget	\$80,000	Funding Source	Coastal Commission LCP Planning Grant Round 2
Match	\$35,000	Match paid by	City GF for planner and staff LCP update costs
Term	4/13/15 - 10/31/18	City Personnel Costs	60% grant reimbursement, 40% GF

Project Summary: The project assists the City with updating the Local Coastal Program (General Plan) to reflect and address changed conditions and effects of climate change and sea level rise.

Project Status: The City Planner and city staff work on several grant tasks including incorporating policies based on the *Climate Change Vulnerability Report and Adaptation Response Recommendations*; tribal consultation including providing them with the new draft of the Cultural Resources Element, Revising the Land Use Element to incorporate stakeholder input for the Harbor area policies and regulations, and updating the LCP. The grant project will be completed in October 2018.

Project Name	LCP Update Project 2		
Grant Budget	\$51,000	Funding Source	Coastal Commission LCP Planning Grant Round 4
Match	\$10,000	Match paid by	City GF for planner and staff LCP update costs
Term	11/1/17-12/31/19	City Personnel Costs	Grant reimburses 87%, GF 13%

Project Summary: This second grant project will focus on developing a Coastal Hazards Plan/Recommendations and Water Supply Assessment to support planning and work on the General Plan/LCP update.

Project Status: This project has just started, so work includes background research and setting up the project files.

Project Name	Van Wycke Bicycle and Pedestrian Connectivity Project (Van Wycke Trail Project)		
Grant Budget	\$692,000	Funding Source	Caltrans Active Transportation Program (state funding only)
Match	\$8,000	Match paid by	City
Term	7/8/16 - 4/1/21	City Personnel Costs	Not reimbursed by grant except final educational phase

Project Summary: This project will improve the Van Wycke Trail to provide better access and safety for pedestrians and bicyclists between Edwards Street and the Harbor Area.

Project Status: City Planner is preparing the CEQA document. Following completion of CEQA the project will go through the engineering and design phase.

BUILDING DEPARTMENT

The Building Inspector, Planner, and Clerk have been very busy issuing building permits as the construction season is in full swing. Routine review of plans and specs for construction in town is ongoing.



CONSENT AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 0 PAGES

2. Financial Statements June 2018

NO DOCUMENTS WERE SUBMITTED FOR THIS AGENDA ITEM, BUT MAY BE DISTRIBUTED AND PUBLISHED PRIOR TO THE MEETING.



CONSENT AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

3. Law Enforcement Report July 2018

**ACTIVITY REPORT
TRINIDAD
BY DEPUTY LUKE MATHIESON**

06/01/2018-06/30/2018

- Numerous citizen contacts.
- Regular patrols at Hidden Creek.
- Conducted numerous vehicle investigations.
- Worked with casino regarding ongoing issues and locating/arresting wanted persons.
- Conducted regular patrols for subject(s) sleeping at night outside of the library.
- Numerous traffic enforcement stops. Multiple warnings and citations issued.
- Investigated a Child Welfare Report for abuse on Ma-We-Mor Lane, children were taken into protective custody by CWS
- Patrolled Scenic Drive multiple times per day in attempts to prevent vehicle burglaries.
- Conducted a traffic enforcement stop coming out of Trinidad, driver was cited for driving without a license. I continue to see a large percentage of drivers without license in the Trinidad area.
- Investigated a Child Welfare Report on Stagecoach Road, for general neglect, report was determined to be unfounded
- Investigated a Hit & Run at the Trinidad Chevron, suspect was identified, victim declined to pursue charges, report taken for insurance purposes.
- Conducted a probation search on Patrick's Point Drive, felon was located in possession of a expandable baton, warrant issued for his arrest
- Investigated a petty theft from Murphy's Market, suspects were gone when I arrived, later identified, and arrest warrants issued.
- Conducted multiple foot patrols through the wooded area between Hwy 101 and Scenic, advised multiple homeless to vacate the area due to illegal camping.
- Investigated a threats report/neighbor problem on Fox Farm Road, complaint of Mr. Balk illegally cutting redwood trees, multiple deputies responded to investigate, no crime was committed and a report was taken for documentation. Mr. Black was later placed under arrest for a felony warrant and transported to jail.



CONSENT AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

4. Resolution 2018-09; Recognizing the 2nd Annual Trinidad Bay Arts and Music Festival, August 10-12 & 17-19.

TRINIDAD CITY HALL
P.O. Box 390
409 Trinity Street
Trinidad, CA 95570
(707) 677-0223

Susan Rotwein, Mayor
Gabriel Adams, City Clerk



RESOLUTION 2018-09

**RECOGNIZING THE TRINIDAD ART AND MUSIC FESTIVAL
IN TRINIDAD, AUGUST 10-12 AND 17-19, 2018**

WHEREAS, the second Classical Art and Music Festival (TBAM) will be held in Trinidad August 10-12 and 17-19, 2018, and is the only festival of this kind between Southern Oregon and Mendocino; and

WHEREAS, world-class musicians born here, live here or who are 0 to 1 degree connected to Trinidad, will converge in Trinidad from national and international concert tours in China, Italy, Iceland, Korea, France, Nicaragua, Bahamas, Mexico (to name a few) and the United States, and

WHEREAS, the TBAM Festival will feature a commissioned work for a premier performance of Festival Strings, Winds and Piano, and

WHEREAS, TBAM Festival will be intimate and the perfect size for lasting impressions, yet it is anticipated that over 600 will attend the eight concerts, and

WHEREAS, Trinidad holds the best resources for such a Festival, including venues with excellent acoustics, the historic Town Hall with a fine Steinway and the 143 year-old historic Holy Trinity Church, and

WHEREAS, attendees will be encouraged to visit excellent restaurants and bars with coastal views and 5-star ratings; a vintner and Wine Tasting room; breakfast patios and lunch nooks; a plethora of vacation stays, bed and breakfast inns and motels; art galleries and gift shops and a market featuring local produce and Humboldt Made products, and

WHEREAS the City of Trinidad, within a small foot print, boasts the features of an urban environment, a City Museum, Library, an airport five minutes away, and is paired with rural and pristine environmental experiences of endless trails, the Pacific Ocean and Trinidad Bay!

NOW THEREFORE IT BE RESOLVED, that The Trinidad City Council recognizes the last week of August 10-19, 2017 as Trinidad Bay Art and Festival Week. TBAM!

PASSED AND ADOPTED BY THE TRINIDAD CITY COUNCIL of Humboldt County of the State of California this 25th day of July, 2018.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the Trinidad City Council by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Attest:

Gabriel Adams
Trinidad City Clerk

Susan Rotwein
Mayor



DISCUSSION AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 13 PAGES

1. Discussion/Decision regarding City Response to Grand Jury Report.

ACTION AGENDA ITEM

Date: August 8th, 2018

Item: Response to Humboldt County Civil Grand Jury Report

The Humboldt County Civil Grand Jury issued a report regarding short term rentals in Trinidad, dated June 25th, 2018. The report is attached.

The City Council, and the City Manager, are required to provide a formal response to the findings and recommendations of the report within 90 days, or approximately September 25th. The guidance and requirements for these responses are attached.

Staff (City Manager) has prepared an initial draft response for Council discussion and consideration on August 8th.

Staff recommends the Council:

- a) **accept public comment**
- b) **discuss the Grand Jury Report and the draft response**
- c) **Appoint two Council Members to work with staff to produce a final response for approval at the regular September Council meeting.**

Attachments:

- 1) Grand Jury Report
- 2) Requirements for response
- 3) Draft Response

DRAFT

City of Trinidad

Response to Grand Jury Report

Report Title: *A Tale of Two Cities: Vacation Rentals in Trinidad, California*

Report Date: June 25th, 2018

Response By: Trinidad City Council

Report Findings and Responses:

F1. Trinidad's complaint and appeal process has been slow and inconsistent which has led to confusion and frustration among residents.

Response: Partially agree and disagree. Some responses have been slow, others have been resolved quickly. The speed of responses has improved dramatically in 2018. The appeals process is inherently slow as it involves Planning Commission and City Council meetings which typically happen once a month.

F2. Lack of compliance to Trinidad's Short Term Rental Ordinance by some Short Term Rental owners and property managers create frustration and animosity in the community

Partially agree and partially disagree. Ordinance violations do create frustration among affected members of the community. STR owners and managers have worked cooperatively with the City to help implement and comply with the STR Ordinance, including revising their rental agreements, reducing the occupancy of their STRs, meeting guests in person, posting required 'Good Neighbor' brochures and contracts, and providing 24/7 call numbers for problems. Violations occur (in general) when the guests staying at the STRs violate the Ordinance, typically by being too loud, or inviting too many visitors. There have been a few cases of difficulties with STR managers responding quickly enough to complaints, or communicating well with people lodging complaints, but those problems appear to be largely resolved at this time.

F3. Trinidad would benefit in having law enforcement assistance during tourist season to handle immediate violations of the STR ordinance.

Partially agree and partially disagree. The Humboldt County Sheriff's Office is the City's sworn law enforcement agency, and can enforce City Code. There are some possible STR violations that could involve a need for law enforcement officers, for instance a late-night party that the property manager is

unable to break up, or a dangerous off leash dog from an STR guest, or illegal parking that warrants ticketing. However, these are exceptional examples outside of most actual complaints. The STR ordinance directs complaints to be addressed immediately by the property manager, with follow up from City administrative staff after the fact. The City certainly encourages the public to call the Sheriff's Office for any emergency or public safety situation, or if the property manager is non-responsive and the problem (i.e. late night noise) is ongoing. Consistent with the STR Ordinance, the City does not see the Sheriff's Office as having a primary role in responding to STR complaints.

F4. It is unclear what criteria is used for City Council recusal of those members who own or manage an STR which leads to a perception of conflict of interest within the community.

Partially agree and Partially disagree. City Council members have discussed and explained their rationale for recusal (or non-recusal) on multiple occasions at Council meetings where the issue has arisen. The City Attorney has offered his advice and guidance in public at the relevant meetings. Council members who own STRS have regularly recused themselves from decisions involving setting STR regulations.

This Finding, along with Findings F1 and F2 above, refer broadly to the feelings or perceptions of the 'community'. It is important to be clear that the Grand Jury did not poll Trinidad residents, nor talk to many residents, but instead initiated this report in response to concerns raised by a few residents who are very actively engaged in STR issues and have very strong feelings about them. The City represents all residents, and concerns about conflict of interest, frustration, or animosity by even one citizen deserve respect and attention. However, findings F1, F2, and F4 are worded in a way that may overstates the breadth and intensity of concern in the 'community' over these issues

F5. Because there is often no written notification of the results of an appeal, complainants sometimes are unaware if a resolution has been reached.

Partially Agree: Where no notification was provided, the City agrees that is a problem.

F6. When properly utilized, Trinidad's Short Term Rental Ordinance provides workable methods for solving problems associated with Short Term Rentals.

Agree, with the caveats that a) the City will regularly revisit the STR Ordinance to consider whether changes are appropriate, and b) having appropriate rules in place can minimize, but does not inherently prevent violations from occurring.

RECOMMENDATIONS:

The Humboldt County Civil Grand Jury offers the following recommendations to the City Council and to the citizens of Trinidad to consider for the peace and comfort of residents and visitors.

R1. The Humboldt County Civil Grand Jury recommends the city of Trinidad and the citizens of Trinidad follow the steps outlined in Ordinance 2016-03 to solve complaints in reference to Short Term Rentals. This should take place upon receipt of this report. (F1, F2, F6)

This recommendation is being implemented on an ongoing basis.

R2. The Humboldt County Civil Grand Jury recommends that the city of Trinidad consistently and strictly adhere to Ordinance 2016-03 to manage the short-term rental application and renewal process. This should take place upon receipt of this report. (F1, F2)

This recommendation is being implemented. The next round of STR applications/renewals will occur in the winter of 2018-19 and will strictly adhere to Ordinance 2016-03.

R3. The Humboldt County Civil Grand Jury recommends the City of Trinidad allocate a portion of Transient Occupancy Tax revenue to hire seasonal enforcement staff to deal specifically with Short Term Rental issues by December 31, 2018. (F3)

For discussion by Council. Staff believe filling the full time Administrative Assistant position will provide adequate staffing for enforcement of the STR Ordinance.

R4. The Humboldt County Civil Grand Jury recommends Trinidad city council members who own or manage Short Term Rentals always recuse themselves when STRs are considered, discussed, or voted upon. Said recusals should be recorded in the meeting's minutes. This should begin immediately upon receipt of this report. (F4)

R5. The Humboldt County Civil Grand Jury recommends the Trinidad city manager notify complainants in writing within seven working days of all city decisions on Short Term Rental complaints and appeals. This should begin no later than October 1, 2018. (F5)

This recommendation is being implemented on an ongoing basis.



State of California

PENAL CODE

Section 933.05

933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

(Amended by Stats. 1997, Ch. 443, Sec. 5. Effective January 1, 1998.)

A Tale of Two Cities

Vacation Rentals in Trinidad, California

SUMMARY

Trinidad is a quaint seaside town in the heart of Redwood Country. It is a popular vacation destination for people searching for outdoor experiences along the Pacific Coast and in the ancient forests. It is also the type of small town where families dream of raising their children and retirees hope to enjoy a calm and uncomplicated life. Unfortunately, life is not as idyllic as it could be.

For the past twenty years or so, homes have been bought not only by those wishing to become permanent residents, but also by those seeking them for income purposes. As the latter group has opened short term rentals (STRs) in the houses they have purchased, conflict with some permanent residents has arisen.

The Humboldt County Civil Grand Jury (HCCGJ) determined an investigation into the points raised by Trinidad residents was warranted. Quite early in our study, it became apparent STRs are allowed as California Coastal Commission (CCC) policies support the establishment of STRs in Trinidad. Issues we chose to investigate included a lack of enforcement of STR regulations, the complaint appeal process, and possible conflicts of interest. After examining the city budget, it became clear the funds raised by the Transient Occupancy Tax (TOT) were vital to maintaining city services. We also found city officials have not been resolving some residents' concerns or requests in a forthright, timely manner.

The HCCGJ concluded Ordinance 2016-03 should resolve complaints and problems. The HCCGJ recommends all factions follow the procedures set up in the ordinances to bring a successful conclusion to the conflicts facing Trinidad.

BACKGROUND

Several complaints were received from Trinidad citizens upset with the proliferation of STRs in their town. They also expressed concern about how their complaints were being handled by Trinidad city officials.

The HCCGJ interviewed a representative of the concerned residents. At that initial meeting, the representative presented the HCCGJ with a volume containing written complaints and responses as well as numerous e-mail exchanges. After studying this material, it was decided that an investigation should be initiated.

The HCCGJ realized there are usually at least two versions of the same story so it interviewed Trinidad city officials mentioned in the material we had received. Additional interviews were conducted with people from both sides of the issue. Many permanent residents, those who filed the bulk of the complaints, want the quality of their small town to remain as it has been for years. The anti-STR faction want its concerns taken seriously and acted upon quickly. In addition, the specter of conflict of interest on the part of some city officials was raised. On the other side, business owners and investors see tremendous potential in developing the tourism industry in this unique town. The Trinidad city governing body welcomes the increased tax dollars

generated by the STRs as a means of keeping the small town financially viable. City government asserts it was attempting to solve troublesome issues, but such action takes time.

Additional research indicated there is a third player, the California Coastal Commission (CCC). As Trinidad lies within the coastal zone, the CCC has jurisdiction over some issues. When the city sent its original ordinance governing STRs to the CCC, it returned the ordinance with the direction to amend portions of it. After many meetings, discussions, and suggestions, Ordinance 2016-03 was approved by both the City of Trinidad and the CCC. This ordinance repealed and amended certain sections of the earlier ordinance as well as added new sections. It went into effect in 2017.

METHODOLOGY

The Humboldt County Civil Grand Jury:

- Conducted interviews with complainants and city officials
- Read and reviewed over a thousand pages of documents from both sides
- Researched and read numerous public documents and local media
- Examined emails and other correspondence

DISCUSSION

The small town of Trinidad embodies the hopes and dreams of many people within its tiny environs. Many of the residents want it to be the friendly, uncrowded place they remember existing when they moved there. Entrepreneurs hope to create businesses in its charming neighborhoods. Trinidad's city government hopes its decisions will make all these dreams come true.

However, Trinidad is not necessarily the peaceful place it appears to be at first glance. Fear, mistrust, frustration, and anger were expressed by some residents and city officials. What causes these emotions? The proliferation of short term rentals (STRs) and the problems they brought have changed the character of the town.

Trinidad is not alone in facing this issue. Cities and states throughout our nation, indeed the world, are experiencing the same concern. Just as Uber is changing the way people travel, STRs are transforming where visitors stay. In towns like Trinidad with limited or no commercial hotels/motels, residents have turned their spare rooms into overnight accommodations. It did not take long for real estate professionals and others to realize the profitability of buying houses and converting them to tourist rentals. At first, this new industry grew with little or no regulation. The lack of firm guidelines inevitably led to some of today's problems and conflicts.

Between 2000 and 2010, the vacation rental industry grew unrestricted according to city officials. As complaints about the STRs surfaced, the first city ordinance (2014-01) was proposed. It defined the zones within Trinidad which were opened to STR or Vacation Dwelling Unit (VDU) development. It stated:

VDUs (also known as STRs) are permitted only in Special Environment Residential, Urban Residential, and Planned Development zoning districts. VDUs are also permitted

in a legally established accessory dwelling unit subject to meeting the requirements of this Section. Each separate VDU must obtain its own, individual VDU License. There shall be no more than one VDU per parcel, except that on lots with three or more legally established dwelling units, the number of VDUs may not exceed seventy-five percent (75%) of the total dwelling units.

While this ordinance provided a good start, it did not resolve some of the problems raised by residents. They were not only upset with the number of STRs, but also with the increased noise and traffic, to name just two issues. Many of them felt there was a conflict of interest as some city officials retained interests in STRs at the same time they were re-issuing renewals. Emails and other correspondence questioned whether required inspections were performed and expressed frustration at attempting to resolve complaints. As a result, revisions were drafted to address these concerns.

Since Trinidad lies within the jurisdiction of the California Coastal Commission (CCC), it had to be consulted. This added time to the process. As the CCC reviewed the document, it required changes and additions. Eventually, a revised Ordinance 2016-03 was approved by both bodies. It became effective in June 2017.

While Trinidad is to be applauded for being the first city in Humboldt County to develop and pass an ordinance governing STRs, it did not come soon enough to avoid the disagreements among city residents. Citizens chose sides; confrontations occurred among neighbors and between residents and visitors. The key issues were not only with the number of STRs, but also with a lack of enforcement of STR rules and regulations, the complaint process, and possible conflicts of interest by city officials.

Number of STRs

One of the major complaints expressed by those opposed to STRs was the town's loss of permanent residents. With houses being bought for investment purposes, the number of units available to potential full-time residents, such as families and retirees, dwindled. According to the preamble to Ordinance 2016-03, the proportion of homes being used primarily as vacation rentals grew from 5% in 2000 to approximately 18% in 2014. The ordinance established the number of STRs allowed in Trinidad.

STR opponents point to a declining number of volunteers willing to support town activities. In the last city-wide election, there was a serious lack of candidates for office as well as to serve on city boards and commissions. The number of townspeople willing to volunteer as firefighters diminished.

Lack of Enforcement

The HCCGJ read volumes of complaints from residents to city officials concerning perceived violations of the rules and regulations governing STRs. The organization Saving Trinidad Neighborhoods (STN) submitted a six-page, detailed memo to the California Coastal Commission (CCC) requesting edits and changes to the Local Coastal Program Amendment Application No. LCP-ITRN-16-0065-1 to Amend Regulation for Short Term Rentals. The STN's document included requests to change definitions of such words as *dwelling*, *bedroom*, *occupant*, and *visitor*. It also asked for revisions of the language in such documents as applications and building inspections. Along with other issues, it states concerns about water usage, septic system size, traffic, and parking.

The result of ongoing talks, formal meetings, and zoning discussions was the twelve-page Ordinance 2016-03. In it, the CCC stated that:

- *STRs are an allowable use in residential zoning.*
- *STRs serve a benefit to the Coastal Act's goals by providing coastal lodging.*
- *Coastal Act section 30213 protects lower cost visitor...uses, including STRs.*
- *The City has an obligation to accommodate those uses.*

This ordinance gave direction to Trinidad city government in its effort to develop a balance among the interests of the CCC, residents, property owners, STR owners, city businesses, and visitors. Many hours were spent in conversations, meetings, hearings, etc. to develop STR standards which include:

- Definition of terms
- Number of STRs allowed
- STR application process
- Renewal requirements
- Occupancy numbers
- Noise limits
- Parking rules
- Signage
- Trash, water, and septic limits

The list of topics represents most of the complaints filed by those opposed to STRs. The ordinance is too detailed in its discussion of each of these topics to be included in this report; however it can be accessed via the City of Trinidad website. The HCCGJ believes the number of complaints will decrease if the rules and regulations in Ordinance 2016-03 are followed by the residents, STR owners and property managers, visitors, and city council members.

Also contained within the Short Term Rental Ordinances is the process for handling violations. STR property managers or owners are required to meet with at least one of the STR occupants on the first day of tenancy to explain the regulations and to affirm occupants have represented themselves correctly. Tenants are required to initial a form called the Good Neighbor Contract to signify they understand and agree to abide by the rules. In addition, each STR must have a 24-hour contact phone number prominently in place within it. That number must be forwarded to the city clerk, law enforcement, the fire department, and to each neighbor within 300 feet of the STR. It also must be posted on the city's website.

The HCCGJ believes the city has developed an ordinance with the goal of improving the relationship between visitors and residents. The problem, however, is some residents claim enforcement has been lax. According to complaints, STR owners or property managers either have not responded or have

responded inappropriately to neighbors' concerns. At the time of this report, Trinidad does not have a full-time deputy assigned, but residents hope one will be provided soon, which will allow for quicker responses to complaints.

Appeal Process

According to city officials, the following is the complaint/appeal process which has been followed. Appeals are first heard and decided by the City of Trinidad's Planning Commission. If that decision is not satisfactory to any of the parties, they may appeal to the city council. If the council concurs with the city's planning commission's decision, the appeal is assumed to be denied. At this point, there has been a breakdown in the system in that sometimes the person filing the appeal is not informed of the final decision. Thus, the complainant does not know if the appeal has been heard or decided. The HCCGJ believes that notification of the city council's actions should be forwarded in writing to the complainant.

If a dispute continues after the appeal, according to the licensing agreement between the STR owner and the City of Trinidad, the ordinance says:

STR owners agree to engage in mediation and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as an STR. Unless an alternative dispute resolution entity is agreed to by all parties involved, dispute resolution should be conducted through Humboldt Mediation Services.

Following the rules and communicating decisions should alleviate disputes with the complaint process.

Conflict of Interest

A current city council member owns an STR and the partners of both a city official and another council member are STR property managers. Some in the community feel this situation raises the issue of a conflict of interest on the part of the council when they are discussing or deciding issues such as renewals and violations related to STRs.

The California Fair Political Practices Commission delineates conflict of interest issues in Chapter 7 of its Regulations Index. In Statutes 18700 and 18701, it presents the Basic Rule and Guide to Conflict of Interest Regulations and Determining Whether a Financial Effect is Reasonably Foreseeable. A citizen of Trinidad filed a complaint with the Enforcement Division of the Fair Political Practices Commission regarding conflicts of interest on the part of three city officials. The Commission replied that it

...provides advice and opinions only to those persons whose duties are in question under the Act. As of this date, the governmental decision has not been made and the matter is hypothetical. For this reason, we will not pursue this matter further.

The HCCGJ does not have jurisdiction to address the question of whether city council members and city officials have conflicts of interest. However, the minutes of some city council meetings indicate that those most closely associated with STRs have recused themselves from decision making. Nevertheless, it is unclear whether city council members consistently recuse themselves and what criteria are used in making such decisions. Persons who have questions regarding the conflict of interest laws as applied to STRs in Trinidad should contact the FPPC for more information.

FINDINGS

- F1. Trinidad's complaint and appeal process has been slow and inconsistent which has led to confusion and frustration among residents.
- F2. Lack of compliance to Trinidad's Short Term Rental Ordinance by some Short Term Rental owners and property managers create frustration and animosity in the community.
- F3. Trinidad would benefit in having law enforcement assistance during tourist season to handle immediate violations of the STR ordinance.
- F4. It is unclear what criteria is used for city council recusal of those members who own or manage an STR which leads to a perception of conflict of interest within the community.
- F5. Because there is often no written notification of the result of an appeal, complainants sometimes are unaware if a resolution has been reached.
- F6. When properly utilized, Trinidad's Short Term Rental Ordinance provides workable methods for solving problems associated with Short Term Rentals.

RECOMMENDATIONS:

The Humboldt County Civil Grand Jury offers the following recommendations to the City Council and to the citizens of Trinidad to consider for the peace and comfort of residents and visitors.

- R1. The Humboldt County Civil Grand Jury recommends the city of Trinidad and the citizens of Trinidad follow the steps outlined in Ordinance 2016-03 to solve complaints in reference to Short Term Rentals. This should take place upon receipt of this report. **(F1, F2, F6)**
- R2. The Humboldt County Civil Grand Jury recommends that the city of Trinidad consistently and strictly adhere to Ordinance 2016-03 to manage the short-term rental application and renewal process. This should take place upon receipt of this report. **(F1, F2)**
- R3. The Humboldt County Civil Grand Jury recommends the City of Trinidad allocate a portion of Transient Occupancy Tax revenue to hire seasonal enforcement staff to deal specifically with Short Term Rental issues by December 31, 2018. **(F3)**
- R4. The Humboldt County Civil Grand Jury recommends Trinidad city council members who own or manage Short Term Rentals always recuse themselves when STRs are considered, discussed, or voted upon. Said recusals should be recorded in the meeting's minutes. This should begin immediately upon receipt of this report. **(F4)**
- R5. The Humboldt County Civil Grand Jury recommends the Trinidad city manager notify complainants in writing within seven working days of all city decisions on Short Term Rental complaints and appeals. This should begin no later than October 1, 2018. **(F5)**

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the Humboldt County Civil Grand Jury requires responses from the following governing bodies:

- City of Trinidad, City Council (R1, R2, R3, R4 R5)
- City of Trinidad, City Manager (R1, R2, R3, R4 R5)

INVITED RESPONSES

- Saving Trinidad Neighborhoods (R1, R2, R3, R4 R5)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

BIBLIOGRAPHY:

Web links:

[City of Trinidad STR Ordinance 2016-03](#)

[City of Trinidad Ordinance 2014-01](#)

[City of Trinidad VDU Ordinance 2012-02](#)



DISCUSSION AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 55 PAGES

2. Discussion/Decision regarding the City Personnel Policy Handbook.

ACTION AGENDA ITEM

Date: August 8th, 2018

Item: Updates to Employee Policies and Procedures Manual

Background: The City last updated its Employee Policies and Procedures Manual (Manual) in 2013. There have been changes in State laws regarding some leave and employment policies since then which require an update to bring our Manual into compliance with current law.

Consistency and clarification of this Manual will minimize liability exposure to the City, so the project is eligible and has been funded through a grant program administered by the City's insurance provider (PARSAC). The local law firm of Mitchell, Brisso, Delany and Vrieze has reviewed and updated the Manual for consistency with current law.

Mr. Ryan Plotz of the firm of Mitchell, et al has now completed the proposed rewrite for legal compliance, which is attached for Council consideration and adoption. The primary changes from the current to the updated version are as follows:

- Clarification of definitions for consistency throughout and to correspond to actual practice;
- Revisions and additions to the Conflict of Interest and Acceptance of Gifts section;
- Modification of sick leave policies to reflect new state law requiring minimum sick leave for all employees (part or full time)
- Incorporation of New Parent Leave Act (required minor changes to our current family leave policy).
- Incorporation of new Harassment and Discrimination policies in accordance with recent state law.
- Revisions to the Drug and Alcohol Use Policy to reflect the legalization of cannabis.

Other Possible Policy Changes:

In addition to these changes for legal compliance, the City could also use this adoption of a revised Manual to consider other policy changes. Councilmembers have expressed specific interest in revisiting the current two tier medical benefits policy, and adding a longevity benefit.

Longevity Policy– staff recommend implementing a fixed percent raise upon completion of 10, and 20 years of service respectively. Staff recommend 2.5% (essentially one additional 'step' in our salary matrix)

Medical Premiums –

The current policy is that for employees hired after 2012, the City pays 100% of medical insurance premiums for employees and 70% of the cost for their dependents (spouse and children). For employees hired prior to that change, the City pays 100% of the employee and their dependent's insurance premium.

Our only employee who fell into the more recent '70%' tier has just left City employment. We are about to hire two new employees, so any changes to the tiered policy would apply to them.

Staff have done some preliminary investigations into other local city/agency medical benefits, but it may be misleading to compare medical coverage in isolation, when retirement benefits, wages, and medical together are the key components of total compensation.

The Council has budgeted for a compensation study this year. Staff see that as an appropriate place to do a comprehensive analysis of our wages and benefits and evaluate possible changes at that time.

Staff's recommendation is to hire the new employees under the existing (revised) Manual, with an explicit agreement with them that the benefits package will be adjusted this year, and the adjustments will apply to them.

Proposed Action:

1. Consider Adopting the Updated Employee Policies and Procedures Manual, including any desired additions or changes to employee benefits.

Attachments:

Proposed Employee Policies and Procedures Manual

CITY OF TRINIDAD
Susan Rotwein, Mayor
Daniel Berman, City Manager
Gabriel Adams, City Clerk

TRINIDAD CITY HALL
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Trinidad, CA 95570
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EMPLOYEE
POLICIES AND
PROCEDURES
MANUAL



City of Trinidad

EMPLOYEE POLICIES AND PROCEDURES MANUAL

Revised August 2018

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SECTION 1: GENERAL PROVISIONS

1.A AUTHORITY

The City of Trinidad (the "City") is authorized pursuant to the City's powers under the California Government Code to adopt rules for the administration of the City's personnel system.

1.B OBJECTIVES

The objectives of these Employee Policies and Procedures Manual are to facilitate efficient and effective services to meet public needs, to attract to municipal service the most competent personnel available, to insure that appointment and promotion of employees will be based on merit, to provide a reasonable degree of security to qualified employees, as well as provide for an equitable and uniform system of personnel management in municipal service.

These Rules and Regulations shall set forth in detail procedures which ensure fair and equitable treatment for those who compete for original employment and promotion within City employment and define many of the obligations, rights, privileges and prohibitions which are placed upon all employees in the competitive service of the City.

1.C INTERPRETATION

Within the limits of administrative feasibility, the City Manager shall be responsible for the interpretation of these Rules in cases where the proper application of a rule or any portion thereof is not clearly ascertainable. When such interpretation is required, the result shall be in harmony with the objectives set forth above.

1.D DEFINITION OF TERMS

All words and terms used in these Rules and in any ordinance or any resolution dealing with Employee Policies and Procedures Manual shall be defined as follows. For the purpose of convenience, the following words and terms most commonly used are defined.

Appointing Authority: The City Manager or designee who, in his or her individual capacity, has the final authority to appoint a person to a position of employment. In the case of the City Manager, the City Council shall be the Appointing Authority.

Appointment: The designation of a person to fill a position of employment.

"At-Will" Employment: "At-will" employees serve at the will and pleasure of the City Manager or the City Council and may be terminated at any time, with or without cause, and without any right to any type of appeal or hearing.

City Council: The City's elected governing body.

City Manager: The City's Chief Executive Officer.

Classification: A certain group of job positions with the same title, salary range, and benefit package.

Classification Plan: A listing of all City positions including the grade, title, and benefit category contained in the annual fiscal year budget, as determined by the City Manager and adopted by the City.

Compensatory Time: Time accrued or taken off from work with pay, in lieu of paid overtime compensation.

Competitive Service: The merit system whereby City employees are hired and promoted through a competitive process based upon objective standards of merit to assure fair consideration in all aspects of employment/promotion.

Contract Employee: An employee hired and paid pursuant to the terms and conditions of a specified written contract between such an employee and the City.

Days: Calendar days unless otherwise stated.

Demotion: The voluntary or involuntary transfer of an employee from one classification to another classification with a lower salary grade or to a lower salary within a classification grade or hierarchy of positions.

Disciplinary Action: The discharge, demotion, reduction of pay, suspension, placing on probation, or the issuance of a written reprimand or formal warning or any other action for punitive, corrective or disciplinary reasons.

Disciplinary Suspension: A disciplinary action that temporarily separates an employee from City service without pay.

Disability: A physical or mental impairment that limits an employees ability to engage in a major life activity, as defined by State and Federal law.

Dismissal: The discharge of an employee by the City from City employment.

Eligibility List: A list of all persons eligible for appointment to a particular classification after final testing/interviews as determined by the City Manager. The City Manager, in his/her discretion, may dispense with the creation of an Eligibility List for any particular classification(s) or position.

Emergency Appointment: An appointment made to meet immediate requirements of an emergency condition, such as fire, flood or earthquake, which threatens life or property, where such employment is not anticipated to endure beyond the duration of such an emergency period.

Employee Policies and Procedures Manual: This document, as adopted or amended by the City Council from time to time, and may also be referred to as the “Rules” or the “Personnel Policies.”

Exempt Employee: An employee who is exempt from the standard provisions of overtime under FLSA and is typically considered as being in a management position and eligible for a certain benefits package.

Fair Labor Standards Act (FLSA): The Federal Law which guarantees employees certain minimum wages and time and one-half overtime standards.

Fiscal Year: A 12-month period from July 1 to June 30 in which the City plans, budgets, appropriates, and expends its funds.

Flexible Work Schedule: A City Manager-approved variation from the standard daily work hour schedule of 8:00 a.m. to 5:00 p.m.

Full-time Employee: An employee who is regularly scheduled and expected to work 40 hours or more during a workweek.

Furlough: A Management-dictated, mandatory, reduced working period implemented to save City funds during difficult economic times.

Grade: A number assigned to a position title which indicates the salary range for that position.

In-House Competitive Examination: A type of examination open only to City employees meeting the minimum qualifications for a particular classification.

Leave of Absence Without Pay: A period of time during which an employee may take time off without receiving compensation or benefits, unless otherwise stated in these Rules or required by law.

Merit Salary Increase: The increase of an employee's salary within the salary range established for the classification the employee occupies, which is based on performance or merit, not solely on longevity.

Misconduct: Any act or unsatisfactory job performance which may be subject to disciplinary action.

Modified Work Schedule: Any work pattern schedule other than a usual 8 to 5 schedule as approved by the City Manager.

Non-Exempt Employee: An employee who is not exempt from the pay and overtime provisions of FLSA.

Open Competitive Examination: A type of examination open to all persons meeting the minimum qualifications for a particular position.

Overtime: The time which an employee is required or permitted to work beyond 40 hours per week. Overtime compensation, taken as paid time or as compensatory time-off, shall be authorized as provided in Section 6.A.

Part-time Employee: An employee who is regularly scheduled and expected to work 32 hours or less during a workweek.

Position: A specific job assigned to a job classification.

Probationary Employee: An employee who is serving his or her probationary period.

Probationary Period: A working test period which is part of the selection process, during which an employee is required to demonstrate his or her fitness for the position to which assigned. Newly hired probationary employees are subject to at-will employment.

Promotion: The advancement of an employee from one classification to another classification having a higher salary range.

Reassignment: The change to the employee's job description without changing the employee's salary grade and usually within the same classification

Reclassification: The reassignment from one classification description, grade or status to a different classification description, grade or status in accordance with a re-evaluation of the

minimum qualifications, duties, and responsibilities of the position in question. Simple title changes are not reclassifications.

Reduction-in-Force (RIF): A layoff in the work force.

Regular Employee: An appointed person occupying a position in the City employment, providing personal services to the City or its residents. This excludes independent and outside contractors, commissioners, members of advisory boards, and volunteers.

Resignation: The voluntary separation by an employee from City employment.

Rules: These personnel rules, as they may be amended from time to time.

Salary Anniversary Date:

1. New Hires: The employee's salary anniversary date shall be six months after the conclusion of the employee's probationary period, and annually thereafter.
2. Promotional: The employee's salary anniversary date shall be the date on which the employee's promotional probationary period concludes, and annually thereafter.
3. Leave of Absence Without Pay: Except as specifically provided in these Rules, any non-probationary employee who takes an authorized leave of absence without pay shall have his or her salary anniversary date extended the same amount of time as his or her period of leave.

Salary Plan: An annual listing of the minimum through maximum salary grades of pay for all defined City classifications, as prepared by the City Manager and adopted by the City.

Salary Range: The range of pay an employee can earn while employed in a particular classification.

Seniority: The length of an employee's continuous service in a regular City position.

Standards of Conduct: Those rules which are intended to govern the actions of City employees during their course of employment with the City with respect to the employee's job performance.

Supervisor: The individual directly responsible for the supervision of an employee, including the preparation of performance evaluations. The City Council is the supervisor for the City Manager. As of the August 8th publication date of this Manual, the only City employees with supervisory authority are the Director of Public Works, who supervises Public Works Department employees, and the City Manager, who supervises the Director of Public Works and all other City employees.

Temporary Employee: An employee hired on a temporary basis, which may be either full-time or part-time in hours worked.

Termination: The separation of an employee from City service because of retirement, resignation, permanent disability, death or dismissal.

Workweek: In accordance with the payroll period, the regularly reoccurring period of 7 consecutive 24 hour days beginning at 12:01 a.m. on Tuesday and concluding at 12:00 p.m. (midnight) on the following Monday.

1.E ADMINISTRATION OF THE EMPLOYEE POLICIES AND PROCEDURES MANUAL

The City Manager shall administer the Employee Policies and Procedures Manual and may delegate any of the powers and duties related thereto to any other officer or employee of the City or may recommend that such powers and duties be performed under contract as provided in Section 1.F of these Rules. The City Manager shall:

1. Act as the appointing authority for all City employees except those officers and employees directly appointed by the Council.
2. Administer all of the provisions of these Personnel Rules except as specifically reserved to the Council.
3. Prepare and recommend to the Council any appropriate Personnel Rules and revisions to such Rules.
4. Prepare or cause to be prepared, and revise as appropriate, a position classification schedule, including class specifications.
5. Have the authority to discipline City employees in accordance with these Personnel Rules.
6. Provide for the publishing or posting of notices for applications for positions in the competitive service; the flexibility to waive certain job stated qualifications for good cause when it is in the best interests of the City; the receiving of applications therefore; the establishment of a list of all persons eligible for appointment to the appropriate position in the competitive service; and the performance of any other duty which may be desirable or required for the effective implementation of these Rules.
7. Appoint employees on a temporary basis without competitive application.

8. Determine standardized daily work hours and schedules and approve variations to the standard schedule.

1.F CONTRACTS FOR SPECIAL SERVICES

The City Manager may contract for the performance of technical services in connection with the establishment or operation of the personnel system. In addition, the City Manager may determine the circumstances under which it is in the best interests of the City to contract for such services, and to enter into contracts for such services with Council approval.

The contract may be with any qualified person or public or private agency for the performance of any or all of the following:

1. The preparation of personnel rules and subsequent revisions and amendments.
2. The preparation of a position classification plan, and subsequent revisions and amendments.
3. The preparation, conduct, and grading of qualifying tests.
4. The conduct of employee training programs.
5. Special and technical services of advisory or informational character on matters relating to personnel administration.
6. Professional services.

1.G APPLICATION AND EXCEPTIONS

These rules shall apply to all offices, positions, and employments in the service of the City, as defined in Section 1.D of these rules, with the exception of the following:

1. Members of the Council and other elected officials.
2. Members of commissions, boards, and committees appointed by the Council or City Manager.
3. Volunteer personnel and others who provide services to the City without receiving compensation (although such persons may receive reimbursement for actual expenses incurred in the service of the City), including volunteer firefighters.
4. Outside and independent contractors, engaged to provide expert, professional, technical, or other services.

These Rules, with the exception of Sections 8 - 10 inclusive, which do not apply, shall apply to the following employees who serve at the will and pleasure of their respective appointing authorities and are considered "at will" employees:

1. Employees who are considered temporary employees.
2. Other non-regular employees who are not specifically mentioned in Section 1.D of these Employee Policies and Procedures Manual.
3. Volunteers and Interns.
4. Employees who are designated "at-will" under an employment agreement, memorandum of understanding, or collective bargaining agreement.
5. Newly hired probationary employees during the term of probation.

1.H VALIDITY OF RULES (SEVERABILITY)

If any section, subsection, sentence, clause, phrase or portion of these rules is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these rules. The Council hereby declares that it would have adopted these rules and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

1.I VIOLATION OF RULES

Violation of these Rules may be grounds for disciplinary action, subject to the applicable appeals procedure provided herein.

1.J CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS AND OTHER GRATUITIES

City employees should serve the needs and respond to the wishes of all citizens equally without regard to their personal gain. City employees should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of other persons. Therefore, it is the policy of the City that all City employees shall avoid situations which might be interpreted as involving or creating a conflict of interest between the employee's duties and responsibilities as a public employee, and the employee's personal and private interest.

Employees are prohibited from:

1. Working for a competitor, supplier, customer or client;
2. Engaging in self-employment in competition with the City, or any outside employment or side work that detracts from the employee's work for the City;
3. Using proprietary or confidential City information for personal gain or to the City's detriment;

4. Having a direct or indirect financial interest in or relationship with a competitor, customer, client, or supplier;
5. Using the City's property or labor for personal use, except as authorized in writing by the City Manager;
6. Acquiring any interest in property or assets of any kind for the purpose of selling or leasing it to the City;
7. Committing the City to give its financial or other support to any outside activity or organization unless authorized in writing by the City Manager; or
8. Taking part in the consideration of any application, proceeding or other matter involving their own personal property, real estate, investment or other interest, or that of any relative or close personal acquaintance.

If an employee or someone with whom an employee has a close relationship, such as a relative (by blood or otherwise) or a close friend or companion, has a financial or employment relationship with a competitor, customer, client, supplier, or potential supplier, the employee must disclose this fact in writing to his or her immediate supervisor, the department head or the City Manager. Upon being notified or becoming aware of any circumstances(s) which could result in or constitute an actual or potential violation of this policy, a supervisor or department head shall take all reasonable steps to mitigate or avoid such violations whenever possible. Supervisors and department heads shall also promptly notify the City Manager of such actual or potential violations.

The acceptance of gifts, favors, or any other form of compensation or gratuity may be viewed as influencing or compromising or attempting to influence or compromise the judgment of an employee. To prevent such a conflict, employees shall discourage any offer of a gift, favor or any form of compensation or gratuity. Gifts that can and will be shared with office staff, such as boxes of candy, flowers, and food, may be viewed as exceptions. Being hosted by a City contractor or potential City contractor is not a conflict of interest, provided that all financial disclosure laws and regulations are complied with.

Employees who receive or are offered an unanticipated gift, favor or gratuity, should consult the City Manager to determine an appropriateness of acceptance.

City employees shall not solicit or accept donations for City sponsored events unless waived for specific events by express written authorization of the City Manager.

1.K INCOMPATIBLE EMPLOYEE ACTIVITIES

During an employee's work day, the employee is expected to devote his or her full time, attention and efforts to the performance of his or her assigned duties as a City employee. At no

time shall any outside employment or activity be conducted on City time. No employee shall engage in any employment, outside activity, or enterprise which is inconsistent, incompatible, in conflict with, or interferes with his or her ability to perform the duties, functions, or responsibilities of his or her position as a City employee, nor shall he or she engage in any outside activity which may directly or indirectly contribute to the lessening of his or her effectiveness as a City employee. Employees who undertake outside employment shall notify their immediate supervisors in writing of the nature, duties, and hours of that employment before undertaking such employment, including military service in the Reserves or Guard.

No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly permitted by the City Manager, Federal or State law, Memorandum of Understanding, or Council directive.

1.L POLITICAL ACTIVITIES

No restrictions shall be placed on the political activities of any employee of the City other than the following:

1. No person who holds, or who is seeking election or appointment to, any office or employment with the City shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position within the City upon consideration or condition that the vote or political influence or action of such a person or another shall be given or used on behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration (Government Code 3204).
2. No employee shall directly or indirectly solicit political funds or contributions from other employees of the City. Employees, however, are not prohibited from communicating through the mail or by other means, outside of the hours of employment, requests for political funds or contributions to a significant segment of the public which may include officers or employees of the City (Government Code 3205).
3. No employee shall participate in any political activities while in uniform (Government Code 3206).
4. No employee shall engage in political activity during working hours or on City premises (Government Code 3207).
5. No employee shall engage, during his or her working hours, in the solicitation or receipt of political funds or contributions to promote the passage or defeat of any

ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of the employees of the City; nor shall entry be permitted on City premises during working hours for such purposes (Government Code 3209).

1.M SAFETY AND HEALTH

Each employee shall comply with all applicable safety laws, rules, and regulations. All employees shall follow safety practices, use personal protective equipment as required, render every possible aid to safe operations, and report to proper authority all unsafe conditions or practices.

1.N DRUG AND ALCOHOL USE POLICY

1. Objective of Policy.

It is the intent of the City to maintain a workplace that is free of drugs and alcohol to provide a safe, efficient, and productive workplace. Employees who are under the influence of a drug or alcohol on the job compromise the City's interests and endanger their own health and safety as well as the health and safety of others.

Substance abuse in the workplace can also cause a number of other work-related problems, including absenteeism and tardiness, unsatisfactory job performance, increased workloads for co-employees, behavior that is disruptive to other employees, and products or services that are of inferior quality.

To further its interests in avoiding accidents, to promote and maintain safe and efficient working conditions for all employees, and to protect its business, property, equipment and operations, the City has established this policy regarding the use of alcohol and drugs. As a condition of continued employment with the City, each employee must abide by this policy. The City Manager has been designated to administer this policy, monitor the program and make reports as required by law.

Applicable Definitions—For purposes of this policy, the following definitions will apply:

- a. "Illegal drugs or other controlled substances" mean any drug or substance that is not legally obtainable, is legally obtainable but has not been legally obtained, or has been legally obtained but is being sold or distributed unlawfully. Although the use of cannabis/marijuana is legal under California law, it is illegal under federal law and its use, possession, sale and distribution is prohibited by this policy.
- b. "Legal drug" means any drug including prescription or over-the-counter drugs that have been legally obtained and that are not unlawfully sold or distributed.
- c. "Abuse of any legal drug" means the use of any legal drug for any purpose other than

the purposes for which it was prescribed or manufactured, or in a quantity, frequency, or manner that is inconsistent with the instructions or recommendations of the prescribing physician or manufacturer.

- d. "Reasonable suspicion" includes a suspicion that is based on specific personal observations such as an employee's manner, disposition, muscular movement, appearance, behavior, speech or breath odor, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable, or a suspicion that is based on other relevant circumstances.
- e. "Possession" means that an employee has the substance on his/her person or otherwise under his/her control.

2. Prohibited Conduct.

The prohibitions set forth in this section apply whenever the interests of the City may be adversely affected, including, but not limited to, any time an employee is:

- a. On City premises;
- b. Conducting or performing City business, regardless of the physical location;
- c. Operating or responsible for the operation, custody or care of City equipment or other property; or
- d. Responsible for the safety of others in connection with, or while performing, City-related business.

i. Alcohol.

The following acts are prohibited and will subject an employee to discipline up to and including discharge:

- (1) The unauthorized use, possession, purchase, sale, manufacture, distribution, or dispensation of alcohol; or
- (2) Being under the influence of alcohol or otherwise impaired as a result of being under the influence of alcohol

ii. Illegal Drugs.

The following acts are prohibited and will subject an employee to discipline up to and including discharge:

- (1) The use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of any illegal drug or other controlled substance; or
- (2) Being under the influence of any illegal drug or other controlled substance or otherwise impaired as a result thereof.

iii. Legal Drugs.

The following acts are prohibited and will subject an employee to discipline up to and including discharge:

- (1) The abuse of any legal drug;
- (2) The purchase, sale, manufacture, distribution, transportation, dispensation or possession of any legal prescription drug in a manner inconsistent with law; or
- (3) Working while impaired by the use of a legal drug whenever such impairment might:
 - (ai) Endanger the safety of the employee or some other person;
 - (aii) Pose a risk of significant damage to City property; or
 - (aiii) Substantially interfere with the employee's job performance or the efficient operation of City business or equipment.

4. Drug-Free Awareness

a. Management Awareness.

Managers and supervisors should be attentive to the performance and conduct of those who work with them and should not permit an employee to work in an impaired condition or to otherwise engage in conduct that violates this policy. When any supervisor has reasonable suspicion to believe that an employee or employees are working in violation of this policy, prompt action is required. If the employee in question performs in a designated safety-sensitive position, such action may include drug testing in accordance with the procedures outlined in this Manual.

b. Criminal Charges or Convictions.

Employees must notify the City of any charge or conviction under a criminal drug statute for a violation occurring in the workplace or during any City-related activity or event. Employees must notify the City within five days after any such charge or conviction. When required by federal law, the City will notify any federal agency with which it has a contract of any employee who has been convicted under a criminal drug statute for a violation occurring in the workplace as required by law.

c. Legal Drugs.

The City recognizes that employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or in accordance with the manufacturer's instructions, may result in impairment. Employees may not work while impaired by the use of legal drugs if the impairment might endanger the employee or someone else, pose a risk of significant damage to City property, or substantially interfere with the employee's job performance. If an employee is so impaired by the appropriate use of legal drugs, he/she may not report to work. To accommodate the absence, the employee may use accrued sick leave or vacation time. The employee may also contact the City Manager to determine whether or not he/she qualifies for an unpaid leave of absence. Nothing in this policy is intended to permit the use of accrued sick leave or vacation time to accommodate absences due to the abuse of legal drugs.

Further, nothing in this policy is intended to diminish the City's commitment to employ and reasonably accommodate qualified disabled individuals. The City will reasonably accommodate qualified disabled employees who must take legal drugs because of their disability.

d. Normal Use of Over-The-Counter Drugs.

Nothing in this policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, provided that such activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this policy.

5. Off-The-Job Activity.

Unless an employee is in a safety-sensitive position, this policy is not intended to regulate off-the-job conduct, provided the employee's off-the-job use of alcohol or drugs does not result in the employee being under the influence of or impaired by the use of alcohol or drugs in violation of this policy. Notwithstanding the foregoing, however, if an employee is in a safety-sensitive position, he or she will be subject to drug testing as described below in this policy and a positive test shall be grounds for discipline up to and including termination regardless of when and where drugs were used.

6. Authorized Use of Alcohol.

The City may have events or social functions where alcohol for consumption may be available by others. The City does not support the consumption of alcohol at these events. Further the consumption of alcohol is at the employee's own risk. However, under no circumstances are employees to become impaired at such events or to be transported to or from such events by third parties who are impaired.

7. Confidentiality.

Disclosures made by employees to designated supervisors and/or the City Manager

concerning their use of legal drugs will be treated confidentially and will not be revealed to other employees unless there is an important work-related reason to do so in order to determine whether it is advisable for the employee to continue working. Disclosures made by employees to designated supervisors concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

8. Counseling/Employee Assistance.

Employees, who suspect they may have alcohol or drug problems, even if in the preliminary stages, are encouraged to voluntarily seek diagnosis and to follow through with the treatment as prescribed by professionals. Employees who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program are encouraged to contact the Finance Director, who will determine whether the City can accommodate the employee by providing unpaid leave for the time necessary to complete participation in the program. Employees should be aware that participation in a rehabilitation program would not necessarily shield them from discipline for a violation of this policy, especially if discipline is imposed for a violation occurring before the employee seeks assistance.

9. Drug Testing.

a. Testing of Applicants for Employment.

As part of the City's employment screening process, any applicant for a City position, to whom a conditional offer of employment has been made, must pass a pre-employment drug and alcohol test under the procedures described below. The offer of employment is contingent on a negative test result.

b. Testing of Employees in Designated Safety-Sensitive Positions

i. Annual Testing.

Employees in safety-sensitive positions may be required to submit to annual drug testing, under the procedures described below. The City Manager will schedule the testing. Safety sensitive positions include the following:

- Any employee who operates a City vehicle on a regular routine basis as part of their normal work activities.
- Any employee who has a Class A or B driver's license as required by the City.
- Any employee who operates City heavy equipment. (i.e. Backhoe, dump truck)
- Any employee certified to wear Self Contained Breathing Apparatus

(SCBA).

ii. Random Testing.

For employees regulated by the Department of Transportation, the City reserves the right to conduct random drug testing.

c. Reasonable Suspicion Testing.

If an employee acts in such a manner that his/her supervisor or the City Manager has a reasonable suspicion that the employee is working in an impaired condition or otherwise engaging in conduct that violates this policy, the employee will be asked about any observed behavior and offered an opportunity to give a reasonable explanation. If the employee is unable to satisfactorily explain the behavior, he/she will be requested to take a drug test in accordance with the procedures outlined below.

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

d. Testing Procedures.

The City will refer the applicant or employee to an independent National Institute on Drug Abuse (NIDA)-certified medical clinic or laboratory which will administer the test. The City will pay the cost of the test and the applicant or employee's reasonable transportation costs to the testing facility. The applicant or employee will have the opportunity to alert the clinic or laboratory's personnel of any prescription or non-prescription drugs that he/she has taken that may affect the outcome of the test. All drug testing will be performed by urinalysis. Initial screening will be done by EMIT II. Positive results will be confirmed by gas chromatography/mass spectrometry.

The clinic or laboratory will inform the City as to whether the applicant or employee passed or failed the drug test. If an employee fails the test, he/she will be considered to be in violation of this policy and will be subject to appropriate discipline, up to and including termination.

e. Refusal to Submit to Testing.

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

1.0 EQUAL EMPLOYMENT POLICY

It is the policy of the City to offer equal opportunity in all matters of employment. Employment with the City is based solely upon the qualifications of the individual applicant, regardless of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, political affiliation, physical handicap, disability, sexual orientation, or gender identification or expression, pregnancy, genetic characteristics or information, military or veteran status, or any other protected class under applicable law, unless sex or physical ability is a bona fide occupational qualification.

All employees are to be treated with respect and dignity. The City prohibits any harassment of employees in the workplace. Activities and occurrences which may constitute harassment, whether written or oral, include, but are not limited to disparaging comments on the basis of one's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, political affiliation, physical handicap, disability, sexual orientation, or gender identification or expression, pregnancy, genetic characteristics or information, military or veteran status, or any other protected class under applicable law. Such harassment activities, which may have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the City Manager.

The City shall not unlawfully discriminate against a qualified individual with a disability in job applications, hiring, advancement, compensation, training, discharge, and other terms, conditions, or privileges of employment. A disabled person is one who has a mental or physical impairment that limits a major life activity, who has a record of an impairment, or who is regarded as having an impairment. A qualified individual with a disability is a person, who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Violation of this policy will result in appropriate disciplinary action pursuant to Section 8 of these Rules.

1.P HARASSMENT, DISCRIMINATION, AND RETALIATION POLICY

Policy Statement.

The City strictly prohibits harassment, discrimination, and retaliation. This includes harassment and discrimination on the basis of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, physical handicap, disability, sexual orientation, gender identification or expression, pregnancy, genetic characteristics or information, military or veteran status, or any other protected class under applicable law. The City does not tolerate any form of retaliation against an employee for making a complaint of harassment or discrimination or for cooperating, in any manner, in an investigation to determine whether harassment, discrimination, or retaliation has occurred. By definition harassment, discrimination, and retaliation are not within the course and scope of an individual's employment with the City. The City will not pay defense costs or a judgment if an employee commits harassment.

Application.

This policy applies to all phases of the employment relationship, including recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits, and selection for training.

This policy applies to all officers (including city council members); employees of the City, including, but not limited to, full- and part-time employees, and temporary employees; volunteers; vendors; job applicants; persons working under contract for the City; and members of the public who direct any prohibited conduct towards any of the above-referenced persons working for the City.

Harassment Defined.

Harassment may consist of offensive verbal, physical, or visual conduct when such conduct is based on or related to an individual's sex and/or membership in one of the above-described protected classifications, and:

1. Submission to the offensive conduct is an explicit or implicit term or condition of employment;
2. Submission to or rejection of the offensive conduct forms the basis for an employment decision affecting the employee; or
3. The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.
4. Examples of what may constitute prohibited harassment include, but are not limited to, the following:
 - (a) Kidding or joking about sex or membership in one of the protected classifications;
 - (b) Hugs, pats, and similar physical contact;
 - (c) Assault, impeding or blocking movement, or any physical interference with normal work or movement;
 - (d) Cartoons, posters, and other materials referring to sex or membership in one of the protected classifications;
 - (e) Threats intended to induce sexual favors;
 - (f) Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;
 - (g) Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications;
 - (h) Prolonged staring or leering at a person;

- (i) Similar conduct directed at an individual on the basis of a protected classification.
- (j) Bullying, which means unreasonable behavior that generally is persistent, and that demeans, intimidates and humiliates one or more employees or member of the public. Bullying can take many forms and includes, but is not limited to: slandering, ridiculing or maligning a person or his/her family; persistent name calling which is hurtful, insulting or humiliating; using the person as the butt of jokes, verbal assault, making non-verbal threatening gestures, and solicially or physically excluding or disregarding a person in work-related activities.

This is not intended as an exhaustive list of prohibited harassment.

Procedure.

Internal Reporting Procedure:

1. Any employee who believes that he or she has been the victim of sexual or other prohibited harassment, discrimination, or retaliation by co-workers, supervisors, clients or customers, visitors, vendors, or others should immediately notify his or her supervisor or, in the alternative, the City Manager, depending on which individual the employee feels most comfortable in contacting. If the City Manager is the alleged offender, the employee should immediately notify his or her supervisor and/or the City Council.
2. Additionally, supervisors who observe or otherwise become aware of harassment, discrimination, or retaliation that violates this policy have a duty to take steps to investigate and remedy such harassment and prevent its recurrence, even if the complaining employee does not want the matter to be investigated or addressed further.

External Reporting Procedure:

1. Any employee who believes that he or she has been the victim of sexual or other prohibited harassment, discrimination, or retaliation by co-workers, supervisors, clients or customers, visitors, vendors, or others may file a complaint with the California Department of Fair Employment and Housing ("DFEH") or the Equal Employment Opportunity Employment Commission ("EEOC").

Investigation.

Upon the filing of a complaint with the City, the complainant will be provided with a copy of this policy. The City Manager is the person designated by the City to investigate complaints of harassment, discrimination, or retaliation. The City Manager may, however, delegate the investigation at his/her discretion. In the event the complaint is against the City Manager, an investigator shall be the City Council or appointed by the Council.

Charges filed with the DFEH and/or EEOC are investigated by the DFEH and/or EEOC.

Internal Documentation Procedure.

When an allegation of harassment is made by an employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the City Manager or to the City Council, if the complaint is against the City Manager.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, discrimination or retaliation, witnesses interviewed during the investigation, the person against whom the complaint was made, and any other person contacted by the investigator in connection with the investigation. The investigator's notes shall be made at the time the verbal interview is in progress. Any other documentary evidence shall be retained as part of the record of the investigation. Upon completion of the investigation, the results shall be given to the complainant, the alleged harasser, and the City Manager (or City Council, if the complaint is against the City Manager).

Based on the report and any other relevant information, the City Manager (or City Council) shall, within a reasonable period of time, determine whether the conduct of the person against whom a complaint has been filed violates this policy. In making that determination, the City Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question; the context in which the conduct, if any, occurred; and the conduct of the person complaining. The determination of whether a violation of this policy occurred will be made on a case-by-case basis by the City Manager (or City Council, when applicable).

The conduct prohibited in this policy is a violation of the policy even if it does not constitute legal harassment, discrimination or retaliation. Because it is sometimes difficult to define unlawful harassment, discrimination or retaliation, employees are expected to behave at all times in a professional and respectful manner. Confidentiality.

All records and information relating to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extent disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

Remedies.

Disciplinary Action:

1. If the City determines that the complaint of harassment, discrimination, or retaliation is founded, the City shall take immediate, effective, and appropriate disciplinary action consistent with the requirements of law and Section 8 of these rules. Other steps may be taken to the extent reasonably necessary to prevent recurrence of the harassment, discrimination, or retaliation and to remedy the complainant's loss, if any.
2. Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the offender, and any other factors relating to the fair and efficient administration of the City.

In the event a complaint is filed with the DFEH or EEOC, and the DFEH or EEOC finds that the complaint has merit, the DFEH or EEOC will attempt to negotiate a settlement between the parties. If not settled, the DFEH or EEOC may issue a determination on the merits of the case.

1. Where a case is not settled and the DFEH or EEOC finds a violation to exist, it can prosecute the charging party's case before the Fair Employment and Housing Commission ("FEHC") or EEOC. Legal remedies for a successful claim by an applicant, employee, or former employee include possible reinstatement to a former job; award of a job applied for; back pay; front pay; attorneys' fees; and under appropriate circumstances, actual damages and/or administrative fines.
2. In the alternative, DFEH or EEOC may grant the employee permission to withdraw the case and pursue a private lawsuit seeking similar remedies.

Retaliation.

Retaliation against anyone for opposing conduct prohibited by this policy or for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the City, DFEH, EEOC, or FEHC is strictly prohibited and may subject the offending person to, among other things, disciplinary action, up to and including, termination of employment. Investigations of complaints of retaliation shall be conducted in the same manner as complaints of harassment or discrimination.

Employee Obligation.

Employees are not only encouraged to report instances of harassment, discrimination or retaliation, they are obligated to report such instances.

Employees are obligated to cooperate in every investigation of harassment, discrimination or retaliation, including, but not necessarily limited to:

1. Coming forward with evidence, both favorable and unfavorable to a person accused;
2. Fully and truthfully making a written report or verbally answering questions when required to do so during the course of a City investigation;and
3. Knowingly, falsely accusing someone of harassment, discrimination, or retaliation, or otherwise knowingly giving false or misleading information in an investigation of such prohibited conduct shall be grounds for disciplinary action, up to and including, termination of employment.

1.Q SMOKING POLICY

Smoking is prohibited on all City property, including in all City facilities and vehicles. Prohibited smoking includes, but is not limited to, smoking tobacco products, cigarettes, and cannabis/marijuana. Smoking includes the use of vapes or vaporizers

SECTION 2: CLASSIFICATION AND SALARY PLAN

2.A PREPARATION/ADOPTION/AMENDMENT OF CLASSIFICATION PLAN

The City Manager shall determine the duties and responsibilities of all City positions, and the City Manager shall have the discretion to add or detract from these duties and responsibilities as the City Manager deems necessary to accommodate the needs of the City. The listing of duties shall not preclude the assignment of other related kinds of tasks or related jobs.

2.B ALLOCATED POSITIONS

The City Manager shall approve the appointment of employees to positions in the Classification Plan.

2.C NEW POSITIONS

When a new position is created, the City Manager may amend the Classification Plan to establish and assign an appropriate classification and grade for the new position as approved by the Council.

2.D BENEFIT PLAN

The Council shall maintain an Employee Benefits Plan that establishes the benefits for all City employees. This Benefit Plan is described in Section 12, "Employee Benefits."

SECTION 3: TYPES OF APPOINTMENTS

3.A TYPES OF APPOINTMENTS

Except for temporary vacancies, all vacancies shall be filled by transfer, promotion, demotion, or from candidates on an appropriate eligibility list, if one is available. In the absence of eligible candidates in one of the above categories, temporary appointments may be made in accordance with these Rules.

3.B TEMPORARY APPOINTMENTS

If deemed to be in the best interests of the City, the City Manager may authorize and approve a temporary appointment to fill either a temporary (e.g., a maternity or military leave) or permanent (i.e., an employee's separation) vacancy. This appointment may be accomplished through a temporary agency or by the City itself. If the position being filled on a temporary basis

would normally require Council approval (i.e., City Manager), the Council shall authorize the temporary appointment.

A temporary appointment may be authorized for a period not to exceed six months from the date of that appointment. The City Manager, or the Council where appropriate, may authorize an additional six month extension for a temporary appointment. All temporary employees must meet the minimum qualifications of the vacant position and are considered to be "at-will" employees, who may be discharged at any time, with or without cause, and without the right of appeal or hearing. These persons may be hired without competitive examination, but have no right to a regular position without competitive examination.

This section shall not be construed to prohibit the employment by contract of a person or entity to provide services to the Council on an interim, indefinite, or other basis.

3.C TRANSFER

When practicable, an employee may transfer from his or her present position to a vacant position, in the same classification, within the City. For purposes of this Section, a comparable classification is defined as one with the same salary range which involves the performance of similar duties that require substantially the same general qualifications. A transferred employee shall retain his or her rate of pay and his or her anniversary date for purposes of merit pay increases. No employee shall be transferred to a position for which he or she does not possess the minimum qualifications. A transfer shall not be used to effect a promotion, demotion, advancement or reduction in pay.

Unless otherwise provided for in these Rules, an employee must be employed with the City for at least six months, or until the employee has completed his or her probationary period, before applying for a transfer. An employee may be requested to defer his or her transfer until his or her current position has been filled, but typically, two-weeks notice will be given to the employee's current department.

3.D PROMOTION

When it has been determined that a vacant position will be filled by promotional appointment, the City Manager shall authorize a competitive promotional examination in order to fill the position, as stated in these Rules.

When an employee is appointed to a promotional position, that employee shall be paid an amount that is within the salary range for the promotional position which is at least a five percent increase over the salary he or she received in the lower position, in accordance with the provisions in Section 5.C. Any employee who is promoted within City service shall be required to complete a probationary period successfully in the new position.

3.E DEMOTION

An employee may be demoted because his or her ability to perform the required duties of his or her position falls below standard, for disciplinary purposes, or for any other reasons as outlined in these Rules. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications. The position which has been made vacant by demotion shall then become subject to the provisions of these Rules which govern appointments.

An employee shall not be required to serve a probationary period in the position to which he or she is demoted unless he or she has not completed the probationary period in the higher position. In such cases, the employee shall be required to complete his or her unfinished probationary period in the lower position. The employee shall retain the salary anniversary date he or she had in the higher position.

1. Involuntary Demotion: An involuntarily demoted employee, who is placed in a position at a lower salary grade than the position he or she formerly occupied, shall be paid a salary within the lower salary grade which is lower than the employee's salary rate in his or her former position, as determined by the City Manager in his or her sole discretion. A demotion which is effected for disciplinary reasons, pursuant to Section 9, shall be subject to the disciplinary appeals process.
2. Voluntary Demotion: A voluntary demotion to a lower position and lower salary grade may be requested by an employee for any reason. Such a voluntary demotion shall require the approval of the City Manager.

The voluntarily demoted employee shall be paid a salary within the lower salary grade which is lower than the employee's salary rate in his or her former position, as determined by the City Manager in his or her sole discretion.

3.F RECLASSIFICATION

Existing positions, where the duties have changed materially so as to necessitate reclassification, shall be reclassified by the City Manager to a more appropriate classification, whether new or existing, with the exception of reclassification from training or internship positions. Except for training or internship positions that are reclassified, the selection of a candidate to fill a reclassified position must be made competitively, unless the incumbent from the reclassified position has been performing the duties for more than one year or unless specifically waived by the City Manager. Such determination must be approved by the City Manager. Regardless of the circumstances, the City Manager may require a competitive examination, and no incumbent shall have a right to be appointed to a reclassified position. No person shall be appointed or employed to fill a reclassified position unless the said reclassified position has been incorporated in the Classification Plan as provided by these Rules. A simple title change is not a reclassification and requires only City Manager approval.

The employee may submit a request for a job audit to the City Manager who shall determine if the reclassification is justified. The City Manager has the authority to reclassify any employee whose reclassification is justified so long as the position is listed in the existing Classification Plan. If the position is not listed, the Council must approve the reclassification. Since there is no money budgeted for that specific reclassification grade increase (normally 5%), the department shall fund for the City Manager-approved reclassification from its general personnel account for the balance of the current fiscal year. The Council shall place and fund the reclassified position in the following year's personnel budget. Reclassifications are normally done with the adoption of the fiscal year budget, but may be done at other times.

Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions, promotions, or unit modifications. The City Manager may conduct objective, non-competitive examinations to establish qualifications for the position.

The salary of an employee in a position that is reclassified shall be determined as follows:

1. Classification with Same Salary Range: If the position is reclassified to a classification with the same salary range as the previous classification, and if the incumbent is appointed to the reclassified position, the salary rate and the salary anniversary date of the employee shall not change. The provision shall also apply to the change of classification title, provided there is no change in the basic duties of the classification.
2. Classification with Higher Salary Range: If the position is reclassified to a classification with a higher salary range than the previous classification, and if the incumbent is appointed to the reclassified position, he or she shall be compensated at an amount within the new salary range which is not less than five (5) percent higher than the Employee's previous salary. The incumbent's salary anniversary date shall not change.
3. Classification with Lower Salary Range: If the position is reclassified to a classification with a lower salary range than the previous classification, and if the incumbent is appointed to the reclassified position, the City Manager may approve an adjustment for the employee if the employee is at the top of the salary range of the previous classification. Otherwise the employee's new salary at the lower grade shall be placed at an amount that is not less than the current salary. The incumbent's salary anniversary date shall not change. Normally, benefits will not be adjusted, unless specifically approved by the City Manager.

The effective date of reclassification shall coincide with the first working day of a pay period after the reclassification is approved by the City Manager. Any completely new classification, one not listed in the Classification Plan, must be adopted by the Council before it is approved.

3.G LAYOFFS/REDUCTION-IN-FORCE/RECALL

The City Manager may lay off permanent full-time or part-time employees or employees under a probationary period at any time for lack of work, budgetary reasons, technological changes, or other City actions that necessitate a reduction in the work force. This Section does not apply to temporary employees whose employment with the City may be ended at any time by written action of the City Manager. At least four weeks notice or severance pay shall be given to any employee who is to be laid off, at the discretion of the City Manager and subject to budgetary constraints. At the City Manager's discretion, a demotion or transfer may be made to prevent a layoff provided the employee is qualified by education and/or experience and is capable of performing the duties of the classification.

Reduction in Force. When it becomes necessary to reduce the work force in the City, the City Manager shall designate the job classification, division, department, or other organizational unit in order to effect a reduction in the work force. Contract, temporary, or initial probationary employees in the same job classification as ones proposed to be reduced within the City shall be laid off first. Although the City may elect to do so, it is not required to allow laid off employees to "bump" employees in other classifications. Probationary promotional employees who are laid off shall be returned to their former classification if the position remains available or is then held by a temporary or probationary employee. Employees who accept lower positions or transfers in lieu of lay-off shall be paid a salary within the lower salary range that is the same as, or closest to the Employee's current salary.

Order of Layoff: The order of layoff of regular employees shall be made in accordance with a system which favors retention of the more meritorious employees, based upon evaluation of the following factors in the listed order of importance:

- a. the most recent performance evaluation record once finalized and filed except when an employee has less than one year seniority with the City. In that case, only seniority will be used.
- b. documented disciplinary actions or formal recognition of meritorious performance during the preceding 12 months
- c. seniority (length of service in a regular position)
 1. in the City
 2. in the classification
- d. for employees who are equal in performance and seniority, as established in a-c above, preference will be given to those with the most veterans preference points (excluding military retirees with 20 or more years.)

Other exceptional circumstances to deviate from this policy may include the desirability of maintaining a department or work unit with adequate staffing to perform required service, and maintaining employees who have the ability to perform work available.

Seniority: Seniority is determined from the day of official appointment to a City department as a regular employee, provided that any regular employee who, as a result of promotion, transfer, or voluntary demotion, is appointed to a regular position in another department, shall for purposes of layoff, carry seniority previously acquired over to the new department. Seniority shall continue to accrue during periods of vacation, sick leave, layoff not exceeding two years, any authorized leave of absence of less than three months, or any call to military service for the duration of the call to duty. Seniority shall not accrue during any other break in continuous service.

Other Policies: The City may call back as a temporary employee within the first year after layoff any laid off employee who is on the reinstatement list when the employee is qualified to fill a vacancy of a full-time position. Once that temporary employee has worked for one year in that capacity in the City, he or she shall be reinstated as an "at will" employee with no property rights, but shall receive regular employee benefits until such time as a regular employee position is budgeted. Unless two years have elapsed from the day of lay-off, he or she shall be placed in that regular position. Any employee who receives an involuntary transfer shall have automatic "bumping rights" to the classification said employee was involuntarily transferred from for up to six months from the effective date of the involuntary transfer in the event of layoff.

Reassignment: An employee who would otherwise be terminated for failure to accept reassignment may terminate and be placed on the Reinstatement List if the employee is being reassigned to a position previously occupied by an employee who was laid off within 20 working days of the effective date of the reassignment. An employee who chooses to terminate and have his/her name placed on the Reinstatement List under this section shall notify the City Manager in writing of his/her decision at least three working days prior to the effective date of reassignment. Such termination shall be on the same date as the reassignment would have been effective.

Reinstatement List: The name of every permanent employee who is laid off, transfers, or elects to demote to a formerly held classification in the same department for longer than one pay period due to a Reduction-in-Force, shall be placed on the Reinstatement List. Vacancies to be filled shall be offered, first in order of performance, to individuals named on the Reinstatement List who at the time of the Reduction-in-Force, held a position in the same job classification within the department as the vacancy to be filled. Individual names may be removed from the Reinstatement List for any of the following reasons:

- a. The expiration of two years from the date of placement on the list.
- b. Re-employment with the City in a regular full-time position.
- c. Failure to respond within 14 calendar days of mailing of a certified letter (to the employee's last known address on file with the City) regarding availability for employment.

- d. Failure to report to work within 14 calendar days of mailing of a certified letter (to the employee's last known address on file with the City) containing a notice of reinstatement to a position, absent mitigating circumstances.
- e. Request in writing to be removed from the list.

Status on Re-employment: A regular employee who has been laid off or terminates in lieu of reassignment and is re-employed in a regular position within two years from the date of his layoff or termination shall be entitled to:

1. Buy back and thereby restore all sick and vacation leave credited to the employees' account on the date of layoff or termination and at the same rate as it was sold originally. This restoration must be requested in writing within 30 days of returning to work and must be fully paid back within six months of the return to work.
2. Restoration of seniority accrued prior to and accrued during layoff.
3. Credit for all service prior to layoff for the purpose of determining the rate of accrual of vacation leave.
4. Placement in the salary range as if the employee had been on a leave of absence without pay if he/she is reinstated to the same job classification from which he/she was laid off or terminated.

Recall: Those former employees in a classification who were laid off shall be recalled first in order of performance merit to be used in any City-wide position for which the former employee qualifies, unless exceptional circumstances occur of which the concerned employee shall be fully apprised in advance. No person from outside City employment shall be hired in a regular position in the deleted classification until all those displaced due to layoffs or transfers are recalled to their former classification or one classification lower in the same career ladder as the one in which the employee was laid off.

Continuation of Benefits: Those who are laid off shall have their medical insurance benefits continued to the end of the second month following the date of their layoff in the event that they are not covered by another medical plan at that time. Employees who are laid off will also receive notification regarding their right to continuation coverage under the COBRA or California equivalent.

SECTION 4: RECRUITMENT AND SELECTION

4.A EQUAL EMPLOYMENT GOALS AND POLICIES

In adopting these Rules, it is the goal of the City to employ the most qualified individuals and to achieve excellence in serving the needs of the community. Employment and promotions in the City shall be based upon merit and qualifications and shall be free from political influence and discrimination based upon religion, age, sex, marital status, race, creed, color, national origin, veteran status, ancestry, medical condition, disability, political affiliation, sexual orientation, gender identification, and physical handicap, unless sex or physical ability is a bona fide occupational qualification.

Although not expressed in the classification specifications or job announcements, all persons applying for or holding any position in the City shall be required to meet the following general qualifications to a reasonable degree: integrity, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume and fulfill the responsibilities of the employment, good health, and physical and mental abilities compatible with the work assignment. Where the position requires the driving of a motor vehicle, the applicant or employee must have a valid California Driver's license and is expected to drive the motor vehicle safely. The foregoing general qualifications shall be deemed to be part of the minimum qualifications of each classification specification or job announcement and need not be specifically set forth therein.

No residency requirements shall be enforced by the City. Extensive efforts shall be undertaken to make local (Humboldt County) residents aware of personnel openings, encouraging them to apply for any positions for which they qualify, and providing them with full due consideration. It is the City's intention to create an environment wherein employees will want to live and work in this community.

4.B JOB ANNOUNCEMENTS

Job announcements providing information about the position, its title and pay, its major responsibilities and duties, minimum and other qualifications, where and when to apply, and the last day on which applications will be accepted shall be prepared and distributed by the City staff. All positions to be filled will be publicized by posting announcements on the City's official bulletin boards, the City's website, and in such other places deemed advisable by the City Manager. Employees may suggest additional locations.

When applicable, notice of open competitive examinations shall generally be posted a minimum of 10 working days before the filing deadline for applications unless it is in the best interests of the City to do a shorter recruitment, as approved by the City Manager. Notice of promotional openings shall be posted a minimum of five working days before the filing deadline for applications.

4.C PERSONNEL APPLICATIONS

Applications for employment, transfer, or promotion with the City shall be made on forms provided by the City Manager or designee. All information required by the application

shall be provided and the applicant shall certify as to the truth thereof. Any material false statement or omission on the application shall, absent mitigation, disqualify the application and may be cause for termination or other disciplinary action if the applicant is or subsequently becomes an employee of the City regardless of when the error is discovered. Resumes and other supplementary information may be submitted and attached to the application for consideration, but may not be used as a substitute for the application.

In order to be considered, an application must be received by 5:00 p.m. on the final day of the advertised recruitment period. A late application shall be accepted from a qualified current City employee only under the following circumstances:

1. The employee must submit a written letter to the City Manager accompanied with a completed application for the position at least two working days prior to the first interview or testing phase; and
2. The employee must provide documentation establishing that he or she was absent from work on an authorized leave continuously from the date the position was first posted to the date the application period closed.

4.D RECRUITMENT

While recognizing the need for introduction of persons from outside City employment at all levels, the policy of the City is to transfer or promote persons already employed by the City when, in the sole discretion of the City, their qualifications, training, work performance, and work experience are determined to be comparable to applicants from other sources.

Except as specifically provided otherwise in these Rules, selection for a position in City employment shall be by one of the following types of examinations:

1. Open Competitive: Positions which are open to all persons who possess the indicated minimum qualifications as set forth in the job announcement. Applicants for open competitive examinations may, but are not required to be, employees of the City.
2. In-House Competitive: Positions which are open only to City employees who possess the indicated minimum qualifications as set forth in the job announcement.
3. Temporary Position: Employees may be hired on a temporary basis through either a temporary agency or by the City itself. The City Manager approves these positions. These persons may be hired without competitive examination.

Variations to these procedures shall be approved in writing by the City Manager.

4.E EVALUATION OF APPLICATIONS

Each application shall be reviewed to determine if the applicant satisfies minimum educational experience, type and years of job related experience, certificates or licenses and any other requirements.

Selection techniques shall be impartial and relate to those areas which will adequately and fairly indicate the relative capacity of the applicants to perform the duties and responsibilities of the position to which they seek appointment.

The selection procedure may consist of personal interviews, performance tests, evaluation of work performed, work samples, assessment centers, physical agility tests, other written tests, review and investigation of personal background and references, medical examination, psychiatric examination, or any combination thereof. The City Manager may at his or her discretion include as a part of the examination process, tests which determine whether applicants meet minimum qualifications.

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

4.F CANDIDATES' EXAMINATION INSPECTION

If a selection procedure consists of a written examination, the applicant shall be given written notice of his or her test results. By appointment with the City Manager, an applicant shall have the right to review his or her own written test within 10 working days after the examination results are mailed out. However, no applicant shall be allowed to examine the test key as part of his or her examination inspection.

Any error in rating or grading shall be corrected if it is called to the attention of the City Manager at the time the applicant reviews his or her examination. Any applicant whose corrected score meets or exceeds the examination's established passing score will be placed on the applicable eligibility list for the position, if one exists. Any correction shall not invalidate an appointment or offer of employment that has been made previously.

4.G NEPOTISM POLICY

An applicant for a position who has a relative employed by the City may not be denied the right to file an application for employment and compete in the examination process. Following examination, if the applicant is successfully certified as eligible, he or she may be employed in a department, division, or office in which a member of his or her immediate family

is employed. Such employment shall be denied if the City Manager determines that such employment would potentially create a conflict of interest or have a potentially adverse impact on supervision, safety, security, or morale, or if the employee would be in a position where he or she would directly supervise, or be supervised by, a member of his or her immediate family.

For the purposes of this section and Section 7.A, a "relative" or "immediate family member" shall be defined to include the following: mother, father, sister, brother, spouse, daughter, son, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandmother, grandfather, granddaughter, grandson, aunt, uncle, first cousin, niece, and nephew.

When the eligible candidate is refused appointment by virtue of this section, the name of the candidate shall remain on the eligibility list for openings in the same classification, as otherwise provided in these Rules, where no member of the employee's immediate family is employed, supervised by, or supervising the vacant position. In no case may an employee participate directly or indirectly in the recruitment or selection process for a position for which the employee's relative has filed an employment application.

Where two relatives are working in the same department, division, or office at the time these Rules are adopted, or if an event occurs in which a familial relationship is established between two employees who work in the same division or office (i.e., if a marriage results in a spousal or in-law relationship), the relationship shall not be deemed a "prohibited relationship" unless the employees' mutual employment creates a potential conflict of interest or has a potentially adverse impact on supervision, safety, security, or morale, and so long as neither employee is in a supervisory capacity over a member of his or her immediate family.

If, as stated above, a familial relationship exists or is established, the employees may continue in their positions so long as the conditions of a prohibited relationship are not met. If, in the determination of the City Manager, such a prohibited relationship does or would exist, the City Manager shall submit the reasons for his or her determination to the City Council for review. The City Council shall have one week to investigate the City Manager's findings and determine if a "prohibited relationship" does exist.

If the City Manager's review confirms that a prohibited relationship exists, he or she shall promptly inform the employees of the City's intention to transfer one of the employees to a vacant position of comparable pay and duties in another City division or office, provided that such a vacant position exists, the transferee is qualified therefor, and no offer of employment to fill the vacant position has been made to another eligible candidate. If a position of comparable pay and duties is not open, but one in a lower classification is vacant, either of the employees may elect to voluntarily demote to the lower position, provided that the vacant position is in another department, division, or office, the employee is qualified to fill the position, and the position has not been offered to another candidate. Any voluntary demotion which occurs as a result of this section shall be in accordance with the provisions set forth in Section 3.G. In the

event that a transfer or voluntary demotion is not feasible within the time limit set herein, the affected employees shall decide which of them will resign from City employment.

If a transfer or voluntary demotion is not feasible and neither employee has submitted a letter of resignation three weeks after the determination that a prohibited relationship exists, the City Manager shall determine which of the employees shall be terminated-in-good-standing. Regardless of which procedure is utilized, the transfer, voluntary demotion, resignation, or termination-in-good-standing shall become effective one month after the City Manager's determination that a prohibited relationship has been established. This one-month time limit may be extended up to an additional two months with written approval from the City Manager, provided that personal or organizational considerations mandate such an extension.

Except as hereinafter provided, an employee who has been terminated-in-good-standing because of the operation of this Section, may be reinstated to the position which such employee held at the time of termination, or to a position of equal seniority, status, and pay. In order for the employee to be eligible for reinstatement, he or she must be reinstated to a position in a department, division, or office where a prohibited relationship would not be established (or re-established), the position must be open, and the employee must still meet the qualifications for the position. This right of reinstatement shall be effective only through the 90 days immediately following the effective date of the employee's termination-in-good-standing, and shall take precedence over a right of reinstatement which has been derived from a voluntary resignation in-good-standing. Commencing on the 91st day after the effective date of the termination, the terminated employee shall have a co-equal right of reinstatement with employees who have voluntarily resigned in-good-standing, up to an additional nine months.

With the exception of the City Manager's review, as provided in this Section, any decision to transfer, voluntarily demote, resign, or terminate an employee in-good-standing (pursuant to this Section), is not subject to any appeal or grievance procedure.

4.H DRIVING SAFETY CHECK

A verifiable and acceptable driving record shall be required of each final candidate for employment whose position requires the employee to drive a City vehicle or if the employee receives a vehicle allowance or mileage reimbursement. Verification of acceptable driving records of all employees may be conducted periodically. Driving a City vehicle without possessing a valid driver's license is not permitted and may result in disciplinary action up to and including termination.

Employees shall notify their supervisors immediately if their licenses expire, are suspended, or revoked. Failure to do so would be grounds for termination of employment.

4.I ELIGIBILITY LISTS

Lists of applicants to be considered for job openings in a particular classification may be established for open competitive or promotional competitive positions, in the City Manager's discretion. If utilized, an eligibility list shall be a list of persons who have taken an open competitive or promotional competitive examination for an advertised City position and have qualified for said classification. Each such list shall bear an expiration date. The hiring department may appoint any candidate on the eligibility list, regardless of ranking, provided all candidates with higher rankings have been interviewed.

The City Manager shall have the right to extend an eligibility list for one or more periods not to exceed in total one year from the original date of certification. If a City employee is on an eligibility list, the City Manager shall notify that employee when that list expires.

The City Manager may remove a name from an eligibility list for any of the following reasons:

1. If the eligible person accepts an appointment with the City to a regular position of the same or higher classification. Acceptance of a temporary appointment at any level will not in itself be cause for removal from an eligibility list. An eligible person may refuse an appointment to a particular position and request to remain on the eligibility list.
2. If the eligible person requests in writing removal from the list.
3. If the eligible person fails to respond within 10 calendar days to a notification or letter which has been mailed to the person's last address on file with the City.
4. If the eligible person is unable to accept any offered position.
5. If a person on a promotional eligibility list resigns from City employment.
6. If other circumstances, such as, but not limited to, conviction of a crime involving moral turpitude or loss of a required license, make the person ineligible.
7. If the eligible person has not been offered an appointment after interviewing for three separately budgeted positions which are to be filled from the same eligibility list.

Placement on an eligibility list does not guarantee employment with the City.

If a vacancy exists in a classification for which there is no appropriate eligibility list, the City Manager may prepare a list from one or more existing related lists by selecting names of eligibles from eligibility lists for classifications which are assigned to the same or higher pay range and which have minimum qualifications similar to those of the classification in which the vacancy exists.

4.J FINAL DECISIONS ON SELECTION

All appointments shall be subject to final approval by the City Manager before becoming effective. If the selected candidate accepts the appointment and reports for duty within the agreed upon time, the applicant shall be deemed appointed to the position. If the selected candidate does not report to duty within the agreed upon time, the candidate shall be deemed to have declined the appointment. By mutual agreement of the City Manager and the candidate, the date of the appointment may be changed. Upon the affected employee's written petition, effort shall be made to accommodate current City employees who are or will be on an approved leave as of the date of appointment and thereby unable to report for duty at the designated time.

4.K PRE-EMPLOYMENT PHYSICAL

Each person accepting employment in a maintenance classification with the City may be required to pass a pre-employment physical at a City designated medical facility at City cost before an appointment to such employment becomes effective. This Section shall also apply to changes of employment within the City when an existing non-maintenance employee accepts a position in a maintenance classification.

4.L EMPLOYMENT ELIGIBILITY VERIFICATION

In compliance with law and with regulations of the United States Department of Justice and the U.S. Citizenship and Immigrations Services, the City requires that each person hired by the City complete Section I of the Employment Eligibility Verification Form I-9 to verify that the person is eligible for employment in the United States.

4.M PROBATIONARY PERIOD

The first six months, or any duly extended longer period, of all new and promotional employment in a regular position shall be deemed a probationary period. The probationary period shall commence upon the effective date of the appointment.

During the probationary period, an employee is at-will and may be terminated by the City Manager without cause and without the right of appeal, hearing or resort to any grievance procedure. At the conclusion of the probationary period, if the employee's performance does not meet City standards but is not altogether unsatisfactory, the probationary period may be extended up to an additional six months, at the discretion of the City Manager. The decision to extend the length of an employee's probationary period must be based on justifiable reasons and must be made prior to the expiration of the original six month probationary period. Such a decision shall not be appealable or grievable.

An employee who fails to complete his or her promotional probationary period satisfactorily shall be reinstated to the position in the same classification from which he or she

was promoted unless discharged from the City service as provided in these Personnel Rules or unless the position is no longer available. Such reinstatement shall be without the right of appeal, hearing or resort to any grievance procedure.

4.N CRIMINAL CONDUCT - INELIGIBILITY FOR EMPLOYMENT

Except as otherwise hereinafter provided, no person convicted of a misdemeanor involving moral turpitude or a felony shall be eligible for employment in the service of the City. However, the City Manager may disregard such conviction if he/she finds and determines that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction.

Only the City Manager, the Police Chief, and the City Attorney are authorized to have access to the "State Summary Criminal History Information" as provided for in Section 11105 of the Penal Code of the State of California.

4.O FINGERPRINTING AND BACKGROUND CHECKS

To facilitate the City's ability to perform complete background checks on its employees, new City employees may be fingerprinted and their backgrounds researched to ensure that there is nothing which would hinder their ability to perform their job satisfactorily or create any unnecessary liability for the City.

4.P RESIGNATION

Employees who desire to terminate their service with the City shall submit a written resignation to the City Manager at least two weeks prior to the effective date of the resignation. Failure to comply with this requirement may be cause for denying future employment with the City. Resignations shall be deemed accepted by the City upon submission.

4.Q REHIRE

Any regular employee who voluntarily or involuntarily resigns or separates and is later rehired, may forfeit all previous seniority and benefits and does not need to be rehired at his/her former grade or salary, except in the case of lay-off. The rehired employee may be considered the same as a new hire. With approval of the City Manager, a former employee who is eligible for rehire may be rehired by appointment rather than competitively, but may still be placed on at least six months probation upon return.

SECTION 5: PERFORMANCE EVALUATIONS & SALARY ADJUSTMENTS

5.A SALARY AT APPOINTMENT

Except as otherwise stated in this Section, all new employees shall be appointed at the beginning of the salary range to which their class is assigned. When the proposed employee's education, training, and experience are deemed superior and justify a salary in excess of the lowest salary within the salary range, the City Manager may offer, subject to council approval, a higher salary that is within the salary range, commensurate with the proposed employee's education, training, and experience.

All final appointments are subject to City Manager approval, regardless of the salary at which the employee is appointed.

5.B EMPLOYEE PERFORMANCE EVALUATION

Regular reports on forms prescribed by the City Manager shall be made as to the efficiency, competency, conduct, and merit of all employees appointed by the City Manager. Performance evaluations should be completed at the following times: at the end of the 6 month probation period, 12 months after successfully completing probation, and annually thereafter. As outlined in Section 4.N, any decision to extend an employee's probationary period must be made prior to the expiration of the original probationary period. Any evaluation which warrants a merit increase but is not completed by the designated review date shall be retroactively paid back to that review date. In addition to those occasions referenced by this Section, a supervisor may render a performance evaluation when performance issues arise, whether positive or negative; when there is a change in assignment; and/or when there is a change in supervisor or management.

During the performance evaluation meeting, the employee and supervisor shall review and discuss the employee's significant accomplishments, training, problem or improvement areas, and future development and objectives. After reviewing the job description, duties, and any established performance standards for that position, an evaluation shall be made by the supervisor as to whether the employee's performance meets City standards. An explanation must accompany any unacceptable or conditional judgment. The employee shall have an opportunity to review his or her performance evaluation report and agree or disagree with it. Based upon the Performance Evaluation Report, the supervisor may make appropriate recommendations regarding a possible merit increase, promotion, or other action. Due to budgetary constraints, a positive performance evaluation or change in status from probationary to permanent does not automatically result in a merit increase.

The employee shall have the right to attach a written response to the corresponding performance evaluation in his or her personnel file. This response must be made within 10 working days of receiving the evaluation.

If a regular employee is not in agreement with a performance evaluation which results in an overall below-City Standard rating, the employee may, within 10 working days after receipt of the evaluation, request a review of such evaluation. If the employee is not in agreement with the determination of the City Manager, the employee may, within 10 working days after receipt of the determination of the City Manager, request a further review by the City Council, whose decision shall be final and conclusive.

If the City Manager prepared the evaluation in question, the employee may omit review by the City Manager and proceed directly to the next level of review by the City Council, as appropriate.

Probationary employees may attach written responses to their probationary evaluations and submit them to the City Manager for consideration; however, such employees have no appeal rights.

The employee and supervisor must sign and date the report. If the employee refuses to sign the report, the supervisor shall note this fact and any circumstances surrounding the employee's refusal on the Performance Evaluation Report. Copies of the Report shall be distributed to the employee and the City Manager.

Performance evaluations shall not be subject to the appeals process (See Section 9) or the grievance process (See Section 10). The above procedures shall be utilized as the exclusive means to have the evaluation reviewed by a higher authority.

5.C MERIT SALARY INCREASES:

1. Permanent Full-time and Part-time Employees shall earn merit salary increases based, depending on budget availability, on meeting or exceeding satisfactory performance of duties in the overall rating rather than simple longevity, as follows:
 - a. Normal Progression: From the date of employment until the successful conclusion of the probationary period, no merit salary increase shall be granted. At the end of a successful probationary period, the employee shall become eligible for a merit salary increase provided that the employee's overall performance has satisfactorily met City Standards. Thereafter, eligibility for merit salary increases shall occur at 12-month intervals, provided the employee's performance is satisfactory, until such time as the employee reaches the top of the salary range available for his or her position. General employees must achieve at least an overall "meets job standards" to be deemed as having met City Standards. An employee who receives an overall performance mark less than "meets job standards" will not receive a merit salary increase. Management employees shall be

afforded the same status until such time as the City Manager adopts a new evaluation plan for management employees. Nothing in this section shall preclude the City Manager from adopting new evaluation procedures and forms.

- b. Promotional Progression: From the date of promotion until the successful conclusion of the probationary period, no merit salary increase may be granted. When an employee is promoted to a classification with greater salary range, his or her salary increases to an appropriate salary within the grade of the new job classification. An employee who is promoted shall be compensated at an amount within the new salary range which is not less than five percent higher than the salary he or she earned in the previous salary range.

All promoted employees who successfully pass their promotional review period are eligible for a merit salary increase provided satisfactory performance is achieved. A promoted employee is eligible for another merit salary increase, annually thereafter, from the date of the promotional review until their salary reaches the top of the salary range.

2. Temporary Employees may not receive merit reviews normally. A temporary employee may receive a performance evaluation when his or her period of service concludes to determine whether he or she is eligible for rehire and may be evaluated more frequently at the discretion of the supervisor. This performance evaluation may also be used as a basis for considering salary in the event the employee is rehired.

SECTION 6: ATTENDANCE AND HOURS OF WORK

6.A WORK WEEK AND OVERTIME

For purposes of applying the overtime requirements of the Fair Labor Standards Act (FLSA), the workweek for City employees shall begin at 12:01 a.m. Tuesday and end at 12:00 p.m. (midnight) Monday night. For any illness or emergency absence from work, the employee must notify the supervisor within the first half hour of normal reporting time when possible.

For Non-Exempt positions, which do not meet one of the FLSA exemption categories, overtime hours worked shall be compensated for time actually worked in excess of 40 hours in a work week. Holiday hours, sick leave hours, vacation, compensatory time, or administrative leave will not be included as time worked for purposes of calculating FLSA overtime.

Overtime for Non-Exempt employees shall be compensated in one of the following two ways:

1. As paid time at the one-and-one-half rate of pay; or
2. As compensatory time-off as accrued at the one-and-one half rate of pay.

Prior to overtime being authorized, the employee and his or her supervisor shall agree as to how the employee shall be compensated (i.e., paid time or compensatory time-off). If the employee and supervisor do not agree on the method of compensation, the supervisor may ask another employee to perform the overtime work. If the supervisor requires that a particular employee perform the overtime, yet they cannot agree on the method of compensation, then the employee shall be given the choice of how he or she wishes to be compensated.

In order to establish an equitable system of working hours, compensation, and benefits, the City Council will, from time to time, establish a Benefits Plan, which will define separate benefit categories for compensation, benefits, and accrual rates, depending upon the nature of the position.

Compensatory time-off accumulated under these Rules and Regulations must be utilized or paid in conjunction with termination of employment.

6.B OVERTIME COMPENSATION

Overtime compensation shall be provided to City employees as follows:

1. Exempt employees are salaried and/or contract employees and shall not receive overtime compensation. Employees in these categories are the City Manager and the Police Chief.
2. Non-exempt employees may receive overtime compensation in the form of paid time or compensatory time-off, at a time-and-one-half rate. The choice of compensation method is determined by the employee and his/her supervisor. Non-exempt employees may accrue comp-time to a maximum cap of 40 hours. The City Manager may allow accrual beyond the maximum if circumstances warrant.
3. An employee who has accumulated the maximum amount of compensatory time shall not work overtime on a compensatory time basis until the accumulation has been reduced to less than the maximum accumulation allowed under these Rules. This in no way limits or caps paid overtime.

6.C NO GUARANTEE OF HOURS

Nothing contained in these Rules shall be construed to constitute a guarantee of minimum hours of work per day or per work week or of days of work per work week, provided that when reasonably possible at least 14 calendar days advance notice shall be given to each employee

whose work hours are to be reduced. When economic conditions dictate, management may direct a reduction of hours, a furlough, or a reduction-in-force.

6.D STAND-BY AND CALL-BACK POLICY

Policies relating to stand-by and call-out duty shall be established by the City Manager, as necessary. For more information on stand-by and call-out requirements and compensation, refer to Section 13 of this Manual.

6.E TIME SHEETS

All employees must complete time sheets showing hours worked and leave taken. Salaried employees are not subject to having their pay reduced for less than eight hour increments when no other authorized leaves are available to them. The City may make deductions from paid leave accruals for periods of less than eight hours. Time sheets must be signed by the individual employee, the employee's supervisor, and the City Manager. Notice of any correction(s) to the time sheet will be sent to the employee. Such corrections will be deemed final unless questioned by the employee within 30 days after notice of correction has been given to the employee. Unresolved matters may be taken to the City Council for a final determination.

6.F CONSTRUCTIVE RESIGNATION

An employee who is absent, without authorized leave, for three or more consecutive work days is deemed to have resigned. If the City Manager determines that extenuating circumstances exist, the resignation may be rescinded, in which case, absence may be covered by leave, with or without pay, if so approved by the City Manager.

6.G LUNCH AND BREAK POLICY

Rest Periods. All nonexempt employees who are scheduled to work six hours or more per day must take two ten minute breaks each day. Rest breaks must be taken as close to the middle of each four hour work period as practicable. Part-time employees are not entitled to a paid break unless they work longer than three and one-half hours. Employees who work more than three and one-half hours but less than six hours are entitled to one paid break period. Break periods shall not exceed 10 minutes each. An employee who takes a break from his/her normal work station to smoke is using part of the 10-minute break. Employees in transit in the conduct of City business while smoking does not constitute a smoke break.

Meal Periods. Employees who are scheduled to work five hours or more must take one unpaid lunch break of at least thirty (30) minutes, but not to exceed sixty (60) minutes per day. All meal periods shall be taken no later than the start of the employee's sixth hour of work. If an employee works at least five hours but no more than six hours the lunch period may be waived by mutual consent of the employee and the City. If an employee works for a period of more than ten hours, the employee must take a second unpaid meal period of at least thirty (30) minutes

which shall be taken no later than the start of the employee's eleventh hour of work. If any employee works more than ten hours but less than twelve hours the second meal period may be waived by mutual consent of the employee and the City. If an employee is alone during a meal period, he/she may be authorized to eat at the work-site on paid time. All on duty meal periods must be agreed to by the employee and the City in writing prior to an employee taking an on duty meal period.

Break and lunch periods may be taken only in the time period for which they are designated and may not be accrued. Extenuating circumstances, as determined by the City Manager, may establish cause for variation from the scheduling of break and lunch periods.

6.H EXEMPT EMPLOYEES AND PARTIAL DAY ABSENCES

In accordance with the Fair Labor Standards Act and the City's accountability to the public, exempt employees are subject to deductions for partial day absences. These employees may use paid leaves in accordance with these rules for partial day absences. If an exempt employee has exhausted his/her paid leaves, he/she shall receive a reduction in pay for partial day absences.

SECTION 7: LEAVES

7.A HOLIDAYS

Days which are designated as paid holidays by the Council shall be holidays for City employees, unless using a flex holiday per Section 7.A.5, below. A holiday falling on Sunday will be observed the following Monday. A holiday falling on Saturday will be observed the previous Friday.

1. Regular Full-time Employees are entitled to the following nine (9) paid holidays each year:

New Year's Day	January 1
Dr. Martin Luther King, Jr. Day	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veterans' Day	November 11
Thanksgiving	4th Thursday in November
Christmas Day	December 25

2. Temporary Employees will not normally be given paid holidays, but will be given leave without pay on holidays which preclude their working.

3. Regular, part time employees working at least 20 hours per week shall receive prorated holiday pay. Part time employees working less than 20 hours per week are not eligible and shall not be paid for holidays.

4. In-Lieu Holiday: Any non-exempt employee whose work schedule requires the employee to work on an approved holiday will be awarded an in-lieu holiday which will be entered on the time sheet as compensatory time at the overtime rate. Employees who work less than eight hours on a holiday will receive compensatory time at the overtime rate equaling the actual time worked or shall be paid at the overtime rate for those hours worked plus holiday pay. The choice to receive pay or compensatory time is the employee's.

5. Flex Holiday: If a paid holiday falls on a Saturday or Sunday during any given year, the employee shall have the option to utilize one (1) day of holiday leave during another work day within the two-week pay period on which the holiday falls with the consent of the City Manager.

7.B VACATION LEAVE

All vacations must be scheduled in advance when practical and approved by the employee's immediate supervisor or the City Manager. Vacations shall be taken at such a time as not to place an undue burden on the employee's department or division. All City employees

are encouraged in the interest of their own health and well-being to utilize, rather than to accumulate, vacation time.

When a fixed holiday falls within a vacation period, the holiday time shall not be charged against an employee's earned vacation benefits. All employees must be employed by the City for at least 180 days (six months) before vacation time can be utilized. Vacation Leave accrual is based on 26 pay periods, using the stated monthly benefit.

Employees shall receive vacation benefits as follows:

1. Full time employees with up to and including 5 years of continuous service shall earn 3.692 hours of vacation time per pay period of service (12 vacation days per year).
2. Full time employees with from 6 to 10 years of continuous service shall earn 4.615 hours of vacation time per pay period (15 vacation days per year).
3. Full time employees with 11 plus years of continuous service shall earn 6.154 hours of vacation time per pay period of service (20 vacation days per year).
4. Regular, part time employees working at least 20 hours per week shall receive prorated vacation accumulation benefits. Part time employees working less than 20 hours per week are not eligible and shall not accrue vacation.

Employees cannot accumulate more unused vacation than the equivalent of an amount equal to two times what the employee can earn in a year. Employees who have accumulated vacation and whose employment is terminated with the City shall receive payment for all unused and accumulated vacation.

Employees may choose to convert any unused and accumulated vacation to compensation. Employees are limited to one vacation conversion per calendar year.

7.C SICK LEAVE

Sick leave is a benefit that is offered to all employees. It is earned on a 26-pay period basis, given the monthly rates stated below. Employees who successfully complete their probationary periods, retire under the requirements of the Public Employees Retirement System (PERS), are disabled, or voluntarily resign with proper notice to the City are eligible to receive a proportionate payment for the value of any unused sick leave. The City's policy for sick leave accrual and "buy-back" is as follows:

1. Full-time employees shall accrue sick leave at the rate of 3.69 hours per pay period (12 days per year). Employees accruing sick leave may accrue a maximum of 480 hours. There is no compensation for sick leave to the employee when the employee leaves employment with the City.

2. Regular, part-time employees and Temporary Employees shall receive prorated sick leave benefits
3. All Employees shall receive a minimum of 24 hours of sick leave per year.
4. These policies for the accrual of sick leave are not applicable to a Contract Employee who has negotiated different provisions in his/her contract.

Sick leave may be used for the diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member. For purposes of this policy, "family member" means any of the following: (1) a child which means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status; (2) a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child; (3) a spouse; (4) a registered domestic partner; (5) grandparents; (6) grandchildren; and, (7) siblings. Sick leave may also be used by an employee who is a victim of domestic violence, sexual assault or stalking for related absences that are due to: seeking medical attention or treatment; psychological counseling; obtaining services from a domestic violence shelter, program or rape crisis center; safety planning; or seeking judicial relief arising from domestic violence, sexual assault, or stalking.

Sick leave is not an earned right to time off from work. However, employees who are sick are encouraged to use this benefit instead of coming into work, being unproductive, and potentially spreading the illness to co-workers. If an employee is to be absent from work due to illness or other allowable reason, he/she must notify the supervisor by telephone within the first half hour of normal reporting time or earlier if possible. An employee's preventive medical and dental appointments (within reason) and dependent care are acceptable uses of sick leave.

Employees may use up to one-half of the amount of sick leave earned in a year (but in no event less than 24 hours) to care for family members, as defined above, when such family members require personal care (including preventive medical and dental treatment). After exhausting allowable sick leave to care for a family member, the employee must use vacation, or other non-sick leave accruals if additional time-off is needed. If an employee has exhausted all accrued sick leave, he/she may request other forms of leave, subject to the City Manager's approval.

In the case of absences of more than three consecutive days, written medical verifications for the employee or family member may be required of an employee for leave beyond three days.

Up to 24 hours of sick leave may be voluntarily donated from one employee to another out of a humanitarian need when the recipient employee has no leave accrued, including sick leave, vacation leave, administrative leave, or in lieu holidays. No more than six months of total leave may be donated to an individual employee.

If an employee reports an absence for a covered reason, the City will assume the employee is requesting a deduction be applied against his or her paid sick leave balance consistent with this policy unless the employee advises the City manager otherwise.

7.D PERSONAL LEAVE

Each full-time employee may take up to three (3) personal leave days per year. The employee may use these days at his/her discretion but must give his/her supervisor one week's prior notice before using personal leave days. If, for extraordinary reason, the day(s) chosen by the employee cannot be taken off for work reasons, the supervisor must inform the employee in writing within two days of receiving notice from the employee of his/her desire to use a personal leave day and an alternate date shall be suggested. This leave is available after one year of service, and unused personal leave cannot be carried into the next year. An employee who does not use all of the available personal leave in a given year will not be compensated for the unused portion.

7.E VOTING LEAVE

In accordance with State law, the City encourages all employees to vote in local, state, and national elections. Employees are encouraged to vote outside of normal working hours. Under special circumstances, an employee who does not have ample time to vote outside of normal working hours may make arrangements with his or her supervisor to take up to two hours with pay in order to vote.

7.F BEREAVEMENT LEAVE

Employees shall be allowed five days unpaid bereavement leave in the event of death of an immediate family member. Immediate family in this instance shall be narrowly defined as mother, father, spouse, natural/step children, mother-in-law, father-in-law, brother or sister. For other family members, sick leave may be used in place of bereavement leave.

If travel is required in excess of 300 miles for the death or funeral in the immediate family, the employee may use an additional two work days of accrued sick leave for this reason in conjunction with the five days of bereavement leave.

Employees will be allowed unplanned vacation leave to be taken up to 10 days in length in addition to bereavement in the event of death in the employee's immediate family (parent, spouse, child, step-child, mother-in-law, father-in-law, brother or sister).

7.G JURY DUTY AND WITNESS LEAVE

No employee shall be dismissed or in any manner discriminated against for taking time off from work to serve as a juror or witness when required by law provided such an employee complies with the provisions of this Section. An employee called to serve as a juror or witness shall notify his or her supervisor at least one week prior to the commencement of such service, unless extenuating circumstances exist.

Any employee of the City called as a juror or witness shall be entitled to be absent from his or her duties with the City as long as required by the court system or other tribunal. The employee shall obtain a jury calendar or assignment sheet weekly during such service. The employee shall have the jury calendar or assignment sheet signed by the jury clerk or commissioner and shall deliver this sheet to his or her supervisor at the end of each week to verify jury duty or witness service.

If a regular employee on an alternative work schedule is summoned for jury duty, the City Manager shall convert the employee's usual work shift to a regular five day, Monday through Friday shift basis. A regular employee required to serve on jury duty shall be entitled to his or her regular rate of pay, provided the employee deposits any fees for service, excluding mileage, with the City. A temporary employee called for jury duty will not be compensated for time lost while on jury duty, but shall be entitled to retain his or her jury fees.

Except for probationary employees, an employee's salary anniversary date shall be extended if his or her jury duty is in excess of 30 days per fiscal year. If an employee is required to serve on jury duty while on probation, his or her probationary period shall be extended the same length of time as the jury duty. Such extensions of salary anniversary dates and probationary periods which arise as a result of this policy shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Any employee required to be absent from work on behalf of the City by proper subpoena issued by a court or other legally empowered agency, shall be entitled to be absent from work at his or her regular rate of pay, provided that any fees, except mileage, are deposited with the City. An employee required to be present as a witness in any other matter shall not be entitled to be paid during such absence.

An employee who is released by the court from jury duty on any regularly scheduled work day shall contact his or her supervisor to find out whether he or she is required to return to work. An employee who is scheduled for stand-by duty while serving on jury duty shall be rescheduled for stand-by duty after the conclusion of jury duty, unless the employee agrees to serve both.

7.H PREGNANCY LEAVE

Pregnancy leaves of absence shall be granted to employees medically disabled by pregnancy, childbirth, or related conditions, provided such leave shall not exceed four months per pregnancy. This is an unpaid leave of absence. At the commencement of a pregnancy leave of absence, employees may use accrued sick leave, and thus, continuing to receive pay. An employee may use vacation, compensatory time-off, and/or administrative leave allowances after exhaustion of sick leave, at the discretion of the employee, to extend the paid period of the leave of absence. City pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies except as modified herein. The use of accrued time-off shall not extend the length of the leave. The authorized absence is only for the duration of the disability up to four months.

When an employee is on pregnancy leave, the City shall continue payment of benefit premiums for the employee and her dependents to the same extent as is paid by the City when the employee is not on leave.

If the employee chooses to remain away from work longer than four months, she must apply for family leave. Vacation time, sick leave, administrative leave, and holidays shall not accrue during a pregnancy leave of absence unless the employee is continuing to receive pay by utilizing accrued sick leave, vacation, compensatory time-off or administrative leave allowances.

Any employee who takes a pregnancy leave of absence shall have her salary anniversary date extended by the same length of time as the unpaid portion of the leave. For purposes of this section, paid portions of pregnancy disability leave include only those portions for which payments are received on account of vacation, sick leave, compensatory time-off, administrative leave, and holiday allowances. If an employee takes a pregnancy leave of absence while on probation, her probationary period shall be extended the same length of time as the pregnancy disability leave. Such extensions of salary anniversary dates and probationary periods which arise as a result of this policy shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

A request for a pregnancy leave of absence should be submitted by the employee as soon as feasible after the employee learns of her pregnancy. The employee must provide a written statement from her physician indicating the date the physician believes the leave of absence should begin and the estimated date of birth. The City may require a pregnant employee who wishes to continue working to provide a physician's statement approving the continuance of her current work duties.

Before returning to work following a pregnancy leave of absence, the employee may be required to submit a physician's verification stating the employee's ability to return to work. Unless the leave is otherwise extended, at the end of the four-month pregnancy leave period, the employee shall be required to return to work full-time. If approved by the employee's physician and the City Manager, the employee may choose the option of returning to work prior to the conclusion of the four-month period on either a full-time or part-time basis and receive pro-rated pay and benefits.

Up to an additional two months of pregnancy leave may be granted for medical reasons either prior to or after birth if the employee's physician provides a written statement indicating the employee's inability to perform her duties or any feasible "limited duties." Such an extension of pregnancy disability leave is subject to the approval of the City Manager whose decision is final and conclusive. Nothing herein shall guarantee an extension beyond the standard four months of leave.

An employee may take both pregnancy leave and, subsequently, State family care and medical leave to be with a newborn. The employee is entitled up to four months of pregnancy leave, plus an additional 12 weeks using the State family care and medical leave provisions.

The City shall attempt to reasonably accommodate any transfer request by an employee who is affected by her pregnancy. Any transfer request must be accompanied by a certification from the employee's health care provider stating that a transfer is medically advisable. Transfer requests may be made to alternate positions which are open and to which the employee is qualified for. When a pregnant employee's health care provider certifies that it is medically advisable for the employee to take intermittent leave or leave on a reduced work schedule, the City may require the employee to transfer temporarily to an available alternative position. Any alternative position must have the equivalent rate of pay and benefits that the employee is receiving, and the employee must be qualified for the position. Transferring an employee to an alternative position may include altering the employee's existing job duties to accommodate the employee's need for intermittent leave or a reduced work schedule.

7.I FAMILY CARE AND MEDICAL LEAVE

Although all public agencies, such as the City, are "covered" by the Family and Medical Leave Act ("FMLA") (29 U.S.C § 2600 et seq.) and California Family Rights Act ("CFRA") (Gov't Code §§ 12945 et seq.), employees of the City are not "eligible" for FMLA/CFRA leave since the City does not employ at least 50 employees within a 75-mile radius, as required by the FMLA/CFRA. However, the City does provide leave as set forth below.

Leaves of absence shall be granted upon request to employees who have full-time status with the City during the previous 12-month period, and for the reason of bonding with a new child within one year of the childbirth, adoption, foster care placement; parental care; serious family illness or injury; or the employee's own serious health condition; provided such leave shall not exceed 12 weeks of leave in a 12 month rolling period. If both parents are employed by the City, the two employees are only entitled to receive a combined 12 weeks for the birth, adoption, or foster care of a child.

At the commencement of a family leave of absence, employees shall first use all accrued vacation, compensatory time off, or administrative leave allowances and, thus, continuing to receive pay. Pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies governing leave without pay, except as modified herein. The use of accrued time off shall not extend the length of the leave.

In the case leave is requested to care for an employee's own serious medical condition or a family member's serious illness or injury, the City requires the following information on a certification from a physician of the need for this leave:

1. The date, if known, on which the serious health condition commenced.
2. The probable duration of the condition.
3. If leave is requested for the employee's own serious medical condition, a statement that the employee cannot perform the essential functions of the employee's job or can only perform the essential functions on an intermittent or

reduced basis and the likely duration of such inability. The City can seek second and third opinions at its cost.

4. In the case of caring for a covered family member, a statement that such leave is medically necessary to care for the family member.

When an employee is on unpaid family leave, the City shall continue payment of benefit premiums for the employee and his/her dependents to the same extent as is paid by the City when the employee is not on leave. Vacation time, sick leave, administrative leave, and holidays shall not accrue during a family leave of absence unless the employee is continuing to receive pay by utilizing accrued vacation, compensatory time off or administrative leave allowances, as well as sick leave when applicable due to disability.

An employee who takes a family leave of absence shall have his/her salary anniversary date extended by the same length of time as the unpaid portion of the family leave. For purposes of this section, paid portions of family leave include only those portions for which payments are received on account of vacation, compensatory time off, administrative leave, and holiday allowances. If an employee takes a family leave of absence while on probation, his/her probationary period shall be extended the same length of time as the family leave. Such extensions of salary anniversary dates and probationary periods which arise as a result of this policy shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance. Family leave shall not constitute a break in service for purposes of longevity or seniority.

The employee should request a family leave of absence by submitting the request in writing to his/her supervisor or to the City Manager.

7.J LEAVE OF ABSENCE WITHOUT PAY

Any employee who is absent from work and who is not on leave of absence with pay shall be considered to be on leave of absence without pay, if such leave has been authorized by the proper authorities.

This section is designed to grant special requests for leaves of absence without pay which are not specifically addressed in either the military leave or pregnancy disability leave sections of these Personnel Rules.

A leave of absence without pay must be approved by the City Manager. No leave of absence without pay shall be granted unless the employee requests the leave in writing and includes the reason for the request. Approval by the appropriate authority shall be in writing. No leave of absence without pay pursuant to this Section shall be requested or authorized for the purpose of imposing disciplinary action upon any employee.

An employee on a leave of absence without pay shall not receive compensation or accrue sick leave, vacation, or holiday credits. After 30 consecutive working days on a leave of absence without pay, contributions to retirement, life insurance, medical, dental, or other designated

benefit plans shall be suspended until the employee is reinstated. However, upon approval of a leave of absence without pay, the employee may elect to continue his or her benefits coverage at his or her own expense. Any employee requesting a leave of absence without pay shall utilize all of his or her accrued compensatory time-off, administrative leave, and vacation time prior to the start of the leave without pay.

Any employee who takes a leave of absence without pay for more than 30 work days in a calendar year shall have his or her salary anniversary date extended by the same length of time as the leave without pay. If an employee takes a leave of absence without pay while on probation, his or her probationary period shall be extended the same length of time as the leave without pay. Such extensions of salary anniversary dates and probationary periods which arise as a result of this policy shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Upon expiration of an approved leave of absence without pay, the employee shall be reinstated to the position he or she occupied at the time leave was granted.

Unauthorized failure on the part of an employee to report to work upon expiration of the leave of absence without pay shall constitute job abandonment and will result in dismissal.

Any employee who chooses to take leave without pay without notification for more than (3) days, otherwise choosing not to report to work and having no accrued leave, may be dismissed by the City Manager, and the cause and the effective date of the action will be put in writing and delivered to the employee by certified mail.

7.K MILITARY LEAVE

Military leave will be afforded to employees in accordance with State and Federal law.

Employees must submit a copy of military orders to the City Manager prior to the beginning of the military leave period and as soon as the employee knows of the need to request such leave, except where military necessity dictates .

7.L ON-THE-JOB INJURIES AND WORKERS' COMPENSATION COVERAGE

All injuries and illnesses arising out of and in the course of employment with the City, including first aid injuries, shall be reported immediately to the City Clerk or the City Manager. Upon receiving notice of the injury, the Clerk or the Manager shall be responsible for giving the injured employee an "Employee's Claim For Workers' Compensation Benefits" (DWC-1) form within 24 hours. The City Manager shall be responsible for completing an "Employer's Report of Occupational Injury or Illness (Form 5020)."

Workers' Compensation benefits shall be administered in accordance with the law and the City's Workers' Compensation insurance policy.

Additional information concerning Workers' Compensation Leave or benefits may be obtained by contacting the City Manager.

SECTION 8: CONDUCT AND DISCIPLINARY GUIDELINES

8.A GENERAL STATEMENT OF POLICY

It is the City's belief that rules of conduct are most effective when they are written and communicated to employees and supervisors, consistently enforced, and the difference between major and minor forms of misconduct is recognized.

The City's goal is to administer discipline on an equitable and corrective basis. Effective discipline reinforces training by identifying rules and their reasons, correcting misconduct or improving job performance, serving as a deterrent through enforcement, and penalizing in relation to the severity of the offense and the employee's past record.

8.B CUSTOMER SERVICE POLICY

Area residents, businesses, consulting firms, and members of the public in general depend on each City employee to render service speedily, efficiently, effectively and courteously. The following guidelines express in part the expectations of how employees are to implement the customer service philosophy of the City:

1. Employees shall keep themselves informed in order to perform their jobs effectively.
2. Employees shall be concerned about the welfare of others.
3. Employees shall be considerate, tolerant, patient and fair with others.
4. Employees shall be as cheerful and as positive as possible.
5. Employees shall use their training and capabilities to provide residents and businesses with the best service possible. Every effort should be made to provide correct answers and positive results.

8.C HARASSMENT, DISCRIMINATION AND RETALIATION

As more particularly set forth in Section 1., P., any employee who harasses or discriminates or retaliates against any other person on the basis of the other person's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, political affiliation, physical handicap, disability, sexual orientation, or gender identification or expression, pregnancy, genetic characteristics or information, military or veteran status, or any other protected class under applicable law shall be subject to disciplinary action in accordance with these Rules.

8.D STANDARDS OF CONDUCT

Employees are encouraged to excel in their work. City employees are prohibited from engaging in any conduct which could reflect unfavorably upon the City. The following standards

are intended to govern the actions of all City employees during their course of employment. Employees who violate these standards shall be subject to appropriate disciplinary actions.

1. Employees shall abide by and carry out City ordinances, resolutions, policies, procedures, and the Employee Policies and Procedures Manual of the City to the best of their knowledge and ability.
2. Employees shall always conduct themselves in a manner which reflects well on the City and creates positive morale among City employees.
3. Employees shall operate all equipment safely and utilize safe means of carrying out their duties.
4. Employees shall follow instructions for all equipment and property.
5. Supervisors shall manage in an effective, considerate and fair manner.
6. Subordinates shall follow instructions in a positive, cooperative manner.
7. Employees shall provide service with courtesy and a smile and avoid arguments with the public and other employees. If citizens become difficult, they should be referred to a supervisor.
8. Employees shall avoid interpersonal conflict with others as it may affect productivity or the City's image. It is not necessary for everyone to like everyone else, but it is necessary to treat everyone professionally and courteously.
9. Employees shall dress appropriately. Although dress will vary with the type of work done, neatness, cleanliness, and a professional image are essential. When applicable, uniforms or clothing that identifies the employee as a City worker must be kept in good condition and worn while on duty, if required. Clothing, buttons, or hats with political slogans, other attire that does not promote a professional image, and clothing that may not provide adequate protection from work-related injuries, shall not be worn while on duty.
10. The use or possession of alcoholic beverage, illegal drugs (including cannabis/marijuana), or controlled substances while on paid duty time, or working while under the influence thereof, will not be tolerated. Violation will result in disciplinary action, as outlined in these Rules.
11. Employees should behave in their personal lives in such a manner as not to reflect discredit upon the City.

8.E OBJECTIVE OF DISCIPLINARY GUIDELINES

The disciplinary guidelines outlined in Section 8 are intended to be standards for applying discipline on the job. The offenses listed are not intended as comprehensive coverage of the

subject. The disciplinary actions listed are standards and guidelines. Individual circumstances may justify a supervisor, together with the City Manager, administering more or less severe forms of disciplinary actions than those listed in these guidelines. The disciplinary authority must use reasonable judgment and proper documentation in each individual instance.

Any variations to these procedures will be reviewed and approved in writing by the City Manager.

8.F LEVELS OF OFFENSES

There are four levels of offenses listed. A documented pattern which shows a history of recent disciplinary problems can result in cumulative or more severe disciplinary actions, including disciplinary suspension, reduction in pay, demotion, or dismissal. Moderating circumstances which may result in less severe disciplinary action include an employee's positive work record, outstanding accomplishments, length of service, and extenuating circumstances of the violation.

1. Engaging in any of the following conduct will most likely result in dismissal:
 - a. Theft, embezzlement, or fraud.
 - b. Falsification, unauthorized removal or alteration of official City records or employment applications.
 - c. Possession of, use of, or working while under the influence of alcoholic beverages or other controlled substances during City working hours, while on City property, while operating City vehicles, or while subject to duty (i.e., stand-by).
 - d. Assault, battery, or fighting an individual while on duty or under the guise of office.
 - e. Illegal possession or brandishing of weapons or firearms on City premises or property, while on duty or under the guise of employment.
 - f. Acceptance of bribes or extortion.
 - g. Conviction of a felony or any crime involving moral turpitude.
 - h. Commission of an act involving moral turpitude, whether or not a conviction is obtained.
 - i. Sexual harassment (as defined in Section 1.P of these Rules and Regulations) or unlawful discrimination against employees or others based upon race, color, national origin, ancestry, ethnicity, religion, age, medical condition, political affiliation, physical handicap, disability, sexual orientation, gender identity, or sex.
 - j. Intentionally damaging property of value.
 - k. Job abandonment of three consecutive work days with no notification or approved absence.
 - l. Material false statement or omission on the employment application.
 - m. Driving on City business with a suspended or revoked driver's license.
 - n. Continuing unsatisfactory job performance.
 - o. Felony eavesdropping or electronic recording of a confidential communication without consent of all parties to such communication.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above mentioned disciplinary action.

2. Engaging in any of the following conduct will most likely result in disciplinary suspension without pay for five to thirty working days, reduction in pay or dismissal depending upon the circumstances, cumulation, or pattern of offenses. Other recently documented violations along with this incident or the repeating of such offenses will result in dismissal.
 - a. Intentionally misusing or abusing City property or property of another.
 - b. Disregard for major safety rules.
 - c. Insubordination by refusing a supervisor's legitimate order.
 - d. Unlawfully restricting work efficiency and production.
 - e. Attempting to provoke a fight on City premises, threatening, or deliberately intimidating others through threat of physical force.
 - f. Unauthorized release of information which has been validly classified as confidential.
 - g. Intentional mistakes or gross negligence causing damage.
 - h. Use of authority for personal gain.
 - i. Dishonesty, including falsifying time cards or other reports.
 - j. Driving on City business with an expired license.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above mentioned disciplinary action.

3. Engaging in any of the following conduct will most likely result in a written reprimand on the first offense, a disciplinary suspension of one to nine working days without pay, reduction in pay, or demotion on the second offense, and possible dismissal on the third. Other recently documented violations in conjunction with this violation will result in more severe disciplinary action.
 - a. Unauthorized operation of tools, machinery or equipment.
 - b. Gambling on City property.
 - c. Disregard of minor safety rules including failure to report an injury or accident.
 - d. Abuse of authority.
 - e. Carelessness or inefficiency in completing assignments.
 - f. Unauthorized sleeping or unaccounted whereabouts while on duty.
 - g. Traffic violations, including preventable accidents, in City vehicles or while on City business.
 - h. Political activity which violates pertinent provisions of state or local law.
 - i. Unauthorized absences or excessive leave without pay.
 - j. Abusive language which is personally or professionally insulting or derogatory.
 - k. Failure to notify the employee's supervisor of the loss of a required certificate or license, including driver's license.

- l. Statements or allegations which are malicious, vexatious, or not made in good faith and designed to discredit another individual or agency.
- m. Garnishment on two or more different debts within any one year period.

This is not an exhaustive list. Other violations of similar scope and nature will result in the above mentioned disciplinary action.

- 4. Engaging in any of the following conduct will most likely result in either an informal discussion or formal warning on the first offense and a written reprimand on the second offense. Further incidents will result in more serious disciplinary action, including possible disciplinary suspension, reduction in pay, demotion or dismissal. Other recently documented violations in conjunction with this violation will also result in more severe disciplinary action.
 - a. Creating or contributing to unsanitary conditions.
 - b. Violation of smoking policy.
 - c. Unauthorized soliciting of contributions.
 - d. Distributing unauthorized printed matter on City time.
 - e. Failure to meet production or performance standards.
 - f. Engaging in behavior which prevents or hampers job performance.
 - g. Tardiness in reporting to work.
 - h. Abuse of sick leave.
 - i. Abuse of breaks or lunch time.
 - j. Inability or unwillingness to work harmoniously with other employees.
 - k. Failure to contact supervisor when late or absent.
 - l. Failure to report change of vital information.
 - m. Failure to observe reasonable standards of personal appearance.
 - n. Failure to follow specified job instructions.
 - o. Minor safety violations, including housekeeping rule violations.
 - p. Frequent personal phone calls.
 - q. Frequent violations of established departmental rules and procedures.
 - r. Reading non-related material during work time when not authorized.
 - s. Misrepresentation of facts which does, or may lead to, a disruption of City business.
 - t. Posting or distributing materials or telling jokes which are offensive to a person or persons with normal sensibilities.

This is not an exhaustive list. Other violations of a similar scope and nature will result in the above mentioned disciplinary action.

SECTION 9: DISCIPLINARY ACTIONS AND APPEAL PROCESS

9.A DEFINITION OF DISCIPLINARY ACTION

"Disciplinary Action" means action taken by the City Manager, his or her designee, or the City Council for disciplinary reasons, pursuant to these Rules. Such disciplinary actions include: (1) a formal warning; (2) a written reprimand; (3) disciplinary suspension; (4) reduction in pay; (5) demotion; or (6) dismissal.

9.B MAJOR DISCIPLINE

1. Pre-disciplinary hearings:
 - a. Prior to the imposition of a major disciplinary action, which shall include, but is not limited to, an unpaid suspension of more than five (5) days, demotion, reduction in pay of one (1) month or more (which equates to a loss of pay which is more than the equivalent of a five (5) day suspension), or discharge, all regular employees shall be presented with a written Notice of Proposed Disciplinary Action informing the employee as to his/her right to a pre-disciplinary hearing. At the discretion of the City Manager, the employee may be placed on paid administrative leave pending conclusion of the disciplinary process.
 - b. The Notice of Proposed Disciplinary Action shall include:
 - i. A description of the discipline proposed;
 - ii. A statement of the reasons for which the action has been proposed, which shall include a brief description of the alleged facts upon which the proposed action is being taken and a statement of any employer rules, regulations, etc. or laws that are alleged to have been violated; and, if applicable, a list of any previous disciplinary actions, counseling, evaluations or other relevant actions which support the action proposed;
 - iii. Copies of any documents relied upon in reaching a decision to propose the disciplinary action; and
 - iv. A statement advising the employee that he may respond to the City Manager, or his/her designee, regarding the proposed disciplinary action, orally or in writing, before it takes effect. This part of the Notice of Proposed Disciplinary Action shall include the name of the person to whom the response is to be made, if other than the City Manager, and the last date upon which a response may be made.
 - c. The employee shall have seven (7) working days from the date of the Notice of Proposed Disciplinary Action to respond to the charges, either

orally or in writing. Upon a showing of good cause, the City may extend the time for response beyond seven (7) working days. In responding, either orally or in writing, the employee may designate a representative to assist in the presentation of the response.

i. In the event that the employee chooses to respond orally, the employee must, within the period given to respond, make an appointment, and meet with the City Manager or his/her designee.

ii. During this meeting, the employee or the employee's representative, may present any reasons why the employee feels that the proposed action is not proper. The City Manager or his/her designee shall listen to the employee's presentation, but need not present any evidence on behalf of the city nor shall either party present witnesses for examination at this time.

iii. A written response must be received in the office of the City Manager no later than 5:00 p.m. on the last day given to respond.

iv. The City Manager or his/her designee shall take the employee's timely response into consideration and shall make a determination as to whether or not the proposed action, a different action, or no action shall be taken.

d. Failure by the employee, or the employee's representative, to respond to the Notice of Proposed Disciplinary Action within the period allowed shall result in the disciplinary action taking effect as proposed.

2. Right to Appeal:

a. Any regular employee shall have the right to appeal any major disciplinary action, including, but not limited to, an unpaid suspension of more than five (5) days, a demotion, a reduction in pay of one (1) month or more (which equates to a loss of pay which is more than the equivalent of a five (5) day suspension), or a discharge.

b. Requests for appeal shall be made in writing, signed by the employee and filed with the City Manager within ten (10) working days of the effective date of the discipline. Failure to do so shall constitute waiver of the right to appeal and failure to exhaust administrative remedies.

c. At its next regular meeting following receipt of a timely notice of appeal from the decision of the City Manager or his/her designee, the Council may appoint a Hearing Officer, Appeal Board, or Committee of the Council to hear the appeal and recommend a decision which it shall certify to the Council, or the Council may hear the appeal. If the Council hears

the appeal, the employee shall be given the option of having the hearing held in open session in accordance with and subject to the California Ralph M. Brown Act (Government Code section 54950 et seq.).

- d. The City Manager shall notify the employee of the date, time and place of the hearing.
- e. The employee shall appear personally at the hearing and may be represented by counsel of his/her choice. In the event that the employee or his/her representative fails to appear, the appeal shall be deemed waived.
- f. All parties and witnesses to be heard at the hearing shall be sworn and shall testify under oath. The hearing shall not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be admitted, but it may not be the sole basis upon which a finding is made.
- g. Upon conclusion of a hearing not conducted by the Council, the Hearing Officer, Appeal Board, or Council shall cause its findings and recommendations to be prepared in writing and shall deliver the same to the City within twenty (20) working days following the conclusion of the hearing.
- h. The City Manager shall deliver a copy of such findings and recommendations of the Hearing Officer, Appeal Board, or Council and to any other officer or employee affected by such findings and recommendations or from whose actions the appeal was taken. The Council may then adopt, reject or modify such recommendations. Findings may be modified only upon a showing by the Council that such modification is supported by appropriate evidence in the hearing record. The decision of the Council shall be final for all purposes.

9.C MINOR DISCIPLINE

In the case of minor discipline, which shall include, but is not limited to, an unpaid suspension of five (5) days or less, reduction of pay of less than one (1) month (which equates to a loss of pay which is the equivalent of a five (5) day or less suspension), and written reprimand, employee shall be afforded the following:

1. Notice of Disciplinary Action, which shall include:
 - a. A description of the discipline and, except with regard to a written reprimand, the effective date(s) of the discipline;
 - b. A statement of the reasons for which the action is based on, which

shall include a brief description of the alleged facts upon which the action is being taken and a statement of any employer rules, regulations, etc. or laws that are alleged to have been violated; and, if applicable, a list of any previous disciplinary actions, counseling, evaluations or other relevant actions which support the action proposed.

c. Copies of any documents relied upon in reaching a decision to implement the disciplinary action; and

d. A statement advising the employee that he/she may respond to the City Manager, or his/her designee, regarding the disciplinary action, orally or in writing, after it takes effect. This part of the Notice of Disciplinary Action shall include the name of the person to whom the response is to be made, if other than the City Manager, and the last date upon which a response may be made.

2. The employee shall have seven (7) working days from the date of the Notice of Disciplinary Action to respond to the charges, either orally or in writing. Upon a showing of good cause, the City may extend the time for response beyond seven (7) working days. In responding, either orally or in writing, the employee may designate a representative to assist in the presentation of the response.

a. In the event the employee chooses to respond orally, the employee must, within the period given to respond, make an appointment and meet with the City Manager or his/her designee.

b. During this meeting, the employee, or his/her respective representative, may present oral argument and documentary evidence in support of his/her position; however, the employee shall not be permitted to call and examine witnesses.

c. A written response must be received in the office of the City Manager no later than 5:00 p.m. on the last day given to respond.

d. The City Manager or his/her designee shall take the employee's timely response into consideration and shall make a determination as to whether or not the disciplinary action was appropriate. The City Manager may uphold the disciplinary action, or decide to impose a lesser form of discipline.

3. Failure by the employee, or the employee's representative, to respond to the Notice of Disciplinary Action within the period allowed shall result in the employee waiving his/her right to respond.

4. In the case of minor discipline, no right of appeal is provided, except for the right to respond as set forth in Section 2, above.

SECTION 10: GRIEVANCES

10.A POLICY

Grievances are defined as any good faith or reasonable complaint between the City and an employee or group of employees involving the interpretation, application, or enforcement of these Employee Policies and Procedures Manual. However, complaints involving performance evaluations, denial of merit pay increases, employee classification, disciplinary actions, rejection from probation, layoffs, and termination of temporary and at-will employees are not grievable. Employees of the City shall be required to comply with the procedures set forth regarding items which are grievable. Failure to comply with the timelines set forth by this grievance procedure shall result in waiver of the right to file a grievance.

Employees of the City who pursue grievances according to the provisions of this grievance procedure shall be free of harassment by fellow employees, supervisors and administration and shall in no way effect their present or future employment status.

10.B GRIEVANCE PROCEDURE STEPS

The steps of the grievance procedure as follows:

1. Grievances must be discussed with the employee's immediate supervisor, or his/her superior in the event that the employee's problem is with the supervisor, within five (5) working days of the occurrence of the event giving rise thereto. The supervisor or his/her superior will attempt to resolve the matter and will, within a reasonable period of time, issue his/her decision on the matter in writing.
2. If not previously resolved, the employee may, within five (5) days of receiving the written decision of the employee's supervisor or his/her superior, submit a written request for review by the department head. The written request must be made on the form prescribed by the City Manager, and shall contain a clear, concise statement of the grievance and facts upon which it is based. The written request must contain a citation to the rule, regulation, or policy allegedly violated, as well as the specific remedy sought. The department head shall make such investigation of the facts and issues as is warranted under the circumstances and shall make a determination within five (5) working days of receipt of the request and the written decision of the supervisor or his/her superior.
3. If the employee is dissatisfied with the determination of the department head, the employee shall, within five (5) working days of receipt of the department head's determination, notify the department head and the City Manager of the employee's desire to appeal such determination. Said notice shall be in writing.
4. The City Manager, or his/her designee, shall arrange and conduct a meeting between the employee and the department head. At such meeting, discussion shall be limited to the issues raised in the initial grievance complaint and an earnest effort shall be made to resolve the problem.
5. Following the meeting, the City Manager shall issue a statement of his/her conclusions and findings. The decision of the City Manager shall be final.

6. If the City Manager is the supervisor and involved in the grievance, then this process shall occur where the City Council or its designee (including an ad hoc committee of no more than two City Council Members) assumes the responsibilities previously designated to the City Manager.

SECTION 11: EMPLOYEE RECORDS AND FILES

11.A PERSONNEL FILES

1. Central Personnel Files: The City Manager shall maintain a central personnel file for each City employee indicating the employee's name, title of position, the department assigned, salary, changes in employment status, performance evaluations, disciplinary documents and such other information as may be considered pertinent by the City Manager. Copies of documents concerning disciplinary actions taken by the supervisor or City Manager must be placed in the employee's central personnel file. There will be no disclosures of this information to third parties except as authorized by State or Federal law or as duly authorized in writing by the employee.

Personnel files shall be kept in locked, fire-proof files located in the City Manager's office.

2. Payroll Files: The City staff shall maintain a file for each City employee showing the name, title of position, the department assigned, salary, changes in employment status, W-4 forms, payroll deductions and such other information as may be considered pertinent by the City Manager. There will be no disclosures of this information to third parties except as authorized by State and Federal law, or as duly authorized in writing by the employee to third parties. The payroll information may be included as a section of the personnel file.

Nothing herein shall prohibit the City from keeping or placing documents in an observation file for the purpose of investigating alleged criminal conduct. An observation file shall not be considered a personnel file, and an employee or his or her designated representative shall not have access to observation files nor receive copies of documents placed in such files.

Unless required for a criminal investigation, an observation file on an employee shall remain open for a maximum of six months. If disciplinary action by the City is warranted or if the employee is found guilty of criminal activity, documents in the observation file shall be placed in the employee's personnel file(s).

11.B DOCUMENTS IN PERSONNEL FILES

Upon request of the employee, an employee may place documents in his or her respective personnel files that commends his or her job performance with the City or demonstrates educational attainment.

Disciplinary documents shall be placed in personnel files. An employee shall be provided a copy of any documents placed in his or her personnel file, and may review his or her file on request. However, employees are not entitled to review documents which are exempt from disclosure pursuant to Labor Code section 1198.5.

If no further conduct requiring disciplinary action occurs and at the employee's written request, documents concerning minor disciplinary actions shall be removed from an employee's

personnel file after one year or upon their incorporation in a performance evaluation, whichever occurs first. If no further conduct requiring disciplinary action occurs and at the employee's written request, documents concerning major disciplinary actions shall be removed from an employee's personnel file after three years, provided that such documents may be retained thereafter if they establish a pattern of conduct extending past the three year period. With good cause, the City Manager may grant an employee's request to remove the document from the employee's personnel file(s) sooner than the indicated time frames.

11.C ACCESS TO FILES

No person other than the City Manager, City Attorney, Special Legal Counsel, immediate supervisor, or their designated representatives shall have access to an employee's personnel file. No person other than the payroll division staff, City Manager, or the City Attorney shall have access to an employee's payroll file. All employee requests for inspection of that employee's personnel file shall be in writing, utilizing an inspection request form maintained by the City and available to the employee upon request. Upon making an appointment and issuing an inspection request, an employee or a person designated in writing by the employee for such purpose may inspect the contents of his or her respective personnel file. However, employees are not entitled to review documents which are exempt from disclosure pursuant to Labor Code section 1198.5. Upon paying the reasonable cost associated therewith, except as provided above, an employee or his or her designated representative may obtain copies of any documents contained in the employee's personnel file.

The employee may file a grievance regarding the contents of his or her personnel file in accordance with the Grievance Procedure regulations outlined in Section 10.

11.D DISCLOSURE OF INFORMATION

No direct information contained in the personnel files shall be disclosed concerning any current or former City employee other than the employee's job title, inclusive dates of employment, work location, salary, work phone number, and departmental assignment to any person other than the City Manager, City Attorney, Special Legal Counsel, Council Chair or their designated representatives. An employee or former employee may authorize access to or the disclosure of information from their file only when written permission is provided by the City Manager. Nothing herein shall preclude nor specifically deny the use of any information in personnel files in any phase of a disciplinary or probationary action.

11.E CHANGES-IN-STATUS

It is the employee's responsibility to notify the City staff of any changes in his or her address, phone number, marital status, dependent status, name change, training certificates, or other pertinent information.

11.F APPLICATION RETENTION

Applications submitted by candidates for City employment become the property of the City and must be retained for at least three years.

11.G DESTRUCTION OF PERSONNEL RECORDS

Personnel records, including employment applications, shall be destroyed only in accordance with the provisions of the City's system for the destruction of public records and then in accordance with other applicable law.

SECTION 12: EMPLOYEE BENEFITS

12.A GENERAL

Benefits for full-time City employees shall be provided as outlined in this Manual or as agreed upon in an employment contract for contract employees. Part-time and temporary employees are not eligible for the medical, dental, vision, life insurance, or retirement benefits described in this Section 12 unless agreed to by individual employment contract. Specific information on these benefits may be obtained by contacting the City Manager.

The City retains the right to alter the benefit plan, if it finds such changes to be in the best interest of the City. The policies in this Manual are based on Federal law and may change from time to time.

12.B MEDICAL INSURANCE

The City provides a generous allowance to employees for Medical Insurance coverage. The City will pay the full premium for coverage for all full-time employees. Additionally, for all employees hired after December 1, 2012, the City will pay seventy percent (70%) of the cost for coverage of the employee's spouse or legal partner, and dependent children, with the employee bearing thirty percent (30%) of the cost for dependant care, and all deductibles related thereto.

The City maintains the right to review and change the provider of medical care coverage, as well as the cost allocations between the City and the employee, as necessary to address budgetary considerations. Reasonable efforts will be made to minimize any disruption to coverages for employees if it becomes necessary to change insurance carriers.

12.C DENTAL INSURANCE

The City provides a generous allowance to employees for Dental Insurance coverage. The City will pay the full premium for coverage for all full-time employees, his/her spouse or legal partner, and dependent children.

The City maintains the right to review and change the provider of dental care coverage as necessary to address budgetary considerations. Reasonable efforts will be made to minimize any disruption to coverages for employees if it becomes necessary to change insurance carriers.

12D. VISION STIPEND

The City provides an annual \$200 allowance to employees for vision care assistance. This stipend may be used by the employee, his/her spouse or legal partner, or by dependent

children. The stipend will be offered as reimbursement of vision care expenses incurred and will be paid to the employee after proper receipts/documentation is provided.

12E. LIFE INSURANCE

The City may offer the cost of life insurance to employees in conjunction with medical insurance, although the City assumes no obligation to do so.

12.F UNEMPLOYMENT COMPENSATION

As required by State law, all City employees are covered under the California Unemployment Compensation Program. Further information can be obtained by contacting the local State of California Employment Development Department.

12.G CITY RETIREMENT PLAN

The City has available to all employees an Internal Revenue Code (IRC) Section 457 Plan.

Deferred compensation is an IRS-approved method of deferring federal and state income taxes on savings until retirement. Taxes are paid, on both savings and earnings, when they are withdrawn during retirement, or upon separation from City employment.

An employee may defer a maximum allowable by law per calendar year. The employee may increase, decrease, stop and restart voluntary contributions not more than once a quarter.

For a all full-time permanent employees, or as determined by an employee's contract, where applicable, the City will provide the following:

1. 6% of the employee's salary as the automatic City contribution;
2. up to an additional amount of 6% of the employee's salary based on the level of contribution by the employee.

Payments into the 457 program are made at every pay period.

In accordance with IRS rules, an employee may not withdraw these assets unless there is a bonafide emergency which is unforeseeable, unbudgetable, severe, beyond the employee's control, and must represent a last resort. A request for emergency withdrawal must be documented and supported in writing to the City Manager.

12.H MEDICARE

By law, effective after April 1, 1986, all employees must have a certain percentage deducted from their gross pay for Medicare. The City will deduct the employee contributions in accordance with Federal law. The City shall pay the employer's share, which is equal to the employee's share.

12.J CLOTHING/UNIFORM/EQUIPMENT ALLOWANCE

Some employees, by the nature of their job requirements, may require special clothing, uniforms, or equipment. Subject to preapproval by the City Manager, the City will reimburse such employees for special clothing, uniforms, or shoes in an amount up to \$200 each year per employee.

SECTION 13: STAND-BY AND CALL-OUT

13.A CALL-OUT

In the event non-exempt employees who are not assigned to stand-by duty are called out to work during normal off-duty hours to protect the public health or safety, they will be compensated at time-and-one-half for actual time worked, with a minimum of two hours credit for each call out. For the purpose of this Section, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home. Call back shall be defined as having to return to work after having left work.

SECTION 14: TRAINING

14.A TRAINING

The City recognizes the importance of employee development and training. In an effort to improve the capabilities and effectiveness of City personnel, the costs of required training will be paid by the City as needs are established and funding is available. This training effort shall be geared to both organizational improvement and individual employee development. This development shall not only be the responsibility of the City Manager, but shall be shared with employees in a total organizational effort.

14.B IN-HOUSE TRAINING

Employees who have training, knowledge or expertise in a subject area, or have recently attended a seminar or conference in a given subject matter, may be asked to share this information with other employees. Such in-house training may be informal or formal depending upon the nature of the training and can include any variety of topics such as computers, copiers, telephones, supervisory, writing skills, etc.

14.C DEPARTMENTAL TRAINING

City departments and divisions are encouraged to offer specialized training to their employees. Such training shall be the responsibility of the Department or Division Head and may include topics such as safety, equipment operation and other training in their specific fields of responsibility.

14.D TRAINING COURSES

The City shall encourage local educational resources to offer courses and workshops at City facilities on matters in which employees of several departments may benefit. Such courses may be offered periodically in such areas as management, supervision, communications, time management, stress management, writing skills, etc.

14.E SEMINARS AND CONFERENCES

Employees may attend seminars or conferences covering current issues and areas relevant to their positions under the following conditions:

1. Employees must submit their request on forms prescribed by the Finance Manager and follow all applicable procedures.

2. Budgeted funds must exist for all such training and any travel. In-state and out-of-state attendance shall require approval by the City Manager.
3. Employees must comply with the City's Administrative Travel Policy and provide necessary receipt documentation.
4. Employees who have recently received such training must be willing to provide "in-house" training to other employees, if requested.

14.F TRAINING AND TRAVEL REIMBURSEMENT

In accordance with the Fair Labor Standards Act (FLSA), employees who are not exempt from FLSA shall receive training and travel reimbursement as provided in this Section.

Time spent in attending lectures, meetings, training programs, and similar activities during work time shall be counted as time worked only if authorized in advance and in writing by the City Manager. No such authorization shall be given unless the lecture, meeting, program, or other activity is directly related to improving the employee's ability to perform his or her job.

Time spent in attending lectures, meetings, training programs, and similar activities shall not be counted as time worked where such attendance is outside of the employee's regular working hours, except in situations where the employee is directed by the City Manager to attend such lecture, meeting, training program, or similar activity. Leisure and meal times are not considered time worked unless they are part of the seminar.

Time spent by an employee traveling between the employee's residence and the regular workplace is not work time and shall not be treated as hours worked. When an employee is assigned by the City Manager to travel outside of the City, time spent traveling between the employee's home and assigned destination shall be treated as time worked only to the extent that it exceeds the amount of time normally taken by the employee to travel between his or her residence and regular workplace.

When an employee is assigned to travel outside the City, return the same day, and he or she utilizes public transportation, the time spent traveling between the employee's home and the location of the public carrier (i.e., airport, bus station, train station) shall not be treated as time worked. However, time spent traveling to a final destination via public carrier is considered time worked.



DISCUSSION AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 0 PAGES

3. Discussion/Decision regarding Cell Tower Lease Negotiations.

NO DOCUMENTS WERE SUBMITTED FOR THIS AGENDA ITEM, BUT MAY BE DISTRIBUTED AND PUBLISHED PRIOR TO THE MEETING.