



# PERSONNEL MANUAL



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## **1. WELCOME**

Welcome to the City of Beaumont (“City”). This Personnel Manual (“Manual”) contains employment policies of the City. Each City employee is responsible for knowing the contents of the Manual.

The policies expressed herein may differ slightly from City department to City department. City departments may have additional policies, procedures and regulations which are necessary for efficient internal operations. Employees of the Beaumont Police Department shall consult their supervisors for additional information that is applicable only to Police Department employees. In addition, the City has negotiated several Memoranda of Understanding (MOUs) with recognized employee organizations and individual employees and, in some instances, an employment agreement. The MOUs and employment agreements, as applicable, contain specific information about working hours, pay and other terms and conditions of employment.

Employees are responsible for knowing the contents of this Manual. Employees must also consult their department’s specific policies and regulations, and any applicable MOU or employment agreement. In the event a specific provision of this Manual conflicts with a specific provision of a current MOU, employment agreement or conflicts with a City Manager-approved Department policy or regulation, the provisions of the MOU or employment agreement, as applicable, shall prevail, followed by the approved department policy or regulation.

Over time, new laws come into being requiring periodic revisions to this Manual. The City will endeavor to provide each City employee with notification of any change; however, each employee is responsible for consulting the most recent edition of this Manual.

Finally, this Manual only applies to employees of the City, not to its independent contractors. An “employee” is defined as an individual whose work is directed and controlled, or is subject to the direction or control, by the City with respect to the final results of the work and the details of when, where and how the work is to be done.

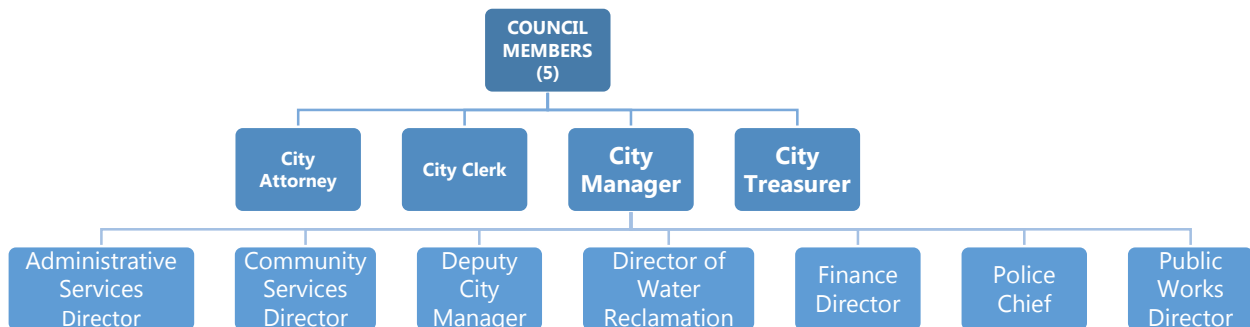
## **2. ORGANIZATION**

The City of Beaumont was incorporated as a city on November 18, 1912. The City is governed by a City Council, consisting of five persons, each person elected for a term of four years. Annually, the members of the City Council elect a member of the Council to serve as Mayor. The City Council meets twice a month, on the first and third Tuesday of each month.

The City Council adopts policies that specify what City services are to be provided to City residents. Some of the services that the City provides include public safety services (Police), parks and recreation services, sanitation services (refuse and sewer services), building and safety services, and services to the City’s senior citizens.

The City Council’s policies are implemented by the City Manager who is directly responsible to the City Council for the administration and implementation of Council policies. To assist the City Manager, the City employs a staff of administrative, technical and field personnel.

The City's activities and services are divided into functional departments, with managers assigned to each department. The organization of the City, and its departments, are shown below:



### **3. EMPLOYMENT CONDITIONS**

**3.1 Employee Orientation.** Employee orientation is held upon hire. Orientation covers City-wide policies, various City programs, and information relative to employment and benefits. City departments also provide specific orientation within their departments and divisions.

**3.2 Equal Employment Opportunity.** The City of Beaumont is dedicated to equality of opportunity within its community and supports the protection available to employees under federal and state law. The City does not practice or condone discrimination in any form, and is committed to positive action to secure equal employment opportunity.

It is the policy of the City of Beaumont to recruit, hire, and promote for all job classifications without regard to race (including hair texture, protective hairstyles, and other traits historically associated with race), color, religion and religious creed (including religious dress and religious grooming practices), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, and related medical conditions), reproductive health decision-making, gender, gender identity (including transgender identity), gender expression (including transgender expression or because an individual has transitioned or is (or is perceived to be) transitioning to live as the gender with which they identify, sex stereotyping, national origin, ancestry, citizenship, age (40 years and over), mental disability and physical disability (including HIV and AIDS), legally protected medical condition or information (including genetic information), protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act, if applicable), the use of marijuana off the job (unless the employee is otherwise subject to federal law with respect to marijuana use) and away from the workplace, military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, engaging in protected communications regarding employee wages or otherwise exercising rights protected under the National Labor Relations Act or California Fair Pay Act, requesting a reasonable accommodation on a protected basis such as a disability or sincerely-held religious belief, practice, or observance, or any other characteristic protected by local, state, or federal laws.



**3.3 Americans with Disabilities Act (ADA)/ Reasonable Accommodation.** It is the policy of the City of Beaumont that its facilities, programs, and activities be readily accessible and usable by individuals with disabilities. This policy also extends to any organization receiving financial assistance from the City or any service provider under contract with the City of Beaumont. Every reasonable attempt will be made to enable disabled persons, access to facilities and events, including training and public meetings, and to receive the same benefits, services, and information as is provided to other employees, visitors, and meeting participants.

**3.4 Merit System.** The City of Beaumont follows merit system principles which ensure equal opportunity for qualified persons who are appointed and promoted on the basis of open competition. Competition may take the form of application appraisal, written examinations, oral interviews, assessment centers, performance tests, and is not limited to any combination of these. Positions are filled by those most qualified, based on factors which relate only to skill, knowledge, and fitness for employment and in accordance with Equal Employment Opportunity and ADA guidelines.

**3.5 Nepotism (Employment of Relatives).** To maintain morale and professional working relationships among employees, the City has established guidelines for employment of relatives. No employee shall have direct supervision of, control over, initiate, or participate in any personnel action that may affect another City employee who is a relative. Relative is defined as an employee's parent, step-parent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent or any other familial relationship that presents an actual or perceived conflict of interest.

**3.6 Employee Selection.** The Human Resources Department is responsible for the impartial administration of appropriate selection techniques such as written tests, oral interviews, and performance tests consistent with State and Federal guidelines for employee selection and merit principles.

Competitive examinations are used to establish eligibility lists, from which appointments are made by the departmental hiring authority. All new employees may, depending upon the job applied for, be required to undergo fingerprinting, background check, medical and/or psychological exams, polygraphs, and pre-employment drug testing before reporting for work. All employees shall be required to sign an Oath of Office pursuant to State law.

All new employees must provide and maintain necessary documentation to prove identity and the right to work in the United States in accordance with Federal and State Immigration and Naturalization laws. Failure to provide such documentation will result in disqualification from selection and/or grounds for immediate termination.

**3.7 Employment Complaint and Appeal Procedure.** The Employment Complaint and Appeal Procedure provides applicants and City employees with a timely process to consider their complaints regarding allegations of discrimination in employment. Brochures and forms are available in the Human Resources Department. Current policy on pages 65-66 & 77-80.

#### **4. EMPLOYMENT CLASSIFICATION**

The City Manager is authorized to establish new positions where required in the conduct of the City's affairs, subject to the approval of the City Council. The City of Beaumont recognizes the following types of employment status:

**4.1 Full-time Regular Employee.** A full-time regular employee is an employee who has served the required probationary period satisfactorily and is employed to work 2,080 hours a calendar year in an established position requiring work on a regular schedule, unless otherwise authorized by the City Council.

**4.2 Part-time Regular Employee.** A part-time regular employee is an employee who has satisfactorily served the required probationary period and is employed to normally work less than forty hours per week in an established position on a year-around basis. Part-time employees are eligible for sick leave and vacation benefits as defined in this manual. Part-time employees are not eligible for any other employee benefits unless designated by State or Federal law.

**4.3 Probationary Employee.** Every new employee in a full- or part-time position shall serve a probationary period of 12 months (18 months for Police Department employees), exclusive of time off for extended paid or unpaid leaves of absence, not inclusive those defined in sections 7.23, 7.24, 7.26, 7.27 & 7.28 including workers comp etc. (Use of such time off will extend the probation the same duration as the time off for leave. The probationary employee will be evaluated periodically at six twelve- and eighteen-month intervals, during the probationary period and is subject to dismissal at any time, with or without cause, at the discretion of the City Manager. Effective on the first day following completion of the probationary period, if the employee's performance has been satisfactory and the City Manager approves his/her retention, the employee shall be considered thereafter a full or part-time regular employee of the City. Probationary employees are also deemed "Disaster Service Workers," see section 4.7 below.

**4.4 Interns.** In an effort to provide meaningful training and work experience for college students pursuing academic studies related to the City's mission and goals, interns may be employed for a period of up to one year, subject to the terms set forth within the internship program. Interns are not eligible for employee benefits. Interns are at will, and can be terminated at the discretion of the City Manager with or without cause and with or without prior notice.

**4.5 Temporary Employee.** A temporary employee is an employee serving in a position in which the requirements of the services performed are of a temporary nature for a period not to exceed twelve months. Temporary employees are not eligible for any employee benefits. Temporary employees are at-will employees, and can be terminated at the discretion of the City Manager with or without cause and with or without prior notice.

**4.6 Limited Term Employee.** A limited term employee is an individual who is temporarily employed by entering into an Employment Contract for a specified period of time as approved by the City Council. Limited term employees are only eligible for those benefits expressly contained in the written Employment Contract.

**4.7 Disaster Service Workers.** Under State law, Title I, Section 3100 of the California Government Code, all government employees are declared Disaster Service Workers who can be called upon in any emergency. This means that City, County, and State employees have a responsibility to help in a disaster. As a local government employee, your daily roles and responsibilities directly impact the lives of people who live, work, and play in the City of Beaumont. During an emergency or disaster, the City may ask you to change your normal scope of duties, or routines to fulfill an unexpected need, as a Disaster Service Worker (DSW). You will never be asked to perform duties that you do not know how to do or have not received adequate training for. Every effort will be made to permit employees time to check on and secure the safety of their families. Once the employee has ensured their families are secure, they may be required to report back to work immediately following a disaster. With this in mind, employees are

encouraged to follow the steps to form an Emergency Response Plan for Home and Family to prepare their families now for unexpected disasters. If an employee must leave the work site to check on their family, prior to leaving the employee should work out a plan with their supervisor or designee for when to return to work and how to be contacted. There may be times when family commitments or other pressing needs during an event will supersede an employee's ability to work during a disaster. The City will work with employees to accommodate their needs to care for their families during a disaster.

City Emergencies; Disaster Service Workers. From time-to-time the City may be the subject of a state of emergency or disaster, whether natural or manmade. As provided herein, all City employees are deemed to be "Disaster Service Workers" as an element of their job classifications.

In the event of a disaster or other emergency as may be declared by the City Council or the City Manager, all City employees, as Disaster Service Workers, shall promptly present themselves for service during such period of disaster or emergency, or otherwise make themselves available for service. Upon notification of the existence of disaster or emergency, all employees shall immediately contact their supervisors for further instructions.

**4.8 Performance Evaluation.** Your supervisor is continually evaluating your performance on the job. After the initial probationary period is successfully completed, you will receive an evaluation of your performance once each year for the remainder of your employment. Evaluations are officially recorded on a City performance evaluation form. Evaluations are maintained in your personnel folder, which is maintained by the Human Resources Department and a copy may be maintained by the supervisor.

You and your supervisor will discuss the contents of each evaluation report; what you do well, what areas you can strengthen, and what steps can be taken to remedy any unsatisfactory performance. You may respond to their performance evaluation in writing for inclusion in your personnel folder.

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

**5.1** Refer to the MOU or employment agreement for working hours, pay, premium pay, etc., as applicable. The following shall apply if not in conflict with an applicable MOU or employment agreement. Classification and Pay Plan. The City's pay plan consists of a series of pay ranges. Each job classification within the City is assigned to one of these ranges based on job duties and responsibilities. Each position in City government is assigned to a salary range in accordance with the class specification for the position, which describes the typical and significant duties of a class as well as the minimum qualifications. The class specification for each position is available in the Human Resources Department.

**5.2 Working Hours.** The City's official workweek shall be Monday through Friday from 6:00 A.M. to 5:30 P.M.

Based upon an employee's compensation and the employee's job duties and responsibilities, each employee is classified as either "exempt" or "non-exempt." These two terms refer to whether or not an employee is exempt from the minimum wage and overtime obligations.

Employees shall be given written notice no less than fourteen (14) calendar days before assigned work schedules are changed, unless agreed to otherwise by the employee. Such agreement must be made voluntarily, absent any coercion and/or threat of reprisal. Employees who work less than their regularly scheduled shift must use sick, vacation, compensatory time, or holiday accrual for the work hours missed or they will be deemed absent without pay.

### **5.3 Exempt/Non-Exempt Status.**

5.3.1 Exempt Status. Employees whose positions meet the necessary legal requirements in terms of salary and duties are classified as “exempt.” Employees who are exempt from overtime do not receive overtime pay, even though they may work in excess of 40 hours in a workweek. Exempt employees are paid on a salary basis. The City will apply its employment policies and procedures so as to preserve the employee’s exempt status. For example, an exempt employee’s salary will not be reduced for partial-day absences.

5.3.2 Non-Exempt Status. Employees whose positions do not meet certain legal requirements necessary for exemption from applicable minimum wage and overtime laws are classified as “non-exempt.” Non-exempt employees are paid overtime rates for each overtime hour they work. Overtime is when a non-exempt employee works more than 40 hours in a workweek. Non-exempt employees must receive prior approval before working overtime. Working unapproved overtime may subject an employee to discipline, up to and including termination.

5.4 Alternate Work Schedules. An employee may request to work an alternative work schedule, not to exceed forty (40) hours per work week, which may be allowed with prior written approval of the Department Head

### **5.5 Call Back.**

5.5.1 Call Back Defined. Call back is defined as non-exempt employee being requested to perform work for the City outside of his/her regularly scheduled shift hours, excluding any pre-scheduled overtime. Call backs include, but are not limited to, responding to a duty station, responding to an off-site location, remote trouble shooting, and/or telephonic consultations.

5.5.2 Minimum Call Back Time. An employee shall be compensated a minimum of two (2) hours for each call back. Hours worked during each call back, in excess of two (2) hours, shall be paid on an hour-by-hour basis. Only call backs occurring within the same two (2) hour minimum period shall be considered one (1) call back for the purpose of the minimum payment. Additional call back(s), occurring outside of the first two hours of a call back, shall be subject to the two (2) hour minimum payment(s). Once verbal confirmation of a call back has been received by the employee, the employee shall receive the minimum two (2) hour compensation, even if the call back is canceled prior to responding.

5.5.3 Compensation for Call Back. Compensation for call back begins when the employee receives verbal confirmation of the request for call back (i.e. phone call, page, etc.). Call back time shall be compensated at the applicable overtime rate, except for call back time which occurs on a holiday (excluding the day following Christmas, Christmas Eve, and New Year’s Eve) shall be paid at two times (2X) the employee’s regular rate of pay.

**5.6 Stand-By Duty.** Standby means a period of time outside an employee's regularly scheduled work hours during which the employee is required to remain available (on-call) for emergencies and after-hour customer calls. The on-call period is to be determined by the employee's direct supervisor. The supervisor shall be responsible for preparing an on-call schedule. To the extent feasible, given the work force available, exempt employees shall not be placed on the on-call roster. In the event that an employee does not wish to serve standby time, with the supervisor's consent, the employee may be excused if another worker volunteers to serve in the employee's place. This rule does not apply if the employee seeking to be excused is on sick leave.

Other than the response time described below, the standby employee is free to use the off-duty time without restriction. The employee shall carry a City issued mobile phone or other device, as determined by the City, while on standby. The employee is expected to respond to a call for service within 60 minutes from receipt of the call; however, such time may be extended upon mutual consent of the employee and supervisor.

All time spent on call-backs during a standby period is compensable. Time worked includes a reasonable time for travel both to and from the worksite. If while on standby, the employee engages in work (i.e., responds to a call), all time spent by the employee performing his or her job duties or otherwise responding is compensable time and must be paid. Employees must keep accurate records of time worked while on call and report such time to the District. The reporting obligation includes the amount of time it took the employee to respond to the call even if it is determined that no service is required.

**5.6.1 Compensation.** Compensation for standby pay will be paid at the employee's overtime rate of pay and shall be calculated as follows:

- a. One (1) hour for each weekday on stand-by duty; and
- b. Two (2) hours for each weekend day on stand-by duty; and
- c. Two (2) hours for each holiday on stand-by duty. This is to be paid in addition to a. and b. above.
- d. An employee called back to work as a result of stand-by shall be compensated at the overtime rate, in accordance with the call back pay provisions herein.

**5.7 Overtime.** Overtime will be compensated, for actual hours worked, at the rate of time and one-half (1½) in accordance with federal regulations. FLSA exempt employees are not eligible for overtime. Overtime is based on actual hours worked and does not include hours the employee is absent from work, but remains in a paid status, such as vacation, holiday, and sick leave.

Overtime worked on a holiday (excluding the day following Christmas, Christmas Eve, and New Year's Eve) shall be paid at double (2X) the employee's regular rate of pay for all hours actually worked on the holiday.

**5.8 Compensatory Time.** At the option of the employee, the employee may elect to bank overtime hours at the rate of time and one-half (1½) hours for each overtime hour. FLSA exempt employees are not eligible for compensatory time.

Compensatory time off shall reduce the compensatory time banked on an hour-for-hour basis, since the time worked is banked at time and one-half (1½) times the hours worked. If the employee requests that some compensatory time banked be paid in cash, it shall be paid on an hour-for-hour basis. Compensatory time off may be requested, and taken, in any hourly increment (i.e., one hour up to the entire scheduled shift). Compensatory time off shall be scheduled by mutual agreement between the employee and supervisor. Time off shall be granted within a reasonable time after requested unless it would disrupt the operation of the City. On the last payroll of each calendar year, the employee will receive a cash-out of all compensatory time remaining in their compensatory time bank from that same calendar year. Compensatory time will be cashed out at the employee's current rate of pay at the time of the payment.

Compensatory time may be accrued up to the maximum limits allowed per FLSA regulations.

By prior written approval from the City Manager, employees shall have the option of not receiving a cash-out for the sole purpose of a planned extended leave due to special circumstances.

**5.9 Merit Increases.** Employees who start at Step 1 are eligible for a merit increase following twelve months or 2,080 hours of continuous employment and satisfactory work performance. If an employee is hired or promoted above the 1st step, eligibility for salary advancement comes after one year of service or 2,080 hours and satisfactory work performance has been met. Further merit increases may be granted annually upon demonstration of a satisfactory performance until the top of the range has been reached.

**5.10 Promotion.** Promotions are based on the merit principle that requires you to meet the experience and education requirements for the position, and successfully pass a competitive examination or other selection process. City tests and interviews may take place during work hours.

A promotion shall be the movement of an employee from one classification to another classification in a higher salary range. Such employee shall be placed on promotional probation for a period of 6 months (18 months in the Police Department).

If such employee fails his/her promotional probation, the employee shall not have the right to return to his/her former classification unless there is a vacant position in said former classification. If such employee is returned to his/her former classification, the employee shall return to his/her original status in the former classification. If such employee is on promotional probationary status at the time the annual performance review is due, the employee shall be entitled to the performance review.

If such employee is on probationary status at the time the performance annual review is due, the employee's annual performance review shall be postponed until successful completion of the probationary period.

**5.11 Transfer.** A transfer is a move from one department or division to another within the same classification and salary range. Employees will receive the same salary step in the new position as held in the former position. Approval of a transfer is subject to availability of an opening, agreement of Department Heads involved and, if it is between departments, approval of the Human Resources Director. Should you desire a transfer, contact the Human Resources Department.

**5.12 Special Pay.** Individual employees may, when assigned to certain designated positions, receive additional pay (either a dollar amount or percentage) above their base salaries because of special abilities, training and/or work assignments having added responsibility or hazards. Examples of these are: bilingual ability (includes sign language), possession of Post Intermediate or Advance Certificates. Your supervisor will provide information (including the specific pay involved) on such special pay assignments that may affect you.

**5.13 Bilingual Designation.** Employees who have been certified Intermediate or higher using a City designated language proficiency test as being fluent in sign language or other secondary language shall receive a special salary premium approved by City Council.

A special salary premium, approved by City Council, shall be provided a certified employee occupying a position approved by the City Manager as requiring the regular use of second language skills for public contact. In situations where positions have been designated as requiring a second language, and are either filled by employees without these skills or vacant, another employee, certified as proficient, may temporarily serve as an interpreter and be eligible to receive the salary premium.

## **6. EMPLOYEE CONDUCT**

**6.1 Conflict of Interest.** Employees may not engage in any business transaction or have a financial or personal interest which is not compatible with the performance of his/her official duties or would tend to impair independence, judgment, or action necessary to pursue the City's best interests. Certain employees may be required to file financial statements with the Fair Political Practices Commission (FPPC) annually.

**6.2 Political Activity.** Participation in political activity is a sign of good citizenship, but certain guidelines should be observed. Employees should not make statements or publish materials which imply City endorsement of a political candidate at any time. Employees may not engage in political activity during working hours, on City premises, or while wearing a City uniform. Employees may not use City funds, supplies, or vehicles for political activity.

**6.3 Business Conduct.** You shall conduct City business in compliance with the law, City policies and procedures, and good judgment. Avoid speech or behavior that is likely to create an appearance of impropriety.

**6.4 Business Related Gifts.** It is the policy of the City of Beaumont that Employees will not accept gifts, rewards, services, or gratuities of any kind by reason of their employment. If you encounter a situation which would tend to compromise this policy, courteously decline such an offer.

**6.5 Professionalism.** Employees are expected to maintain a professional, safe, and productive work environment. Treat fellow employees professionally and with courtesy at all

times. Differences of opinion should be expressed in a constructive manner that promotes sharing of ideas and effective teamwork to resolve problems to meet the challenges of the City.

**6.6 Personal Appearance.** The following guidelines are offered to provide clarity as to appropriate attire and appearance in the workplace. Customer service perceptions of us are influenced in part by our attire. Employees are expected to use good judgment and common sense when selecting attire for the workplace. Acceptable personal appearance, like proper maintenance of work areas, is an ongoing requirement of employment with the City of Beaumont. As departments are familiar with their customers' expectations as well as the business climate, attire matters will be managed at the department level.

6.6.1 Grooming Standards. The following general appearance standards shall apply to all employees. Specific grooming standards may be established within Departments:

- a. Hair and makeup is to be clean, combed and well maintained in a business like style.
- b. Excessive and/or distracting makeup is not permitted.
- c. Employees shall minimize the use of fragrance-based products, recognizing that employees/volunteers and visitors to the workplace may have sensitivities or allergies to fragrant products.
- d. Employees/volunteers are expected to project a professional appearance while at work and not endanger themselves or others with jewelry and body piercings.
- e. Tattoos. Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang related.

6.6.2 Business Attire Dress Code Policy

All City of Beaumont staff members are expected to present a professional, businesslike image to clients, visitors, customers and the public.

Employee appearance contributes to City of Beaumont's culture and reputation. Employees are expected to present themselves in a professional manner that results in a favorable impression by community partners and customers.

Employees who do not meet a professional standard may be sent home to change, and nonexempt employees will not be paid for that time. Reasonable accommodations will be made where required

Traditional business attire is expected of all employees. Basic elements for appropriate and professional business attire include clothing that is in neat and clean condition

Appropriate workplace dress does *not* include clothing that is too tight or revealing; clothing with rips, tears or frays; or any extreme style or fashion in dress, footwear, accessories or fragrances.



Although it is impossible and undesirable to establish an absolute dress and appearance code, City of Beaumont will apply a reasonable and professional workplace standard to individuals on a case-by-case basis. Management may make exceptions for special occasions or in the case of inclement weather, at which time employees will be notified in advance. An employee who is unsure of what is appropriate should check with his or her manager or supervisor. Business casual dress will be permitted on Fridays. When meeting clients, business professional dress guidelines must be observed, unless the client has specifically requested otherwise.

Business casual dress is defined as follows:

- Casual shirts: All shirts with collars, business casual crewneck or V-neck shirts, blouses, and golf and polo shirts. Examples of inappropriate shirts include T-shirts, shirts with inappropriate slogans or graphics, tank tops and crop tops.
- Pants: Casual slacks and trousers and jeans without holes, frays, etc. Examples of inappropriate pants include shorts and pants worn below the waist or hip line.
- Footwear: Casual slip-on or tie shoes, dress sandals, and clean athletic shoes. Examples of inappropriate footwear include flip-flops.

The City's dress and grooming standards shall not (1) be based on hair texture or other traits historically associated with race or prevent employees from wearing braids, locks, twists, or other protective hairstyles, or (2) prevent employees from dressing consistent with their gender identity. Any employee who needs a medical or religious accommodation to the City's dress and grooming standards should contact Human Resources.

6.6.3 Certain staff members may be required to meet special dress, grooming and hygiene standards, such as wearing uniforms or protective clothing, depending on the nature of their job. Uniforms and protective clothing may be required for certain positions and will be provided to employees by City of Beaumont.

**6.7 Identification Cards.** Employees will receive an identification card to carry or wear during the workday which are issued by the Human Resources Department. A new card must be issued when there is a name change or department/division change. Lost or stolen cards must be reported immediately to the Human Resources Department and a replacement card will be issued. Cards must be returned to Human Resources at time of separation.

**6.8 Attendance.** Regular attendance and punctuality are necessary for the efficient operation of the City and is reflected in Employee performance records. Promptness in reporting to work is expected; however, if it is necessary for you to be late or absent from work, you must notify your supervisor. In case of an emergency, when prior approval cannot be obtained, you are required to notify your supervisor before the start of work or as soon as practicable.

**6.9 Meal Periods and Breaks.** Most employees receive a 30 or 60 minute meal period depending on the assignment. Hourly employees' lunches must be taken no later than the fifth and a half hour worked. Employees working 6 hours or less may request to waive their right to a lunch in writing if approved by Human Resources. Each employee is also allowed a 15-minute break near the middle of every 4-hour work period. These breaks are not cumulative and cannot be added to meal periods, used to shorten the workday, or taken in conjunction with any type of

leave. Breaks are to be taken at times prescribed by your supervisor. Field employees are required to take breaks at the job site or, if in transit, at a nearby park.

**6.10 Use of City Vehicles for Breaks.** City vehicles shall not be used to travel to business establishments, or to pick up food or beverages except under emergency or pre-approved conditions. The only exceptions are for:

- a. Public safety personnel in the Police Departments who are required to respond to emergency situations and where the public presence of these personnel is desirable as a deterrent;
- b. Employees on official City business with the Department head's approval;
- c. Use of restroom facilities when a park facility is not accessible.

**6.11 City Owned Vehicles.** Employees are expected to observe State motor vehicle laws. This includes observing the speed limit, wearing seat belts, and only using handheld mobile devices as permitted by law. Negligent use of a City vehicle may result in disciplinary action up to and including termination.

**6.12 Personal Mail, Visitors, Telephone Calls, and Fax Machines.** Personal visits by friends, relatives, or others during work hours are discouraged. If such a visit is necessary and cannot be done on non-work time, you are to obtain the approval of your supervisor. Use of City equipment for personal use is prohibited. If a personal call is necessary and cannot be made on non-work time, City telephones may be used with your supervisor's approval. Personal long-distance calls are prohibited.

**6.13 Technical Resources Use and Monitoring Policy.** Electronic systems, hardware, software, tools, and information are provided for the purpose of conducting business for the City of Beaumont. All electronic systems or devices are the property of the City. You will be given a copy of the Technical Resources Use and Monitoring Policy and must sign an acknowledgment of receipt stating that you have read and understood the policy. The acknowledgment form will be filed in your personnel file.

**6.14 Safety.** Safety is a responsibility shared by both the City and the Employee. The City's responsibility is to provide a safety program aimed at accident prevention, instruction in safe job performance, the proper care of tools, equipment, and safety gear required for the job. The City maintains and updates the Injury Illness Safety Program on a regular basis and it is available to all employees in hard copy binder format as well as online.

It is your responsibility to adhere to safety precautions such as, but not limited to:

- a. Working safely; safety training occurs upon hire and on a continual basis;
- b. Following safe work procedures;
- c. Using personal safety equipment provided, including seat belts;
- d. Reporting all dangerous conditions to a supervisor;
- e. Suggesting ways to prevent accidents;
- f. Attending safety meetings.

**6.15 Outside Employment.** The City requires prior notification to the City Manager before you accept outside employment. Such employment must not interfere with the satisfactory performance of your duties with the City, or be a conflict of interest. Notifications must be resubmitted each year (12 consecutive months) if such employment is continued or started.

**6.16 Pay Periods/Paydays.** You will be paid biweekly on Friday for the period that ends on the previous Thursday. When the payday is a holiday, you normally will be paid on the last working day before the holiday.

Please review your paycheck for errors. If you find a mistake, report it to your immediate supervisor immediately. Your immediate supervisor will assist you in taking the steps necessary to correct the error.

**6.17 Payroll Deductions** The City is required by law to make certain deductions from your paycheck each pay period. Such deductions typically include federal and state taxes and Social Security (FICA) taxes. Depending on the benefits you choose, there may be additional deductions. All deductions and the amount of the deductions are listed on your pay stub. These deductions are totaled each year for you on your Form W-2, Wage and Tax Statement.

Exempt employees may be subject to the following salary deductions, except where prohibited by state law, but only for the following reasons:

- For absences of one or more full days due to sickness or disability, the City will first deduct the full-day absence(s) from employees' accrued sick leave and/or vacation benefits. If employees have exhausted all accrued sick leave and vacation benefits or the employee is not eligible to accrue or use sick leave or vacation benefits, the City will deduct the full-day absence(s) from employees' salaries.; or
- Suspensions of one or more full days for violations of safety rules of major significance; or
- Suspensions of one or more full days for violations of written workplace conduct rules, such as rules against sexual harassment and workplace violence; or
- Payment of actual time worked in the first and last weeks of employment, resulting in a proportional rate of an employee's full salary; or
- Negative paid-time-off balances, in whole-day increments only.

In addition to the deductions above, the City may also deduct exempt employees' partial-day absences for personal reasons, other than sickness or disability, from their accrued but unused vacation benefits.

The City will not make deductions which are prohibited by the Fair Labor Standards Act or state laws from its exempt employees' pay. If questions or concerns about any pay deductions arise, discuss and resolve them with your immediate supervisor. If an error is found, you will receive an immediate adjustment which will be paid no later than on the next regular payday.

**6.18 Auto Mileage.** If required to use your personal automobile in the course of your employment with the City, you will be reimbursed in accordance with the City of Beaumont Travel Expense and Reimbursement Policy and the Internal Revenue Service “mileage” rate currently in effect at time of travel. (see irs.gov).

**6.19 Direct Deposit:** You may authorize the transfer of funds to your personal account. Every pay period the appropriate wages are automatically deposited into your individual checking or savings account. Direct deposit forms are available from the Human Resources Department (Payroll). If you do not have a personal account, your check will be mailed to you.

**7. TIME AWAY FROM WORK AND OTHER BENEFITS**

**7.1 Vacation.**

7.1.1 Accrual Rate. Vacation time shall be accrued on the following basis and shall be credited for subsequent use each pay period:

Hire date - Three (3) years	two (2) weeks per year	3.077 hours per pay period
Three (3) years 1 day - Seven (7) years	three (3) weeks per year	4.615 hours per pay period
Seven (7) years 1 day - Nineteen (19) years	four (4) weeks per year	6.153 hours per pay period
Nineteen (19) years 1 day	five (5) weeks per year	7.692 hours per pay period

7.1.2 Maximum Accumulation. Maximum vacation accumulation for any employee shall not exceed the equivalent of two (2) years' accrual at the current accrual rate for that employee. Once reaching the maximum accumulation allowed, an employee will not continue to accrue any additional vacation hours until his/her vacation balance is reduced below the maximum accumulation allowed.

7.1.3 Vacation Bank Cash Out. An employee may request payment of banked vacation time, in any hourly increment, on July 1<sup>st</sup> and December 1<sup>st</sup> of each year, but not to exceed a maximum of eighty (80) hours annually. Request for cash payment pursuant to this section shall be submitted to Human Resources. Payment shall be made by separate check and using the employee's hourly rate of pay at the time of the payment.

7.1.4 Payment Upon Termination of Employment. All accumulated vacation hours will be paid out at the time of separation from service at the employee's current hourly rate at the time of separation.

**7.2. Sick Leave.** Sick leave is an insurance or protection provided by the City to be granted to employees in circumstances of adversity to promote the health and welfare of the individual employee. It is not an earned right to take time off from work. Employees should not automatically assume that absenteeism is permissible merely because they have sufficient sick

leave benefits to cover all or a portion of their time off. The City may determine that absenteeism is excessive if, based on all facts and circumstances, it is found disruptive to the City, co-workers or persons contracting with the City. Sick leave is defined as the absence from duty of an employee because of a bona fide illness, injury, or pregnancy, or to attend to the illness or injury of a family member as hereinafter defined. All employees who work for the city less than 30 days are not entitled to sick leave benefits.

7.2.1 Accrual. Sick leave shall accrue at the rate of 3.69 hours per bi-weekly pay period, for a total of ninety-six (96) hours annually, for full-time employees. Part-time employees shall be credited with a minimum of five (5) sick leave days, or five times (5X) their regularly scheduled daily shift hours, whichever is greater, on July 1st of each year. For example, a part-time employee scheduled to work eight (8) hour days would receive forty (40) hours while a part-time employee scheduled to work ten (10) hour days would receive fifty (50) hours.

Effective January 1, 2016, each employee is limited to a maximum sick leave accumulation of one thousand (1,000) hours. Employees who had accumulated greater than one thousand (1,000) hours, prior to January 1, 2016, shall be allowed to retain all such accumulated sick leave hours in excess of this new maximum accumulation limit. The cash-out vesting schedule and provisions shall apply to any such excess accumulation. The parties agree these employees will not continue to accrue any additional sick leave hours until their sick leave balance is reduced to one thousand (1,000) hours or less.

7.2.2 Reasons for Usage. Sick leave may be used to cover an employee's absence due to any of the following:

- a. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, of an employee.
- b. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, a qualified family member;
- c. The employee is a victim of domestic violence, sexual assault, or stalking;
- d. Any other leave of absence as allowed by law, including pregnancy and/or complications related to pregnancy;
- e. Any additional reason that may be required by labor code section 246.5(a).

7.2.3 Requirements for Usage. An employee may use accrued sick leave upon a written or verbal request to their immediate supervisor. If the need to use sick leave is foreseeable, the employee must provide reasonable advance notice. If the need to use sick leave is unforeseeable, notice must be given as soon as practicable.

An employee who finds he/she is unable to report for duty and must use sick leave for a qualifying event shall contact his/her supervisor at least one (1) hour prior to their scheduled start time, unless the need to use sick leave is not foreseeable or extenuating circumstances prevent this. Acceptable forms of contact are direct voice or via electronic message (text, e-mail, or voice mail) between the employee and his/her supervisor, unless the employee is otherwise directed in writing by his/her supervisor prior to the absence.

The City shall not require an employee to provide certification from a healthcare provider for sick leave use of three (3) consecutive work days or less.

Unless the need to use sick leave is not foreseeable, employees shall provide as much advance notice as possible, and obtain approval from their supervisor, prior to utilizing sick leave for preventative care appointments with their health care providers.

7.2.4 CalPERS Service Credit. The City agrees to a service credit of unused sick leave for CalPERS retirement when an employee retires from City employment so long as permitted by CalPERS.

7.2.5 Sick Leave Cash Out Provisions. If an employee leaves the City with at least seven (7) years of service, the employee may elect to receive a lump sum payment of the total value (100%) of their accumulated sick leave. If the employee leaves the City prior to completing seven (7) years of service, then the employee is eligible for sick leave cash out using the following vesting schedule. This payment will be determined by a graduating scale that increases by fifteen percent (15%) for each year of service completed. All sick leave vesting levels shall begin after the completion of initial probation and the second (2nd) year of service. A year of service will be considered completed when the employee reaches the anniversary date of his/her initial employment.

Year Completed	1st	2nd	3rd	4th	5th	6th	7th
Vested amounts	0%	30%	45%	60%	75%	90%	100%

Accumulated sick leave hours will be paid out at the time of separation from service at the employee's hourly rate at the time of separation. Previously accrued and unused sick leave that was not paid out at the time of separation will be reinstated if an employee is re-hired within one (1) year from the date of separation.

7.2.6 Qualified Family Members. Qualified family members include: parent, parent-in-law, child (including biological, step, adopted, foster, grand, acting as loco parentis, or any form of legal guardianship), spouse, grandparent, sibling, and registered domestic partner.

Employees may use up to the full amount of their annual accrual of sick leave to attend to the illness of a qualified family member each calendar year. It is understood the City may not require the employee to provide certification from a healthcare provider for sick leave use for a qualified family member, unless the time used exceeds the annual allowance provided by law.

The City is prohibited from discharging, threatening to discharge, demoting, suspending, or in any manner discriminating against an employee for using, or attempting to exercise the right to use sick leave for a qualified family member.

7.2.7 Payout Due to Layoff. Employees who are scheduled for layoff as a result of a reduction in work force shall receive, at the option of the employee, either a lump sum payment equal to one hundred percent (100%) of accumulated sick leave at the time of the layoff, or one hundred percent (100%) of accumulated sick leave for conversion to CalPERS service credit if the employee chooses to retire in lieu of layoff. All accumulated sick leave will be paid out at the employee's current hourly rate at the time of the layoff.

### 7.3 Recognized Holidays - Refer to MOU for current list.

New Year's Day	Veterans Day
Martin Luther King Jr. Day	Thanksgiving
President's Day	Friday after Thanksgiving
Memorial Day	Christmas Eve
Independence Day	Christmas
Labor Day	Day following Christmas
Indigenous Peoples Day	New Year's Eve

7.3.1 Termination of Employment. All accumulated banked holiday hours will be paid out at the time of separation from service at the employee's current hourly rate at the time of separation. When an employee voluntarily resigns from the City, the employee's last day worked will be considered his/her last day as an active employee. All accrued, unused vacation hours will be paid out at the time of separation, as well as the appropriate percentage of accrued and unused sick hours (refer to the MOU applicable to your position).

### 7.4 Reproductive Loss Leave

#### A. Eligibility

Employees are eligible for reproductive loss leave if they have worked for the City for at least 30 days prior to the leave's start and suffer a qualifying event.

#### B. Reproductive Loss Qualifying Events

Employees are entitled to reproductive leave if they suffer a reproductive loss qualifying event, which is the day, or the final day for a multiple day event, of any one of the following:

- **Failed adoption:** The dissolution or breach of an adoption agreement with the birth mother or legal guardian, or an adoption that is not finalized because it is contested by another party.
- **Failed surrogacy:** The dissolution or breach of a surrogacy agreement or the failed embryo transfer to the surrogate. This event applies to a person who would have been a parent to the child born of the surrogacy.
- **Miscarriage:** Miscarriage by an employee, by the employee's current spouse or domestic partner, or by another individual if the employee would have been a parent as the result of the pregnancy.
- **Stillbirth:** Stillbirth resulting from an employee's pregnancy, the pregnancy of an employee's current spouse or domestic partner, or another individual if the employee would have been a parent as a result of the pregnancy.
- **Unsuccessful assisted reproduction:** An unsuccessful round of intrauterine insemination or of an assisted reproductive procedure (i.e., artificial insemination or an embryo transfer, including gamete and embryo donation). Assisted reproduction does not include reproduction through sexual intercourse. This event applies to an employee, the employee's current spouse or domestic partner, or another individual, if the employee would have been a parent of a child born as a result of the pregnancy.

### C. Leave Usage

Employees shall be entitled to take up to 5 unpaid days of reproductive loss leave following a reproductive loss qualifying event (defined above). If an employee experiences more than one reproductive loss qualifying event within a 12-month period, the City shall not be obligated to grant a total amount of reproductive loss leave time in excess of 20 days within a 12-month period.

Reproductive loss leave does not have to be consecutive but, if leave is not taken consecutively, it must be completed within 3 months of the qualifying event.

Employees may elect to substitute any accrued but unused paid vacation, personal leave, or sick leave for unpaid reproductive loss leave.

### D. Confidentiality

The City shall maintain the confidentiality of any employee requesting leave under this policy. Any information provided to the City in order to support the need for reproductive loss leave shall be maintained as confidential and shall not be disclosed except to internal personnel or counsel as necessary or as required by law.

### E. Coordination with California Family Rights Act

If, prior to or immediately following a reproductive loss qualifying event, an employee is on or chooses to go on leave pursuant to the California Family Rights Act or any other leave entitlement under state or federal law, the employee shall complete their reproductive loss leave within 3 months of the end date of the other leave.

### F. Non-Retaliation or Discrimination

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

## **7.5 Lactation Accommodation Policy**

The City provides accommodations to lactating employees who need to express breast milk during work hours in accordance with applicable law.

Employees with any questions or concerns, or who believe that they have been improperly denied an accommodation under this policy, should contact the Human Resources Department.

### A. Designated Space for Lactation

The City will provide a room or other location (not a bathroom) for employees to express breast milk in private. The City will ensure that the lactation room or location will:

- be in close proximity to the employee's work area, shielded from view, and free from intrusion while the employee is expressing milk;
- be safe, clean, and free of hazardous materials;
- contain a surface to place a breast pump and personal items;
- contain a place to sit; and
- have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump.

In addition, the City will provide access to a sink with running water and a refrigerator suitable for storing milk (or other cooling device suitable for storing milk) in close proximity to an employee's



workspace. In the event that more than one employee needs to use the lactation room or location to express breast milk, the City will discuss alternative options with the employees to determine what arrangement addresses their needs, such as finding an alternative space or creating a schedule for use.

#### **B. Reasonable Time to Express Breast Milk**

The City provides a reasonable amount of break time for an employee to express breast milk each time that she needs to do so. The break time, if possible, should run concurrently with any break time already provided to the employee. Break time for a nonexempt employee that does not run concurrently with rest time already authorized for the employee is unpaid. However, if the employee performs any work during such break, she must accurately record all time worked and the City will compensate her for such time.

#### **C. Lactation Accommodation Request Process**

Employees who are nursing have a right to request a lactation accommodation. Such requests may be made verbally or in writing, should indicate the need for an accommodation in order to express breast milk at work, and should be directed to the Human Resources Department at Telephone: 951-769-8520 or by email: [HR@beaumontca.gov](mailto:HR@beaumontca.gov)

The Human Resources department will respond to such requests in a reasonably prompt manner, not exceeding five (5) business days. If the City cannot provide break time, location, or other reasonable accommodations in accordance with this policy, it will inform the requesting employee in writing. Because lactation accommodation needs may change over time, employees may request changes to existing accommodations by a written request to the above-named individual that describes the nature of the changed that is requested.

#### **D. Prohibition on Retaliation or Discrimination for Exercising Lactation Accommodation Rights**

The City prohibits any form of retaliation or discrimination against an employee for exercising or attempting to exercise any rights provided under the above policies. Any such conduct or other violations of the above policies should be reported to the Human Resources Department at 951-769-8520 or by email: [HR@beaumontca.gov](mailto:HR@beaumontca.gov).

Employees also have the right to file a complaint with the California Labor Commissioner for violation of a lactation accommodation right described in the policy above.

**7.6 Jury Duty.** All employees shall be entitled to their regular pay for those hours of absence from their regularly scheduled shift(s), due to performance of the jury duty, for up to a period of twenty-two (22) working days. Any jury duty fees received for such service, exclusive of mileage or in excess of the twenty-two (22) working days, must be submitted to the City for deposit in the General Fund. An employee serving jury duty shall be required to obtain an attendance slip from the court to be submitted with his/her timesheet.

**7.7 Court Time.** Any employee who is subpoenaed as a witness in a case involving the City, its personnel, and/or property, shall be entitled to his/her regular pay for those hours of absence falling on a regular work shift. If the employee is subpoenaed to appear on a day off, he/she shall be compensated at one and one-half (1½) times their normal hourly rate of pay for the time he/she appears, with a minimum payment of two (2) hours per court appearance.

**7.8 Voting Leave.** The City believes that every employee should have the opportunity to vote in any state or federal election, general primary or special primary. Any employee who

does not have sufficient time outside of working hours to vote in a statewide election may request up to two paid hours off in order to vote. The City reserves the right to select the hours you are excused to vote.

Notify your immediate supervisor of the need for voting leave as soon as possible. When you return from voting leave, you must present a voter's receipt to your immediate supervisor as soon as possible.

**7.9 Military Leave.** Employees who are required to fulfill military obligations in any branch of the Armed Forces of the United States or in state military service will be given the necessary time off and reinstated in accordance with federal and state law. The time off will be unpaid, except where state law dictates otherwise. Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

Accrued vacation (if any) may be used for this leave if the employee chooses, but the City will not require the employee to use vacation. Military orders should be presented to your immediate supervisor and arrangements for leave made as early as possible before departure. Employees are required to give advance notice of their service obligations to the City unless military necessity makes this impossible. You must notify your immediate supervisor of your intent to return to employment based on requirements of the law. Your benefits may continue to accrue during the period of leave in accordance with state and federal law.

Additional information regarding military leaves may be obtained from your immediate supervisor.

**7.10 Family Military Leave.** An employee who works an average of 20 or more hours per week whose spouse or registered domestic partner is a member of the Armed Forces, National Guard or Reserves who has been deployed during a period of military conflict is eligible to receive up to 10 unpaid days off when his/her spouse or registered domestic partner is on leave from military deployment.

You must provide your immediate supervisor with notice of your intention to take leave within two business days of receiving official notice that your spouse or registered domestic partner will be on leave from deployment. Employees taking family military leave must also provide the City with written documentation certifying their spouse will be on leave from deployment.

**7.11 Civil Air Patrol Leave.** An employee who is a voluntary member of the California Wing of the Civil Air Patrol will be permitted no less than 10 days of unpaid leave per calendar year in order to respond to an emergency operational mission as defined by state law. In order to qualify for leave under this policy, an employee volunteer member must be employed by the City for at least 90 days immediately preceding the commencement of leave. The employee must give the City as much notice as is possible of the intended leave dates. Leave for a single emergency operational mission shall not exceed three days, unless an extension of time is granted by the governmental entity that authorized the emergency operational mission, and the extension of the leave is approved by the City.

The City may require certification from the proper Civil Air Patrol authority to verify the employee's eligibility for leave. The City reserves the right to deny the leave request if the employee fails to provide the required certification.

Upon expiration of the leave, the City will restore the employee to his or her position or to a position with equivalent seniority, benefits, pay and other terms and conditions of employment, unless the employee is not restored because of conditions unrelated to use of leave under this policy.

This policy does not apply to employees who serve as first responders or disaster service workers for a local, state, or federal agency to the same or a simultaneous emergency operational mission.

Employees may substitute accrued vacation for unpaid leave, but are not required to exhaust accrued leave prior to taking leave under this policy.

**7.12 Volunteer Public Safety Personnel Leave.** Employees who serve as volunteer firefighters, reserve peace officers, or emergency rescue personnel (includes officers, employees, or members of a disaster medical response entity sponsored or requested by the state) may be eligible for unpaid leave up to 14 days per calendar year for the purpose of engaging in fire, law enforcement, or emergency rescue training.

Employees who take leave should provide the City with a written statement from the chief of the employee's fire department verifying the time, date, and duration of the training.

**7.13 Witness Leave.** Employees are given the necessary time off without pay to attend or participate in a court proceeding in accordance with state law. We ask that you notify your immediate supervisor of the need to take witness leave as far in advance as is possible.

Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

**7.14 Bone Marrow and Organ Donation Leave.** Employees are eligible to receive up to 30 business days of paid leave to serve as an organ donor and up to five business days of paid leave to serve as a bone marrow donor in a one-year period. The one-year period is measured from the date the employee's leave begins and shall consist of 12 consecutive months. Employees must be employed by the City for at least 90 days immediately preceding the commencement of leave and request leave in writing.

When available, the employee must use up to five (5) business days of accrued but unused sick or vacation leave for initial bone marrow donation leave and up to two (2) weeks of accrued but unused sick or vacation leave for initial organ donation leave.

Please provide your immediate supervisor with written physician verification of the purpose and length of each leave. Leave under this policy will not run concurrently with any leave taken pursuant to the Federal Family and Medical Leave Act or the California Family Rights Act. For more information regarding this leave, please see your immediate supervisor.

**7.15 School Visitation Leave.** If you are the parent or guardian of a child who is suspended and are required to appear at the child's school, you may take time off with or without pay if you provide reasonable advance notice to your immediate supervisor of the need for time off.

Employees who are the parent, guardian, or grandparent having custody of children in grades K-12, or of children attending a licensed daycare facility, are allowed up to 40 hours of leave without pay per calendar year to participate in activities of their child's school or child care provider unless employed at a worksite with less than 25 employees. This leave should not exceed eight hours in any calendar month. Requests for such leave must be made in advance of the planned absence and employees must provide documentation from the school or day care facility as proof of their participation in school or day care activities.

Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

**7.16 Bereavement Leave.** Upon request, an employee shall receive time off with pay not to exceed five (5) days, or seven (7) days if the employee must travel beyond five hundred (500) miles, for each instance in which the employee feels compelled to be absent from work due to the imminent death of an immediate family member, or to arrange for and/or attend the funeral of an immediate family member.

An employee who finds he/she need additional time off may request to utilize accrued time from his/her vacation, compensatory time, sick leave, and/or holiday leave time banks to cover the extended absence. The employee must seek written approval from his/her manager/supervisor prior to taking such extended leave.

The City may require documentation of eligibility in the form of a healthcare provider's certificate or notice of death.

For the purpose of this Article, an immediate family member shall mean a father, mother, sibling, spouse, registered domestic partner, child (including biological, step, adopted, foster, grand, acting as loco parentis, or any form of legal guardianship), grandparent, legal guardian, or any other person with whom the employee has/had an established intimate relationship (i.e. live-in boyfriend/girlfriend, fiancée, or other parent of employee's child). This shall also include in-law and step relationships of the same categories.

**7.17 Leave of Absence.** Employees may be granted an unpaid leave of absence to attend to personal matters in cases in which the City Manager determines that an extended period of time away from the job will be in the best interests of the employee and the City. Employees will be granted a maximum of thirty days of personal leave within a rolling twelve-month period, as determined by the City Manager. Employees will be required to utilize their accrued vacation and CTO hours while on a personal leave of absence. Sick leave will not be allowed unless this leave relates to an existing medical leave. Leaves may not exceed 90 days during which time no benefits will accrue. Leaves of absence are granted only after earned leave is exhausted. The City will make reasonable efforts to return you to the same or similar job you held prior to the leave of absence, subject to our staffing and business requirements.

Employees who are unable to report for work because of arrest and incarceration may ask to be placed on a personal leave of absence. If the employee is freed on bail, a decision whether to allow the resumption of active employment pending disposition of the charges will be made by the City Manager. The City Manager will determine whether reinstatement would be consistent with the City's needs and requirements.

**7.18 Domestic Violence Leave.** The City will not discriminate against employees who are victims of domestic violence, sexual assault or stalking for taking time off from work to obtain or attempt to obtain any relief, including but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of a victim or his or her child.

The City will also not discriminate against an employee who is a victim of domestic violence, sexual assault or stalking for taking time off from work to seek medical attention for injuries caused by such domestic violence, sexual assault or stalking, to obtain services from a related support program, to obtain psychological counseling, or to participate in actions to increase safety from future domestic violence, sexual assault or stalking, including temporary or permanent relocation.

Affected employees must give the City reasonable notice that he/she is required to be absent for a purpose stated above, except for unscheduled or emergency court appearances or other emergency circumstances. In such a case, the City will take no action against affected employees if, within a reasonable time after the appearance, they provide the City with documentary evidence that their absence was required for any of the above reasons.

This leave will be unpaid. However, affected employees may use vacation, personal leave or other accrued time off (if available).

**7.19 Victims of Felony Crimes Leave.** The City will grant reasonable and necessary leave from work with or without pay, to employees who are victims, or whose spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, stepfather, registered domestic partner, or child of a registered domestic partner is a victim of a violent or serious felony or felonious theft or embezzlement, for the purposes of attending legal proceedings related to the crime.

Affected employees may elect to use accrued paid vacation, personal leave and/or sick leave in lieu of unpaid leave.

When feasible, affected employees must provide the City with advance notice of the employee's need for leave, including a copy of the notice of the scheduled proceeding. If advance notice is not feasible, affected employees must provide documentation evidencing the legal proceeding requiring the employee's absence within a reasonable time after leave is taken.

Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

**7.20 Medical Insurance.** Eligible employees may enroll in an employee only, an employee plus children, an employee plus spouse, or a family contract. Eligibility may be defined by state law and/or by the insurance contract. Information and enrollment forms may be obtained from your immediate supervisor. \*No waiting period

To assist you with the cost of this insurance, the City may pay a portion of an employee only, an employee plus children, an employee plus spouse, or a family contract. You are responsible for paying the balance through payroll deduction. Please refer to the applicable MOU or employment agreement for additional information.

At the end of employment you may be entitled to continuation or conversion of the group medical insurance plan in accordance with the terms of the policy and/or applicable state and federal law. For more information, contact your immediate supervisor.

**7.21 Dental Insurance.** Eligible employees may enroll in an employee only, an employee plus children, an employee plus spouse or a family contract. Please refer to the applicable MOU or employment agreement for additional information.

**7.22 Vision Care Plan.** Eligible employees may enroll in this plan. To assist you with the cost of this plan, the City may pay a portion of an employee only, an employee plus children, an employee plus spouse or a family contract. You are responsible for paying the balance through payroll deduction. Please refer to the applicable MOU or employment agreement for additional information.

At the end of employment you may be entitled to continuation or conversion of the group vision care insurance plan in accordance with the terms of the policy and/or applicable state and federal law. For more information, contact your immediate supervisor.

**7.23 Family Medical Leave Act (“FMLA”)**

7.23.1 Maintenance of Health Benefits. If you and/or your family participate in our group health plan, the City will maintain coverage during your FMLA leave on the same terms as if you had continued to work. If applicable, you must make arrangements to pay your share of health plan premiums while on leave. In some instances, the City may recover premiums it paid to maintain health coverage or other benefits for you and your family. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of your leave.

**Family/Medical leaves (FMLA/CFRA) of absence are unpaid. The employee is required to utilize all accrued paid leave before going without pay during a leave period. All time off, paid or unpaid, is counted towards the twelve-week period.**

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty days’ notice is required. In addition, if an employee knows that he/she will need leave in the future but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute. “Calling in sick” is not proper notification to the City that the employee needs leave.

7.23.2 Notice and Medical Certification. When seeking FMLA leave, you are required to provide:

a. sufficient information for us to determine if the requested leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that you are unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. You must also inform the City if the requested leave is for a reason for which FMLA leave was previously taken or certified.

If the need for leave is foreseeable, this information must be provided 30 days in advance of the anticipated beginning date of the leave. If the need for leave is not foreseeable, this information must be provided as soon as is practicable and in compliance with the City's normal call-in procedures, absent unusual circumstances.

b. medical certification supporting the need for leave due to a serious health condition affecting you or an immediate family member within 15 calendar days of the City request to provide the certification (additional time may be permitted in some circumstances). If you fail to do so, we may delay the commencement of your leave, withdraw any designation of FMLA leave or deny the leave, in which case your leave of absence would be treated in accordance with our standard leave of absence and attendance policies, subjecting you to discipline up to and including termination. Second or third medical opinions and periodic re-certifications may also be required;

c. periodic reports as deemed appropriate during the leave regarding your status and intent to return to work; and

d. medical certification of fitness for duty before returning to work, if the leave was due to your serious health condition. The City will require this certification to address whether you can perform the essential functions of your position.

Failure to comply with the foregoing requirements may result in delay or denial of leave, or disciplinary action, up to and including termination.

**7.23.3 Employer Responsibilities.** To the extent required by law, the City will inform employees whether they are eligible under the FMLA. Should an employee be eligible for FMLA leave, the City will provide him or her with a notice that specifies any additional information required as well as the employee's rights and responsibilities. If employees are not eligible, the City will provide a reason for the ineligibility. The City will also inform employees if leave will be designated as FMLA-protected and, to the extent possible, note the amount of leave counted against the employee's leave entitlement. If the City determines that the leave is not FMLA-protected, the City will notify the employee.

**7.23.4 Job Restoration.** Upon returning from FMLA leave, eligible employees will typically be restored to their original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

7.23.5 Failure to Return After FMLA Leave. Any employee who fails to return to work as scheduled after FMLA leave or exceeds the 12-week FMLA entitlement (or in the case of military caregiver leave, the 26-week FMLA entitlement), will be subject to the City's standard leave of absence and attendance policies. This may result in termination if you have no other company-provided leave available to you that applies to your continued absence. Likewise, following the conclusion of your FMLA leave, the City's obligation to maintain your group health plan benefits ends (subject to any applicable COBRA rights).

7.23.6 Other Employment. The City generally prohibits employees from holding other employment other than as provided in section 6.15 above. This policy remains in force during all leaves of absence including FMLA leave and may result in disciplinary action, up to and including immediate termination of employment.

7.23.7 Fraud. Providing false or misleading information or omitting material information in connection with an FMLA leave will result in disciplinary action, up to and including immediate termination.

7.23.8 Employer's Compliance with FMLA and Employee's Enforcement Rights. The FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under FMLA, or discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

While the City encourages employees to bring any concerns or complaints about compliance with FMLA to the attention of your immediate supervisor, FMLA regulations require employers to advise employees that they may file a complaint with the U.S. Department of Labor or bring a private lawsuit against an employer.

Further, FMLA does not affect any Federal or state law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**7.24 Military-Related Federal FMLA Leave**. FMLA leave may also be available to eligible employees in connection with certain service-related medical and non-medical needs of family members. There are two forms of such leave. The first is Military Caregiver Leave, and the second is Qualifying Exigency Leave. Each of these leaves is detailed below.

#### 7.24.1 Definitions.

a. A "covered servicemember" is either: (1) a current servicemember of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness incurred in the line of duty for which the servicemember is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list; or (2) a "covered veteran" who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

b. A "covered veteran" is an individual who was discharged under conditions other than dishonorable during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. The period between October 28, 2009 and March 8, 2013 is excluded in determining this five-year period.



c. The FMLA definitions of “serious injury or illness” for current servicemembers and veterans are distinct from the FMLA definition of “serious health condition.” For current servicemembers, the term “serious injury or illness” means an injury or illness that was incurred by the member in the line of duty while on active duty in the Armed Forces or that existed before the beginning of active duty and was aggravated by such service, that may render them medically unfit to perform the duties of their office, grade, rank or rating.

d. For covered veterans, this term means a serious injury or illness that was incurred in the line of duty while on active duty in the Armed Forces or that existed before the beginning of active duty and was aggravated by such service and manifested itself before or after the individual assumed veteran status, and is: (1) a continuation of a serious injury or illness that was incurred or aggravated when they were a member of the Armed Forces and rendered them unable to perform the duties of their office, grade, rank or rating; (2) a physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; (3) a physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would be so absent treatment; or (4) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

e. “Qualifying exigencies” include activities such as short-notice deployment, military events, arranging alternative childcare, making financial and legal arrangements related to the deployment, rest and recuperation, counseling, parental care, and post-deployment debriefings.

7.24.2 Military Caregiver Leave. Unpaid Military Caregiver Leave is designed to allow eligible employees to care for certain family members who have sustained serious injuries or illnesses in the line of duty while on active duty. Military Caregiver Leave is a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period.

To be “eligible” for Military Caregiver Leave, the employee must be a spouse, son, daughter, parent, or next of kin of the covered servicemember. “Next of kin” means the nearest blood relative of the servicemember, other than the servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions; brothers and sisters; grandparents; aunts and uncles; and first cousins; unless the servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of Military Caregiver Leave. The employee must also meet all other eligibility standards as set forth within the FMLA Leave policy.

An eligible employee may take up to 26 workweeks of Military Caregiver Leave to care for a covered servicemember in a “single 12-month period.” The “single 12-month period” begins on the first day leave is taken to care for a covered servicemember and ends 12 months thereafter, regardless of the method used to determine leave availability for other FMLA-qualifying reasons. If an employee does not exhaust his or her 26 workweeks of Military Caregiver Leave during this “single 12-month period,” the remainder is forfeited.

Military Caregiver Leave applies on a per-injury basis for each servicemember. Consequently, an eligible employee may take separate periods of caregiver leave for each and every covered servicemember, and/or for each and every serious injury or illness of the same covered servicemember. A total of no more than 26 workweeks of Military Caregiver Leave, however, may be taken within any “single 12-month period.”

Within the “single 12-month period” described above, an eligible employee may take a combined total of 26 weeks of FMLA leave including up to 12 weeks of leave for any other FMLA-qualifying reason (i.e., birth or adoption of a child, serious health condition of the employee or close family member, or a qualifying exigency). For example, during the “single 12-month period,” an eligible employee may take up to 16 weeks of FMLA leave to care for a covered servicemember when combined with up to 10 weeks of FMLA leave to care for a newborn child.

An employee seeking Military Caregiver Leave may be required to provide appropriate certification from the employee and/or covered servicemember and completed by an authorized health care provider within 15 days. Military Caregiver Leave is subject to the other provisions in our FMLA Leave Policy (requirements regarding employee eligibility, appropriate notice of the need for leave, use of accrued paid leave, etc.). Military Caregiver Leave will be governed by, and handled in accordance with, the FMLA and applicable regulations, and nothing within this policy should be construed to be inconsistent with those regulations.

7.24.3 Qualifying Exigency Leave. Eligible employees may take unpaid “Qualifying Exigency Leave” to tend to certain “exigencies” arising out of the duty under a call or order to active duty of a “military member” (i.e. the employee's spouse, son, daughter, or parent). Up to 12 weeks of Qualifying Exigency Leave is available in any 12-month period, as measured by the same method that governs measurement of other forms of FMLA leave within the FMLA policy (with the exception of Military Caregiver Leave, which is subject to a maximum of 26 weeks of leave in a “single 12-month period”). Although Qualifying Exigency Leave may be combined with leave for other FMLA-qualifying reasons, under no circumstances may the combined total exceed 12 weeks in any 12-month period (with the exception of Military Caregiver Leave as set forth above). The employee must meet all other eligibility standards as set forth within the FMLA policy.

Persons who can be ordered to active duty include active and retired members of the Regular Armed Forces, certain members of the retired Reserve, and various other Reserve members including the Ready Reserve, the Selected Reserve, the Individual Ready Reserve, the National Guard, state military, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve.

A call to active duty refers to a *federal* call to active duty, and *state* calls to active duty are not covered unless under order of the President of the United States pursuant to certain laws.

Qualifying Exigency Leave is available under the following circumstances:

- a. Short-notice deployment. To address any issue that arises out of short notice (within seven days or less) of an impending call or order to active duty.
- b. Military events and related activities. To attend any official military ceremony, program, or event related to active duty or call to covered active duty status or to attend certain family support or assistance programs and informational briefings.

c. Childcare and school activities. To arrange for alternative childcare; to provide childcare on an urgent, immediate need basis; to enroll in or transfer to a new school or daycare facility; or to attend meetings with staff at a school or daycare facility.

d. Financial and legal arrangements. To make or update various financial or legal arrangements; or to act as the covered military member's representative before a federal, state, or local agency in connection with service benefits.

e. Counseling. To attend counseling (by someone other than a health care provider) for the employee, for the military member, or for a child or dependent when necessary as a result of duty under a call or order to covered active duty.

f. Temporary rest and recuperation. To spend time with a military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to 15 days of leave for each instance of rest and recuperation.

g. Post-deployment activities. To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of up to 90 days following termination of the military member's active duty status. This also encompasses leave to address issues that arise from the death of a military member while on active duty status.

h. Parental care. To care for the military member's parent who is incapable of self-care. The parent must be the military member's biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the military member when the member was under 18 years of age.

i. Mutually agreed leave. Other events that arise from the military member's duty under a call or order to active duty, provided that the City and the employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of such leave.

An employee seeking Qualifying Exigency Leave may be required to submit appropriate supporting documentation in the form of a copy of the military member's active duty orders or rest and recuperation orders or other military documentation indicating the appropriate military status and the dates of active duty status, along with a statement setting forth the nature and details of the specific exigency, the amount of leave needed and the employee's relationship to the military member, within 15 days. Qualifying Exigency Leave will be governed by, and handled in accordance with, the FMLA and applicable regulations, and nothing within this policy should be construed to be inconsistent with those regulations.

7.24.4 Limited Nature of This Policy. This Policy should not be construed to confer any express or implied contractual relationship or rights to any employee not expressly provided for by FMLA. The City reserves the right to modify this or any other policy as necessary, in its sole discretion to the extent permitted by law. State or local leave laws may also apply.

**7.25 Disability Insurance.** All full time employees are eligible for disability insurance benefits when an illness, injury or pregnancy-related disability prevents them from working and they meet all the eligibility requirements

The benefits are calculated as a percentage of your salary up to a weekly maximum as specified by law, for up to 104 weeks.

Employees who apply for this benefit must provide written notice of disability, including a doctor's certificate stating the nature of the disability and your expected date of return to work.

You are responsible for filing your claim and other forms promptly and accurately with the Employment Development Department ("EDD"). A claim form may be obtained from EDD by telephone, letter or in person. The cost of this insurance is fully paid by the employee.

**7.26 Pregnancy Disability Leave.** Any employee planning to take pregnancy disability leave ("PDL") should advise the personnel department as early as possible. The individual should make an appointment with the Director of Human Resources.

Duration of PDL will be determined by the advice of the employee's physician, but employees disabled by pregnancy may take up to four (4) months of leave per pregnancy (the working days you normally would work in one-third of a year or 17 1/3 weeks). Part-time employees are entitled to leave on a pro rata basis. The four (4) months of leave includes any period of time for actual disability caused by the employee's pregnancy, childbirth, or related medical condition. This includes leave for severe morning sickness and for prenatal care, doctor-ordered bed rest, as well as other reasons. Your healthcare provider determines how much time you need for your disability.

- The City will also reasonably accommodate medical needs related to pregnancy, childbirth, or related conditions or temporarily transfer you to a less strenuous or hazardous position (where one is available) or duties if medically needed because of your pregnancy.
- Employees who need to take PDL must inform the Director of Human Resources when a leave is expected to begin and how long it will likely last. If the need for a leave, reasonable accommodation, or transfer is foreseeable (such as the expected birth of a child or a planned medical treatment for yourself), employees must provide at least 30 days' advance notice before the PDL or transfer is to begin. Employees must consult with the personnel manager regarding the scheduling of any planned medical treatment or supervision in order to minimize disruption to the operations of the City. Any such scheduling is subject to the approval of the employee's health care provider.
- For emergencies or events that are unforeseeable, we need you to notify the City, at least verbally, as soon as practical after you learn of the need for the leave.
- Failure to comply with these notice requirements may result in delay of leave, reasonable accommodation, or transfer.
- PDL usually begins when ordered by the employee's physician. The employee must provide the City with a written certification from a health

care provider for need of PDL, reasonable accommodation or transfer. The certification must be returned no later than 15 calendar days after it is requested by the City. Failure to do so may, in some circumstances, delay PDL leave, reasonable accommodation or transfer. Please see the personnel department for a medical certification form to give to your health provider.

- A medical certification for reasonable accommodation or transfer request should describe the reasonable accommodation and transfer, describe the medical advisability of the reasonable accommodation or transfer because of pregnancy, and state the when the need for reasonable accommodation or transfer became or will become medically advisable and the estimated duration of the reasonable accommodation or transfer.
- A medical certification for PDL should state the need to take PDL because of pregnancy, childbirth, or a related medical condition, and state the date on which the employee became disabled because of pregnancy and the estimated duration of the PDL.
- Leave returns will be allowed only when the employee's physician sends a release to return to work.
- An employee will be [e.g., required, allowed] to use accrued sick time (if otherwise eligible to take the time) during a PDL. An employee will be allowed to use accrued vacation, any compensatory time off, or personal time (if otherwise eligible to take the time) during a PDL.
- Leave does not need to be taken in one continuous period of time and may be taken intermittently, as needed. Leave may be taken in increments of [e.g., 30 min., one hour-increment cannot be greater than one hour].

If intermittent leave or leave on a reduced work schedule is medically advisable, the employee may, in some instances, be required to transfer temporarily to an available alternative position that meets the employee's needs. The alternative position need not consist of equivalent duties, but must have the equivalent rate of pay and benefits. The employee must be qualified for the position. The position must better accommodate the employee's leave requirements than her regular job. Transfer to an alternative position can include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work schedule.

Upon submission of a medical certification that an employee is able to return to work from a PDL, an employee will be reinstated to her same position held at the time the leave began or, in certain instances, to a comparable position, if available. There are limited exceptions to this policy. An employee returning from a PDL has no greater right to reinstatement than if the employee had been continuously employed.

Unless an MOU or employment agreement provides otherwise, employees on PDL will be allowed to continue to participate in group health insurance coverage for up to a maximum of four (4) months of PDL (if such insurance was provided before the leave was taken) at the level

and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The City will continue to pay its portion of the premium, and the employee will continue to pay his or her portion of the premium. In some instances, the City can recover from an employee premiums it paid to maintain health coverage if the employee fails to return following PDL.

PDL may impact other benefits or a seniority date. Please contact the Human Resources Department for more information.

**7.27 California Family Rights Act.** Under the California Family Rights Act (CFRA) an eligible employee is entitled to up to 12 weeks of unpaid family/medical leave within any 12-month period. The total amount of leave taken is 12 workweeks in a 12-month period, unless you are qualified for additional time for a disability due to pregnancy, childbirth or related medical condition. In that event, you may be eligible for up to four months of leave under the PDL policy and eligible for an additional 12 weeks under this policy. The 12-month period begins with the first day leave is taken under the appropriate law. At the end of the leave, you will be restored to the same or an equivalent position upon your return from leave, provided you satisfy certain requirements described below. With the exception of a covered PDL, at the end of the leave, you will be restored to the same or an equivalent position upon your return from leave. Upon the return from a covered PDL, you will be restored to the same position, or subject to business requirements that may exist, an available similar position.

This leave does not run concurrently with leave provided under the California Pregnancy Disability Act. However, this leave may run concurrently with the FMLA and/or any other leave where permitted by state and federal law.

7.27.1 Eligible Employees. To be eligible for a leave under CFRA you must:

- a. Have worked for the City for a total of at least 12 months, and for at least 1,250 hours in the last 12 months; and
- b. Be employed at a worksite that has 50 or more employees within 75 miles.

7.27.2 Reasons for Leave. You may take family/medical leave for any of the following reasons:

- a. Birth of a child of an employee or the employee's registered domestic partner, or to care for a newly born child; or
- b. Placement of a child with the employee and/or the employee's registered domestic partner for adoption or foster care; or
- c. To care for an immediate family member (spouse, registered domestic partner, child, registered domestic partner's child, or employee's parent) with a serious health condition; or
- d. An employee's serious health condition that makes the employee unable to perform the functions of the employee's job.

Under CFRA if both parents are employed by the City, and leave is taken for the birth, placement or adoption of a child their combined leave is limited to 12 weeks. A leave

for the birth, placement or adoption of a child must be completed within the 12-month period beginning on the date of birth or placement of the child. Under the CFRA, leave for your own serious health condition does not include a disability caused by pregnancy, childbirth or related medical condition since this is covered by a separate state law. See California's PDL policy which provides:

PDL can be up to four months for continued disability due to pregnancy. The employee requesting pregnancy leave is entitled to take the leave at any time after the commencement of employment without any waiting.

The employee returning from pregnancy leave is entitled to return to her same job position, unless that position no longer exists due to operational necessity.

If the employee's pregnancy disability period exceeds four months, the employee may take additional leave in the form of family leave, as described and limited herein.

7.27.3 No Work While on Leave. Taking of another job while on family or medical leave or any other authorized leave may lead to disciplinary action, up to and including discharge.

7.27.4 Local Family and Medical Leave Laws. Where local family and medical leave laws offer more protection or benefits to employees, the protection or benefits provided by such laws will apply.

7.27.5 Notice to Employer of Leave. If your need for family/medical leave is foreseeable, give the City at least 30 days' prior written notice. When the need is not foreseeable, notify the City within one or two business days of learning of your need for leave, except in extraordinary circumstances. If you do not provide this notice, your leave may be delayed. If your need is because of a planned medical treatment, attempt to schedule the treatment to avoid disrupting the City's operations.

Request forms for family/medical leave are available from your immediate supervisor. You must use this form when requesting a leave.

7.27.6 Medical Certification for a Serious Health Condition. If you are requesting leave because of your own or a covered relation's serious health condition, the appropriate health care provider must supply medical certification. Obtain a medical certification form from your immediate supervisor. If possible, you should provide the medical certification within 15 days after you request leave. If you provide at least 30 days' notice of your need for medical leave, you should provide the medical certification before your leave begins. If you do not provide the required medical certification in a timely manner, your leave may be delayed until it is provided.

The City, at its expense, may require an examination by a second health care provider designated by the City, if it has a good faith, objective reason to doubt the medical certification you initially provide (only for the employee's own serious health condition). If the second health care provider's opinion conflicts with the original medical certification, the City, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. The City may require subsequent medical recertification. Failure to provide requested certification within 15 days, if such is practicable, may

result in delay of further leave until it is provided.

7.27.7 Reporting While on Leave. If you take leave because of your own serious health condition or to care for a covered relation with a serious health condition, you may be required to contact the City on a prescheduled basis regarding the status of the medical condition and your intention to return to work. In addition, you must give notice as soon as practicable (within two business days if feasible) if the dates of leave change are extended or initially were unknown.

7.27.8 Leave Is Unpaid. Family/medical leave is unpaid leave. If you request leave because of the birth, adoption or foster care placement of a child, or to care for a covered relation with a serious health condition, any accrued paid vacation, personal or family leave, if applicable, will be substituted for unpaid family/medical leave. If you request leave because of your own serious health condition, any accrued paid vacation, personal or family leave or medical/sick leave, if applicable, will be substituted for any unpaid family/medical leave. The substitution of paid time for unpaid family/medical leave time does not extend the length of the leave provided by the law. Also, your family/medical leave may run concurrently with other types of leave.

Employees on a medical leave may also receive pay from short-term or long-term disability payments, or workers' compensation benefits, if applicable, according to the terms of those plans. The fact that an employee may receive compensation under these plans does not extend the length of the family/medical leave provided by the law.

7.27.9 Medical and Other Benefits. During an approved family/medical leave, the City will maintain your health benefits under the same terms and conditions applicable to employees not on leave.

If paid leave is substituted for unpaid family/medical leave, the City will deduct your portion of the health plan premium as a regular payroll deduction.

If your leave is unpaid, you must pay your portion of the premium by making arrangements with your immediate supervisor.

Your health coverage may cease if your premium payment is more than 30 days late. If your payment is more than 30 days late, we will send you a letter to this effect. If we do not receive your co-payment within 15 days of this letter, your coverage will cease.

If you elect not to return to work at the end of the leave for at least 30 calendar days, you will be required to reimburse the City for the cost of the premiums paid by the City for maintaining coverage during your unpaid leave, unless you cannot return to work due to a serious health condition or because of other circumstances beyond your control.

7.27.10 Intermittent and Reduced Schedule Leave. Leave due to a serious health condition may be taken intermittently (in separate blocks of time due to a single serious health condition) or on a reduced leave schedule (reducing the usual number of hours you work per workweek or workday) if medically necessary. If your leave is unpaid, the City will adjust your salary based on the amount of time actually worked. Also, while you are on an intermittent or reduced schedule leave, the City may temporarily transfer you to an available alternate position that better accommodates your intermittent or reduced leave and that has equivalent pay and benefits.



7.27.11 At The End Of Your Leave. If your leave is because of your own serious health condition (except if you are taking intermittent leave), you are required to provide medical certification that you are able to resume work prior to your return. Before you return, obtain a return-to-work medical certification form from your immediate supervisor. An employee who fails to provide the return-to-work medical certification form will not be permitted to resume work until it is provided.

**7.28 Rehabilitation Leave.** The City is committed to providing assistance to our employees. Any employee who wishes to voluntarily enter and participate in an alcohol and/or drug rehabilitation program may be granted a reasonable accommodation. This accommodation may include time off without pay and/or an adjusted work schedule provided the accommodation does not impose an undue hardship on the City. In general, it is your responsibility to notify your immediate supervisor of the need for accommodation.

Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

The City shall take reasonable steps to safeguard the privacy of any employee as to the fact that he or she has enrolled in an alcohol or drug rehabilitation program.

This policy does not prevent the City from refusing to hire or disciplining, up to and including discharge, an employee who, because of the current use of alcohol or drugs, is unable to perform his or her duties or cannot perform the duties in a manner that would not endanger his or her health or safety or the health or safety of others.

**7.29 Unemployment Insurance.** Upon separation from employment, you may be entitled to state and federal unemployment insurance benefits. Information about unemployment insurance can be obtained from your immediate supervisor.

**7.30 Workers' Compensation** On-the-job injuries are covered by our Workers' Compensation insurance policy. This insurance is provided at no cost to you. If you are injured on the job, no matter how slightly, report the incident immediately to your immediate supervisor. Consistent with applicable state law, failure to report an injury within a reasonable period of time could jeopardize your claim, and in some instances bar you from filing a claim. We ask for your assistance in alerting management to any condition that could lead to or contribute to an employee accident.

Whenever an employee sustains an injury or disability arising out of, and in the course of, City employment and requires medical care, the employee shall obtain treatment according to the provisions of the California Labor Code, Section 4600 et seq., and shall receive compensation for hours not worked while obtaining such medical care. **Employees are required to promptly report a work-related injury/incident to their supervisor.**

Whenever an employee is compelled by direction of his/her physician to be absent from duty on account of such injury or disability, such employee shall be placed on Workers' Compensation Leave. The employee shall receive full compensation for the first three calendar days following the day of the injury. Thereafter, the employee may elect to apply pro-rated sick leave, vacation, or CTO if sick leave is exhausted, to such absence to receive compensation therefore in an amount equal to the difference between the compensation to which he is entitled under the Workers' Compensation Act and his/her regular pay, not to exceed the amount of accrued leave.

An employee who is receiving Workers' Compensation shall continue to accrue sick leave and vacation.

Workers' Compensation benefits begin with the fourth full consecutive calendar day of missed work; however, if the absence continues beyond fourteen days, Workers' Compensation will then pay the applicable benefits for the first three days of missed work. When this occurs, the employee will be docked for the first three days the City previously paid him in an amount equal to the Workers' Compensation benefits received.

An employee who is on a Workers' Compensation leave of absence for more than thirty days and who was covered by long-term disability insurance when the work-related injury or illness occurred, may be eligible for disability benefits. Compensation to which an employee is entitled from Worker's Compensation and long-term disability shall not exceed an employee's regular pay.

Supervisors are required to complete prescribed reporting forms whenever an employee is injured and/or placed on Workers' Compensation leave.

#### 7.30.1 Fitness for Duty from Industrial Injury or Illness

The decision to return an employee to work or place an employee back on the job, with or without modified work, shall be made by the City, independent of any decision made in the Workers' Compensation process. Generally,

- A. If there is no permanent disability, no work restrictions, and the absence has not been longer than thirty days, the employee shall be returned to work.
- B. If there is no permanent disability but temporary work restrictions, or there has been an absence of thirty days or more, a review of the employee's medical records from the Workers' Compensation case and FFD medical evaluation may be conducted. An employee shall be returned to work if the work restrictions are compatible with job demands or modified job demands, if available.
- C. If there is a permanent disability, placement of the employee in the position last held by the employee will be considered following an FFD medical evaluation.

The employee must obtain a release to work or be properly discharged from the medical provider utilized by the City prior to returning to his/her job. If it is determined that the job demands of the position last held by the employee are not compatible with the employee's restrictions and the employee is willing to return to work, placement in an alternative position, if available, will be considered. The employee shall be re-classified as "medically disqualified" and placed on unpaid leave while alternative positions are being considered. However, the employee may elect to use accrued leave hours, such as vacation, to receive compensation. Placement of an employee in an alternate position requires a pre-placement medical evaluation for the alternative job.

If it is determined that the job demands of the position last held by the employee are not compatible with the employee's restrictions and there is not an alternative position, or the employee's restrictions are not compatible with an alternative position, or the employee is not willing to return to work, the employee shall be re-classified as "medically disqualified." The employee shall then be retired for disability, or be terminated from employment due to medical disqualification.

**7.31 457 Qualified Retirement Plan** The City provides eligible employees with a 401(k) Qualified Retirement plan which is an excellent means of long-term savings for your retirement. The City's contribution, if any, is determined by the employer on an annual basis.

You can obtain a copy of the Summary Plan Description which contains the details of the plan including eligibility and benefit provisions from your immediate supervisor. In the event of any conflict in the description of any plan, the official plan documents, which are available for your review, shall govern. If you have any questions regarding this plan, see the plan administrator.

**7.32 Employee Assistance Program** full-time employees may participate in our employee assistance program after completing their introductory period.

Our Employee Assistance Program (EAP), and Work/Life Benefit help eligible employees and their immediate families with a wide range of problems. Situations addressed by the EAP include marriage and family problems, emotional problems, alcoholism and alcohol abuse, drug abuse and dependency, financial problems, compulsive gambling and eating disorders. Your conversations and all records are strictly confidential. The administrative cost of this program is fully paid by the City.

Additional information regarding this program is available from the Human Resources Department.

**7.33 No Accrual Of Benefits During Leave**

Sick leave, vacation and holiday credit, will not accrue during any pay period an employee is absent on leave for the entire pay period.

7.33.1 Pending Discipline

If an employee would have been placed on disciplinary action or terminated for misconduct had the employee remained actively employed, the action is suspended during any (and all) leaves (including PDL), but on the employee's return to work the disciplinary action may be taken as if no leave intervened.

**7.34 Fitness for Duty Medical Evaluation Policy**

An employee who has been absent from work due to an injury, illness, or disability or an extended leave of absence shall obtain a Fitness for Duty (FFD) medical evaluation. FFD medical evaluations are conducted to determine whether an employee has a medical condition that impacts the employee's ability to perform on the job without any substantial risk of injury to the employee or others.

The degree of complexity of the FFD medical examination may differ depending upon the circumstances of the leave, changes in job demands, and/or inquiries with or between appropriate management staff and/or the employee's physician. The medical criteria for making FFD determinations shall be the same criteria as applied to pre-placement medical evaluations (Section 4).

**8. EMPLOYMENT CLASSIFICATION**

**8.1 Resignation/Termination/Abandonment.** Should you decide to resign from City employment, you should give your supervisor at least two (2) weeks' notice in writing on a City

Resignation Form. You may obtain the form from your supervisor or the Human Resources Department. All terminating employees must complete the separation process with the Human Resources Department. City identification cards and garage access cards must be returned to the Human Resources Department. Uniforms, keys, fuel card, manuals, equipment, and any other City materials must promptly be returned to your supervisor.

When an employee voluntarily resigns from the City, the employee's last day worked will be considered his/her last day as an active employee. All accrued, unused vacation hours will be paid out at the time of separation, as well as the appropriate percentage of accrued and unused sick hours (refer to the MOU applicable to your position or employment agreement).

**8.2 Layoff/Reduction in Force/Recall.** Subject to City Manager approval, the Human Resources Director may layoff regular and probationary workers at any time based upon:

- a. Lack of work;
- b. Budgetary reasons;
- c. Elimination of programs; or
- d. Elimination of services.

At least two (2) weeks written notice shall be given to any employee who is laid off. If less than two weeks' notice is provided, the employee will be paid for the difference between the date of layoff and two (2) weeks.

At the sole discretion of the City Manager, a demotion or transfer to another department or classification may be made to prevent a layoff, provided the employee is qualified by education and/or experience and is capable of performing the duties of the classification. The Department Managers, in consultation with the Human Resources Director, and as approved by the City Manager, will affect the layoffs.

**8.3 Reduction in Force (RIF).** When it becomes necessary to reduce the work force at the City, the City Manager shall designate the job classification and department in order to effect a reduction in the work force. Contract, temporary, part-time, seasonal, or probationary employees in the same job classification, as ones proposed to be reduced within the agency shall be laid off first. Although the City Manager may elect to do so, he/she is not required to allow laid-off employees to "bump" employees in other classifications unless the employee has previously successfully held a position in another classification, in which case the laid-off employee would be considered for layoff, if any, from the previously held classification, along with others in that classification, in accordance with the "Order of Layoff" set forth below.

Probationary promotional employees who are laid off shall, if applicable, be returned to their former classification. Employees who accept lower positions or transfers in lieu of layoff shall be placed at

**8.4 Order of Layoff.** The order of layoff of regular employees within the same job classification shall be made with the cooperation of the local bargaining units and in accordance with a system which favors retention of the more meritorious employees, based upon evaluation of the following factors, in the listed order of importance unless MOU says otherwise:

- a. The two most recent performance evaluation records as finalized and/or filed in the employee's personnel file, except when an employee has less than two years of service within the City. In that case, only one performance evaluation will be used;

- b. Documents of disciplinary actions during the preceding 24 months;
- c. Seniority (length of service in a career position):
  - 1. In the classification;
  - 2. In the department; and
  - 3. At the City.

The City Manager may deviate from these criteria for good cause, including the desirability of maintaining a department or work unit with adequate staffing to perform required service, and maintaining employees in the classification or department who have demonstrated the ability to perform work available.

**8.5 Seniority.** Seniority is determined from the day of employment in a City department as a regular employee, provided that any regular employee who, as a result of promotion, transfer, or voluntary demotion, is hired to a regular position in another department, shall, for purposes of layoff, carry seniority previously acquired over to the new department.

Seniority shall continue to accrue during periods of vacation, sick leave, layoff not exceeding two years, any authorized leave of absence, or any call to military service for the duration of the call to duty. Seniority shall not accrue during any other break in continuous service, unless required by law.

**8.6 Other Policies.** Any employee who receives an involuntary transfer (except for disciplinary transfers) shall have automatic "bumping rights" to the classification said employee was involuntarily transferred from for up to six months from the effective date of the involuntary transfer in the event of layoff.

**8.7 Recall List.** The name of every regular employee who is laid off, transferred, or demoted to a classification in the same department for longer than one pay period due to a Reduction in Force shall be placed on the Recall List maintained by the Human Resources Director. Vacancies to be filled within a department shall be offered, first in order of performance, to individuals named on the Recall List who, at the time of the Reduction in Force, held a position in the same job classification within the department as the vacancy to be filled.

Individual names may be removed from the Recall List by the Human Resources Director for any of the following reasons:

- a. The expiration of two (2) years from the date of placement on the list.
- b. Reemployment with the City in a regular full-time position in a department other than that from which the employee was laid off.
- c. Failure to respond within fourteen (14) calendar days of mailing of a certified letter regarding availability for employment.
- d. Failure to report to work within fourteen (14) calendar days of mailing of a certified letter containing a notice of reinstatement to a position, absent mitigating circumstances.
- e. Request in writing to the Human Resources Director to be removed from the list.

**8.8 Status on Reemployment.** A regular employee who has been laid off or terminates in lieu of reassignment and is reemployed in a regular position within two (2) years from the date of his/her layoff or termination shall be entitled to:

- a. Restoration of seniority accrued prior to and during layoff.
- b. Credit for all service prior to layoff for the purpose of determining the rate of accrual of vacation leave.
- c. Placement in the salary range as if the employee had been on a leave of absence without pay if he/she is reinstated to the same job classification in the same department from which he/she was laid off or terminated.

**8.9 Severance Pay.** Severance pay is permissible if provided by an employment agreement or a policy in effect before services were performed and not as a retroactive gift or bonus. Government Code §53260.

**8.10 Abandonment of Employment.** An employee who is absent, without authorized leave, for three (3) or more consecutive workdays is deemed to have resigned his/her employment with the City. If the Department Supervisor, with the concurrence of the Human Resources Director, determines that extenuating circumstances exist, the resignation may be rescinded, in which case the absence may be covered by leave, with or without pay, if so, approved by the Human Resources Director.

## **9. DISCRIMINATION AND DISCRIMINATORY HARASSMENT**

**9.1 Purpose and Scope.** To prevent City employees from being subjected to discrimination or sexual harassment and to ensure full equal employment opportunity, in conformance with Title VII of the Civil Rights Act of 1964, the guidelines issued by the Equal Employment Opportunity Commission, the California Fair Employment and Housing Act and the guidelines issued by the California Fair Employment and Housing Commission. The City's Harassment, Discrimination, and Retaliation Prevention Policy is incorporated herein by reference. The City's Harassment, Discrimination, and Retaliation Prevention Policy is incorporated herein by reference.

**9.2 Policy.** The City of Beaumont is committed to creating and maintaining a work environment that is free of all forms of discrimination and intimidation, including sexual harassment. The City will take preventative, corrective and disciplinary action for any behavior that violates this policy or the rights and privileges it is designed to protect.

### **9.3 Definitions**

#### **9.3.1 Discrimination**

Any act or omission of an act which would create a hostile work environment, or exclude any person from employment or promotional opportunities, because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status or denial of family care or pregnancy disability leave.

Discrimination includes, but is not limited to, derogatory comments, slurs or jokes, pictures, cartoons or posters, and actions which result in an employee being

offended or insulted because of a protected classification status enumerated in § 328.31 of this order.

#### 9.3.2 Sexual Harassment

See definitions in the Sexual Harassment section of this Manual, Section 10, below.

#### 9.3.3 Exemptions

Discrimination/harassment does not include the following:

- a. Bona fide acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and California Fair Employment and Housing Commission Guidelines.
- b. Bona fide requests or demands by a supervisor that the employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with city or departmental rules or regulations, or any other appropriate work related communication between supervisor and employee.

### 9.4 Responsibilities

This policy applies to all City personnel. All employees shall follow the intent of these guidelines in a manner that reflects department policy, professional law enforcement standards and the best interest of the department and its mission.

All employees shall promptly report any observed or known violations of this policy to a supervisor. Employee(s) not comfortable with reporting violations of this policy to their immediate supervisor may bypass the chain of command and report it to a higher-ranking supervisor. Complaints may also be filed with the Human Resources Director.

Supervisors and managers receiving information regarding violation(s) of this policy shall determine if there is any basis for the allegation and shall proceed with the investigation described in Section 17.5 below. **Complaints of sexual harassment shall be investigated in accordance with the procedures described in Section 18 of this Manual.**

#### 9.4.1 Supervisor Responsibility

Each supervisor and manager shall:

- (a) Ensure that the work environment is free from all types of unlawful discrimination, including sexual harassment.
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination.
- (c) Train their subordinates as to what constitutes discrimination and harassment.

- (d) Notify the Human Resources Director and the City Manager in writing of the circumstances surrounding any reported allegations of discrimination/harassment no later than the next business day.

#### 9.4.2 Supervisor's Role

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory or harassing. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of our City.
- (b) False or mistaken accusations of discrimination and sexual harassment have negative effects on the careers of innocent employees.
- (c) Supervisors and managers must act responsibly in the handling of such situations.
- (d) Supervisors and managers must make a determination on any allegations based upon all available facts

### 9.5 Investigation of Complaints

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved employees should take reasonable steps to mitigate or eliminate any continuing hostile work environment.

#### 9.5.1 Supervisory Resolution

Whenever possible, employees who believe they are experiencing discrimination and/or harassment are encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or highly inappropriate. If this does not resolve the concern or if an employee feels uncomfortable, threatened, or has difficulty expressing his/her concern, supervisory or management assistance or counseling should be sought from a supervisor or manager one rank higher than the alleged offender.

#### 9.5.2 Formal Investigation

Upon being notified of any complaint that cannot be satisfactorily resolved through the supervisory means cited above, the Human Resources Director or his or her designee shall initiate a formal investigation.

The individual assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. The investigative authority includes accessibility to records and cooperation of any employees involved. No influence will be used to suppress any complaint and (except as herein provided) no employee will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential and will include, but not be limited to, details of the specific incident, frequency and dates of occurrences and names of any witnesses.



Optional Resolution - Employees who believe they have been discriminated against or harassed because of their protected status described in Section 17.3.1 of this policy are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police or the City Manager. Furthermore, the employee has the option of filing a complaint with the Department of Fair Employment and Housing and/or the Equal Employment Opportunity Commission.

#### 9.5.3 Disposition of Complaints

Only one of the following 4 dispositions will be used to classify the disposition of an allegation of harassment:

- (a) Sustained Complaints - If the complaint is substantiated, this policy and procedure prohibiting discrimination/harassment will be reviewed with the offender. Appropriate disciplinary action and/or training, will be taken pursuant to the City's disciplinary procedures.
- (b) Not Sustained Complaints - If there is insufficient evidence to either prove or disprove the allegation(s), both parties to the complaint will be informed of the reason(s) for this disposition.
- (c) Unfounded Complaint - If it is determined that an act reported pursuant to this policy/procedure did not in fact occur, a finding of unfounded shall be made.
- (d) Exonerated Complaints - If it is determined that an act reported pursuant to this policy/procedure did in fact occur, but was lawful and proper within the guidelines established herein, a finding of exonerated shall be made.

Should it be determined that the reporting party maliciously filed the complaint knowing that it was false or frivolous at the time of the complaint, that employee shall be subject to the disciplinary process up to, and including termination.

#### 9.5.4 Notification of Disposition

Complainant and/or victim will be notified in writing of the disposition of the investigation and action(s) taken to remedy the complaint.

#### 9.5.5 Documentation of Complaints

All complaints or allegations shall be documented on forms and maintained for a minimum of five (5) years.

#### 9.5.6 Grievances

Disputes arising out of the interpretation and enforcement of this policy and procedure shall be resolved through the Grievance Procedure.

#### 9.5.7 Questions Regarding Discrimination or Sexual Harassment

Employees having questions are encouraged to contact a supervisor, manager, the Chief of Police or the City Manager/Human Resources Director, or they may contact the California Department of Fair Employment and Housing at (800) 884-1684.

## **10. POLICY PROHIBITING SEXUAL HARASSMENT**

### **10.1 Sexual Harassment Violates the Law**

Federal and State Law prohibits sexual harassment in the workplace.

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual or sex-based nature when (1) submission to that conduct is made either explicitly or implicitly a term or a condition of an individual's employment; (2) an employment decision is based on an individual's acceptance or rejection of that conduct; or (3) that conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment.

It also is unlawful to retaliate or take reprisals in any way against an employee who has articulated a good faith concern about sexual harassment or discrimination against him or her or against another individual.

Examples of conduct that would be considered sexual harassment or constitute retaliation are presented in the "Statement of Prohibited Conduct" below. These examples are provided to illustrate the kind of conduct proscribed by this Policy. This list is not exhaustive.

Sexual harassment is unlawful, and the prohibited conduct exposes not only the City, but also the individuals involved in that conduct, to significant liability under the law. Accordingly, the City's management is committed to vigorously enforcing its Sexual Harassment Policy at all levels within the City. Employees should treat other employees with respect and dignity in a manner that does not offend the sensibilities of a coworker.

### **10.2 Statement of Prohibited Conduct**

The City's management considers the following conduct to be illustrative of some of the conduct that violates the City's Sexual Harassment Policy:

#### **10.2.1 Physical assaults of a sexual nature, such as:**

- a. Rape, sexual battery, molestation, or attempts to commit these assaults; and
- b. Intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employee's body.

#### **10.2.2 Unwanted sexual advances, propositions or other sexual comments such as:**

- a. Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way that such conduct is unwelcome in his or her presence;
- b. Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward; and

- c. Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of the employee's sex.

10.2.3 Sexual or discriminatory displays or publications anywhere in the City's workplace by City employees, such as:

- a. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic, or bringing into the City's work environment or possessing any such material to read, display, or view at work.

A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or customarily accepted for the accomplishment of routine work in and around the workplace and who is posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.

- b. Reading publicly or otherwise publicizing in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning, or pornographic; and
- c. Displaying signs or other materials purporting to segregate an employee by sex in any area of the workplace (other than restrooms and similar semi-private lockers and changing rooms).

10.2.4 Retaliation for sexual harassment complaints, such as:

- a. Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work-related matters with any employee because that employee has complained about or resisted harassment, discrimination, or retaliation; and
- b. Intentionally lying about, falsely denying, exerting pressure, or otherwise attempting to cover up conduct such as that described in any item above.

10.2.5 Other acts:

- a. The illustrations stated above are not to be construed as an all-inclusive list of prohibited acts under this Policy.
- b. Sexual harassment is unlawful and hurts other employees. Moreover, each incident of harassment contributes to a general atmosphere in which all persons who share the victim's sex suffer the consequences. Sexually oriented acts or sex-based conduct have no legitimate business purposes. Accordingly, the employee who engages in that conduct should be and will be made to bear the full responsibility for that unlawful conduct

### **10.3 Schedule of Penalties for Misconduct**

The following schedule of penalties applies to all violations of the City's Sexual Harassment Policy, as explained in more detail in the **Statement of Prohibited Conduct**. When progressive discipline is provided for, each instance of conduct violating the policy moves the offending employee through the steps of disciplinary action. In other words, it is not necessary for an employee to repeat the same precise conduct in order to move up the scale of discipline.

A written record of each action taken pursuant to the policy will be placed in the offending employee's and alleged victim's personnel files. The record will reflect the conduct or alleged conduct; the nature, scope, and findings of the investigation; and the warning given or other discipline imposed.

#### 10.3.1 Assault

Any employee's first proven offense of assault or threat of assault, including assault of a sexual nature, will result in dismissal.

#### 10.3.2 Other Acts of Harassment

An employee's commission of acts of sexual harassment other than assault will result in non-disciplinary oral counseling on the alleged first offense; written warning, suspension, demotion, or discharge on the first proven offense, depending on the nature or severity of the misconduct; and suspension, demotion or discharge on the second proven offense, depending on the nature or severity of the misconduct.

#### 10.3.3 Retaliation

Alleged retaliation against a sexual harassment complainant will result in non-disciplinary oral counseling. Any form of proven retaliation will result in suspension, demotion or discharge on the first proven offense, depending on the nature and severity of the retaliatory acts, and immediate discharge on the second proven offense.

#### 10.3.4 Supervisors

A supervisor's commission of acts of sexual harassment (other than assault) with respect to any other employee under that person's supervision will result in suspension, demotion or other disciplinary action, including immediate discharge, for the alleged first offense or the first proven offense, depending on the nature and severity of the misconduct; and immediate discharge for any subsequent offense.

### **10.4 Procedures for Making, Investigating, and Resolving Sexual Harassment and Retaliation Complaints**

#### 10.4.1 Complaints

The City will provide its employees with convenient, confidential, and reliable mechanisms for reporting incidents of sexual harassment and retaliation. Accordingly, the City designates at least two employees in supervisory or managerial positions at the workplace to serve as Investigative Officers for sexual harassment issues. The names, responsibilities, work locations, and phone numbers of each officer will be routinely and continuously posted. In addition, complaints may be made to the Human Resources Director or the City Manager.

The Investigative Officers may appoint "designees" to assist them in handling sexual harassment complaints. Persons appointed as designees shall not conduct an investigation until they have received training equivalent to that received by the Investigative Officers. The purpose of having several persons to whom complaints may be made is to avoid a situation in which an employee is faced with complaining to the person, or a close associate of the person, who would be the subject of the complaint.

Complaints of acts of sexual harassment or retaliation that are in violation of the Sexual Harassment Policy will be accepted in writing or orally, and anonymous complaints will be taken seriously and investigated. Anyone who has observed sexual harassment or retaliation should report it to a designated Investigative Officer. A complaint need not be limited to someone who was the target of harassment or retaliation.

Only those who have an immediate need to know, including the Investigative Officers and/or his or her designee, the alleged target of harassment or retaliation, the alleged harassers or retaliators, and any witnesses will or may find out the identity of the complainant. All parties contacted in the course of an investigation will be advised that all parties involved in a charge are entitled to respect, and that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint, or who has provided evidence in connection with a complaint is a separate actionable offense as provided in the Schedule of Penalties.

#### 10.4.2 Investigations

Each Investigative Officer will receive thorough training about sexual harassment and the procedures under this Policy, and will have the responsibility for investigating complaints or having an appropriately trained and designated City investigator do so.

When a complaint is made, the Investigative Officer will have the duty of immediately bringing all sexual harassment and retaliation complaints to the confidential attention of the Human Resources Manager and the City Manager, and each will maintain a file on the original complaint and follow-up investigation.

All complaints will be investigated expeditiously by a trained City Investigative Officer or his or her designee. The Investigative Officer will produce a written report which, together with the investigation file, will be shown to the complainant on request within a reasonable time. The Investigative Officer is empowered to recommend remedial measures based on the results of the investigation, and the City management will promptly consider and act on that recommendation.

#### 10.4.3 Cooperation

An effective sexual harassment policy requires the support and example of City personnel in positions of authority. City agents or employees who engage in sexual harassment or retaliation or who fail to cooperate with City-sponsored investigations of sexual harassment or retaliation may be severely sanctioned by suspension or dismissal. By the same token, officials who refuse to implement remedial measures, obstruct the remedial efforts of other City employees, and/or retaliate against sexual harassment complainants or witnesses may be immediately sanctioned by suspension or dismissal.

## **10.5 Procedures and Rules for Education and Training**

Education and training for employees at each level of the workforce are critical to the success of the City's Sexual Harassment Policy. The following documents will help the City meet its goals in this area: the Sexual Harassment Policy, the Statement of Prohibited Conduct, the Schedule of Penalties for Misconduct, and Procedures for Making, Investigating, and Resolving Sexual Harassment and Retaliation Complaints. These documents or educational posters using concise messages conveying the City's opposition to workplace sexual harassment will be conspicuously and continuously posted throughout the workplace on each City employee bulletin board. The Sexual Harassment Policy will be sent to all employees under a cover letter from the Human Resources Manager. The letter will indicate that copies are available at no cost and how they can be obtained. The City's Sexual Harassment Policy will also be included in the City Personnel Handbook which is issued to each City employee.

Education and training include the following components:

- A. For all City employees: As part of general orientation, each newly-hired employee will be given a copy of the City's Sexual Harassment Policy and requested to read and sign a receipt for the City's policy statement on sexual harassment so that they are on notice of the standards of behavior expected.
- B. For Supervisors: Supervisors shall participate in at least one 2-hour training class every two years, except that newly-appointed supervisors shall participate in such training within 6 months of appointment. Supervisors who have attended a management training seminar on sexual harassment will explain orally, at least once every six months at staff or safety meetings attended by all employees, the kinds of acts that constitute sexual harassment, the City's serious commitment to eliminating sexual harassment in the workplace, the penalties for engaging in harassment, and the procedures for reporting incidents of sexual harassment.

## **10.6 Policy Prohibiting Sexual Harassment And Other Forms Of Harassment**

10.6.1 Sexual Harassment Violates the Law. Federal and State Law prohibits sexual harassment in the workplace. The City's Harassment, Discrimination, and Retaliation Prevention Policy is incorporated herein by reference.

The City of Beaumont ("City") is an equal opportunity employer. The City is committed to providing a work environment free of harassment, discrimination, retaliation, and disrespectful or other unprofessional conduct based on race (including hair texture, protective hairstyles, and other traits historically associated with race), color, religion and religious creed (including religious dress and religious grooming practices), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, and related medical conditions), reproductive health decision-making, gender, gender identity (including transgender identity), gender expression (including transgender expression or because an individual has transitioned or is (or is perceived to be) transitioning to live as the gender with which they identify, sex stereotyping, national origin, ancestry, citizenship, age (40 years and over), mental disability and physical disability (including HIV and AIDS), legally protected medical condition or information (including genetic information), protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act, if applicable), the use of marijuana off the job and away from the workplace, military and/or veteran status, service, or obligation, reserve status, national guard status, marital

status, domestic partner status, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, engaging in protected communications regarding employee wages or otherwise exercising rights protected under the National Labor Relations Act or California Fair Pay Act, requesting a reasonable accommodation on a protected basis such as a disability or sincerely-held religious belief, practice, or observance, or any other characteristic protected by local, state, or federal laws. It also prohibits discrimination, harassment, disrespectful or unprofessional conduct based on the perception that anyone has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics.

In addition, the City prohibits retaliation against individuals who raise complaints of discrimination or harassment or who participate in workplace investigations.

**All such conduct violates the City's policy.**

### **Harassment Prevention**

The City's policy prohibiting harassment applies to all persons involved in the operation of the City. The City prohibits harassment, disrespectful or unprofessional conduct by any employee of the City, including supervisors, managers and co-workers. The City's anti-harassment policy also applies to vendors, customers, independent contractors, unpaid interns, volunteers, and persons providing services pursuant to a contract and other persons with whom you come into contact while working.

Prohibited harassment, disrespectful or unprofessional conduct includes, but is not limited to, the following behavior:

- Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations, comments, posts or messages;
- Visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings or gestures;
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work because of sex, race or any other protected basis;
- Threats and demands to submit to sexual requests or sexual advances as a condition of continued employment, or to avoid some other loss and offers of employment benefits in return for sexual favors;
- Retaliation for reporting or threatening to report harassment; and
- Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law or by the City's policy.

Sexual harassment does not need to be motivated by sexual desire to be unlawful or to violate this policy. For example, hostile acts toward an employee because of his/her gender can amount to sexual harassment, regardless of whether the treatment is motivated by sexual desire.

Prohibited harassment is not just sexual harassment but harassment based on any protected category.

### **Non-Discrimination**

The City is committed to compliance with all applicable laws providing equal employment opportunities. This commitment applies to all persons involved in City operations. The City

prohibits unlawful discrimination against any job applicant, employee or unpaid intern by any employee of the City, including supervisors and co-workers.

Pay discrimination between employees of the opposite sex performing substantially similar work, as defined by the California Fair Pay Act and federal law, is prohibited. Pay differentials may be valid in certain situations defined by law. Employees will not be retaliated against for inquiring about or discussing wages. However, the City is not obligated to disclose the wages of other employees.

### **Anti-Retaliation**

The City will not retaliate against you for filing a complaint or participating in any workplace investigation and will not tolerate or permit retaliation by management, employees or co-workers.

### **Reasonable Accommodation**

Discrimination can also include failing to reasonably accommodate religious practices or qualified individuals with disabilities where the accommodation does not pose an undue hardship.

To comply with applicable laws ensuring equal employment opportunities to qualified individuals with a disability, the City will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee unless undue hardship would result.

Any job applicant or employee who requires an accommodation in order to perform the essential functions of the job should contact Human Resources and discuss the need for an accommodation. The City will engage in an interactive process with the employee to identify possible accommodations, if any, that will help the applicant, employee, or unpaid intern perform the job. An applicant, employee or unpaid intern who requires an accommodation of a religious belief or practice (including religious dress and grooming practices, such as religious clothing or hairstyles) should also contact Human Resources and discuss the need for an accommodation. If the accommodation is reasonable and will not impose an undue hardship, the City will make the accommodation.

The City will not retaliate against you for requesting a reasonable accommodation and will not knowingly tolerate or permit retaliation by management, employees or co-workers.

### **Complaint Process**

If you believe that you have been the subject of harassment, discrimination, retaliation or other prohibited conduct, bring your complaint to your supervisor or to: Human Resources as soon as possible after the incident. You can bring your complaint to any of these individuals. If you need assistance with your complaint, or if you prefer to make a complaint in person, contact the Administrative Services Director. Please provide all known details of the incident or incidents, names of individuals involved and names of any witnesses. You can communicate your complaint in writing, but this is not mandatory.

The City encourages all individuals to report any incidents of harassment, discrimination, retaliation or other prohibited conduct forbidden by this policy immediately so that complaints can be quickly and fairly resolved.

You also should be aware that the Federal Equal Employment Opportunity Commission (“EEOC”) and the California Department of Fair Employment and Housing (“DFEH”) investigate and prosecute complaints of prohibited harassment, discrimination and retaliation in employment. If you think you have been harassed or discriminated against or that you have been retaliated



against for resisting, complaining or participating in an investigation, you may file a complaint with the appropriate agency. The nearest office can be found by visiting the agency websites at [www.dfeh.ca.gov](http://www.dfeh.ca.gov) and [www.eeoc.gov](http://www.eeoc.gov).

A DFEH office is located at 320 West 4<sup>th</sup> St., 10<sup>th</sup> Fl., Los Angeles, CA 90013. An EEOC office is located at 255 East Temple St., 4<sup>th</sup> Fl., Los Angeles, CA 90012.

Supervisors must refer all complaints involving harassment, discrimination, retaliation or other prohibited conduct to Human Resources of the City so the City can try to resolve the complaint.

When the City receives allegations of misconduct, it will immediately undertake a fair, timely, thorough and objective investigation of the allegations in accordance with all legal requirements. The City will reach reasonable conclusions based on the evidence collected.

The City will maintain confidentiality to the extent possible. However, the City cannot promise complete confidentiality. The employer's duty to investigate and take corrective action may require the disclosure of information to individuals with a need to know.

Complaints will be:

- Responded to in a timely manner. The goal is to complete the investigation within 30 business days from the date the complaint is filed.
- Kept confidential to the extent possible.
- Investigated impartially by qualified personnel in a timely manner.
- Documented and tracked for reasonable progress. The goal is to review the status of the case weekly.
- Given appropriate options for remedial action and resolution.
- Closed in a timely manner.

If the City determines that harassment, discrimination, retaliation or other prohibited conduct has occurred, appropriate and effective corrective and remedial action will be taken in accordance with the circumstances involved. The City also will take appropriate action to deter future misconduct.

Any employee determined by the City to be responsible for harassment, discrimination, retaliation or other prohibited conduct will be subject to appropriate disciplinary action, up to, and including termination. Employees should also know that if they engage in unlawful harassment, they can be held personally liable for the misconduct.

## **11. DISCIPLINARY POLICY**

As stated in this Manual, in the event a specific provision of this Manual conflicts with a specific provision of a current MOU or employment agreement, the provisions of the MOU or employment agreement, as applicable, shall prevail. This Disciplinary Policy shall not apply to at-will employees.

The City reserves the right to discipline any City employee on the grounds set forth below. Whenever possible disciplinary action shall be progressive in nature, depending upon the severity of the violation. Serious violations will be addressed with little, or no, progressive discipline.

Disciplinary action includes counseling letters, letters of reprimand, suspension, demotion, and dismissal.

**11.1 Applicability.** Unless otherwise provided in an MOU or an employment agreement, this Policy applies to all City employees. However, probationary employees may be terminated **without** cause.

**11.2 Grounds for Disciplinary Action.** Any of the following shall constitute cause for discipline:

A. **Attendance**

- Leaving work during assigned duty hours without permission.
- Tardiness
- Absent from work without permission.
- Improper use of leave.

B. **Discrimination and Harassment**

- Discrimination against a co-worker or member of the public because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition, and/or any other protected category.
- Harassing a co-worker or member of the public because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition, and/or any other protected category.
- Sexual harassment.

C. **Drugs and Alcohol**

- Being intoxicated or under the influence of a controlled substance while on duty, or off-duty in uniform or on City property or in City vehicles.
- Using, possessing, providing, or selling a controlled substance in any quantity while on duty, or off-duty in uniform or on City property or in City vehicles.
- Possessing drug paraphernalia or open containers of alcoholic beverages while on duty, or off-duty in uniform or on City property or in City vehicles.
- Under the influence of prescription drugs while on duty, or off-duty in uniform or on City property or in City vehicles, which impair work performance or normal behavior. Employees are not allowed to be under the influence of marijuana while working.

D. **Safety**

- Violating safety rules.
- Failing to wear required safety equipment.
- Tampering with safety equipment.
- Failing to report any on-the-job or work-related accident or injury within 48 hours.

- Failing to maintain good physical condition sufficient to safely perform work-related duties.
- Engaging in reckless behavior that endangers your own life or safety or that of a co-worker or member of the public.
- Threatening violence, engaging in horseplay or fighting, while on duty, or off-duty in uniform or on City property.
- Smoking in restricted areas.

E. **Security**

- Unauthorized access to confidential information or records.
- Unauthorized release of confidential information or records.
- Unauthorized access into secured City offices, City buildings, or both.
- Providing unauthorized access into City offices or City buildings to third parties, whether co-workers or members of the public.
- Negligently misplacing security access codes, keys, electronic keys or cards that provide access to secured City offices or City buildings.
- Loitering on City property after hours without a particular purpose

F. **City Equipment and Vehicles**

- Using City telephone, facsimile or computer equipment for personal use or gain.
- Using City equipment or City vehicles for personal use or gain.
- Unauthorized possession of, loss of, or damage to, City property.
- Violating the California Vehicle Code while operating a City vehicle.
- Possession of an unauthorized weapon, firearm or explosive while on duty, or off-duty in uniform or on City property.
- Operating City vehicles or equipment, or privately-owned vehicles on City business, without a current driver's license.
- Involvement in a preventable traffic accident while on duty.

G. **Work Performance**

- Discourteous or disrespectful treatment of any member of the public or any co-worker.
- Unauthorized sleeping while on duty.
- Intentional, negligent or reckless behavior resulting in spoilage or waste of City property.
- Insubordination or defiance towards a supervisor.
- Incompetence.

- Inefficiency, delay, failure or negligence in the performance of work assignments.
- Disobedience.
- Disparaging remarks that discredit a co-worker or disrupt or subvert the good order, efficiency and discipline of the City or any Department thereof.
- Sabotage of City property, equipment, vehicles or work product.
- Participating in a strike, work stoppage, work slowdown or other concerted activity that is detrimental to City operations and constitutes a threat to public health or safety.
- Conduct that is unbecoming a City employee which tends to discredit the City, whether on duty, off-duty in uniform or on City property.
- The conviction of either a misdemeanor or a felony where the conviction has a nexus (as reasonably determined by the City in its sole discretion) with the employee's duties, which may require a job transfer in addition to disciplinary action. The conviction shall be conclusive evidence of the misconduct having occurred for disciplinary purposes. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere is deemed to be a conviction for disciplinary purposes.
- Threatening, intimidating or coercing co-workers or members of the public while on duty, or while off-duty in uniform or on City property.
- Interfering with investigations conducted by the City, its management or designated agents of the City.
- Obscene or abusive language towards a co-worker or a member of the public while on duty, or while off-duty in uniform or on City property.
- Unsatisfactory or careless work.
- The inability or refusal to improve work performance in accordance with written or verbal direction after a reasonable trial period.
- Refusing to comply with reasonable work assignments made by a supervisor.
- Failing to take reasonable action while on duty or when required by law.
- Fomenting discord.

H. **Ethical Behavior**

- Failure of any employee to report any activities on his/her part (or the part of any other employee) where such activities may result in criminal prosecution or result in discipline under this Policy.
- Failure of any employee to report official contacts by any law enforcement agency.
- Concealing or attempting to conceal defective work.
- The exercise of authority for any improper purpose.
- Making false, misleading or malicious statements to a supervisor or which harm or destroy the reputation, authority or official standing of a co-worker.

- Falsifying records (including timesheets), or making misleading entries or statements, or failing to disclose material facts, or destroying or mutilating any City record or other document.
- Using a badge, uniform, identification card or other City property for personal gain or other improper purpose.
- Receiving or accepting a reward, fee, gift, gratuity or bribe from any person related to the performance of the employee's duties.
- Dishonesty.
- Attempted or actual theft of City property or the property of others.
- Association with persons the result of which harms or destroys the reputation, authority or official standing of the employee, a co-worker or the City, or which may have a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, or which impedes the performance of the employee's duty or interferes with the regular operation of the employee's department.
- Engaging in gossip or rumor mongering or other behavior which creates discord and disharmony in the workplace.
- Engaging in political activities while on duty.
- The unauthorized possession, removal or use of City property, equipment or records or the property of co-workers.
- Unauthorized selling, loaning or giving away City property or equipment or records to a member of the public.
- Misappropriation or misuse of public funds.

I. **Supervision Obligations**

- Failure of a supervisor to ensure that subordinates comply with the written rules, regulations, policies and procedures of the City or any department thereof.
- Failure of a supervisor to report misconduct of a subordinate to his/her supervisor or to document such misconduct.
- Discriminatory treatment of subordinates.

J. **Violation of Specific Policies**

- Violation of written rules, regulations, policies or procedures of the City or a department, bureau or office thereof, or of any written directive of a supervisor. Examples include the City's Drug and Alcohol Policy, the Sexual Harassment Policy, or any of the Leave Policies (FMLA, Jury, Bereavement, Sick, Vacation, etc.).

**11.3 Administering Discipline.**

The type of discipline imposed shall be reasonably commensurate with the violation(s). Although discipline will be administered progressively wherever possible, from time-to-time violations are so severe that anything less than (for example) termination without prior disciplinary

action, may be appropriate. The determination of whether discipline shall be progressive or not shall be made on case-by-case basis, by management in its sole discretion. Discipline may be imposed in the following forms:

11.3.1 Warnings, which includes counseling letters and letters of reprimand;

11.3.2 Unpaid short-term and long-term suspensions without pay;

11.3.3 Demotions; and Termination of employment.

**11.4 Warnings:** Warnings may be oral or written. Written warnings may include the following:

11.4.1 Counseling Letters. Typically issued by the immediate supervisor or the Department Head, such letters inform the employee of the nature of the violation and corrective action that should be taken. Such letters may also include the specification of objectives to be attained and a timetable for attainment. In the event the employee objects to the letter, the employee has a right to respond in writing within 30 days of the date of the counseling letter, which response shall be attached to the original letter and placed in the employee's file until the next employee evaluation, at which time the letter will be returned to the employee if no further disciplinary action is warranted.

11.4.2 Letters of Reprimand. Letters of reprimand shall inform the employee of the nature of the violation, of corrective action to be taken, of objectives to be attained and a timetable therefore. Letters of reprimand shall be maintained in the employee's personnel file. Objections or complaints concerning a letter of reprimand shall be addressed through the Grievance Process by the affected employee.

**11.5 Suspensions Without Pay.** Suspensions may either be short-term or long-term:

11.5.1 Short-Term Suspensions. Short-term suspensions are three days or less in duration. In the event the employee objects and desires a further hearing on the matter, it shall be addressed through the Grievance Process, provided that the employee initiates the Grievance within 24 hours after notice of the suspension. During the period of time that the matter is under consideration through the Grievance Process, the suspension will be suspended.

11.5.2 Long-Term Suspension. Long-term suspensions consist of four or more workdays, and shall only be imposed upon conclusion of the disciplinary procedure described below.

**11.6 Demotions.** For disciplinary purposes, an employee may be demoted from his/her position in one class to a position in another class having a lower salary range. Demotions shall only be imposed upon conclusion of the disciplinary procedure described below. A demotion for disciplinary purposes also places the employee on probation for a period of time. While on probation, and in the event of further violation of City rules and regulations, the employee is subject to possible termination.

**11.7 Involuntary Termination.** Involuntary termination of employment shall only be imposed upon conclusion of the disciplinary procedure described below. Employees on probation may be terminated without cause, which is not subject to the Grievance Process, nor is it subject to the disciplinary procedures below.

**11.8 Other Forms of Discipline.** The City is not precluded from taking other corrective measures intended to modify behavior and/or sustain its norms.

**11.9 Investigations.** With regard to Police Officers, violations shall be investigated in accordance with the Police Department's Personnel Complaint Procedure (Policy Manual, Section 1019, as may be amended from time to time).

**11.10 Disciplinary Procedures.** Before imposing a long-term suspension, demotion or termination, the employee shall be entitled to the following so-called Skelly rights:

11.10.1 Service of Written Notice. The affected employee shall be served with a written Notice of Intent to Discipline ("Notice"). The Notice shall describe the violation(s), the proposed discipline to be imposed, the reasons for the proposed discipline, a statement advising the employee of his/her right to request a Skelly hearing within two (2) work days after service of the Notice, and copies of any charges and materials upon which the proposed discipline is based, which copies shall be attached to the Notice.

11.10.2 Service of the Notice of Intent to Discipline The Notice shall be served whenever possible personally, or by first class mail to the last known address of the employee. Attached to the Notice shall be a Proof of Service, the original of which shall be kept in the employee's personnel file.

11.10.3 Request for Hearing The proposed disciplinary action shall not be imposed until the end of the second full business day following the day the Notice was personally served, or at the end of the fifth full business day following the day the Notice was mailed. During that period, the employee's salary shall be continued to be paid, and he/she may be terminated at the end of the second (or fifth, as the case may be) business day if no Skelly hearing has been requested by the affected employee. In the event a hearing is requested, the employee shall continue to be paid until a final decision is made.

11.10.4 The Skelly Hearing. If the employee requests a hearing, it shall be conducted by a neutral third party, such as the Department Head, the Human Resources Director, the Assistant City Manager, the Chief of Police or his/her designee, or the City Manager or his/her designee. The hearing shall be conducted as soon as possible after it is requested, usually no later than two business days following the request. The hearing is to be conducted informally for the purpose of giving the employee an opportunity to provide an explanation or mitigation, or to correct mistakes of fact. Neither the neutral third party nor the employee shall be represented by counsel or by union representatives (unless a labor agreement provides otherwise). Normally, such hearings are concluded within a short period of time; however, the affected employee should be given such additional time as may be reasonably necessary to produce new information or to substantiate his/her explanation or mitigation. The hearing may be continued to a later time in the same day or the next day or such other day as may reasonably be necessary for such purpose. The neutral third party shall issue his/her decision within two business days after the conclusion of the hearing, either approving, disapproving or modifying the intended discipline. The resulting decision shall be implemented immediately.

**11.11 Binding Arbitration.** Permanent employees who receive a long-term suspension or are demoted or terminated may, after the Skelly hearing, appeal the discipline by submitting it to binding arbitration.

Using the striking method, the parties shall select a hearing officer from a list of neutrals, who are located in Southern California, which is provided by the California State Mediation and Conciliation Service (SMCS). The party making the first strike shall be chosen by the toss of a coin. The only remaining name after the striking process shall serve as the hearing officer. If the neutral chosen is unable to serve within a time frame acceptable to both parties, the last name struck will serve as the hearing officer. The expense(s) of selecting and utilizing a neutral shall be shared equally by the parties unless otherwise required by applicable law.

Prior to the arbitration hearing, the parties shall attempt to prepare a joint statement of the issues which describes the dispute to be heard by the hearing officer. If the parties are unable to agree on a joint statement, each party shall prepare a separate statement of issues. The hearing officer shall not decide any issue which is not within the statement(s) of issues submitted by the parties.

The hearing officer shall render his/her written findings and conclusions no later than thirty (30) days after the conclusion of the hearing and final submission of briefs, if any. If the hearing officer sustains the grievance, a remedy shall be fashioned that does not conflict with the provisions contained in this Manual. The decision of the hearing officer shall be final and binding upon all parties.

**11.12 Disciplinary Actions in Emergency Situations.** Under emergency circumstances, where the health and safety of co-workers or the public is threatened, an employee may be immediately disciplined without prior notice and hearing. In such a case, the affected employee's supervisor shall promptly document the circumstances which justified the immediate disciplinary action. After the emergency has passed, the supervisor shall initiate the Skelly procedures set forth herein.

## **12. GRIEVANCE PROCEDURE**

**12.1 Purpose:** When an employee has a complaint or problem concerning his/her job, and the complaint or problem cannot be resolved by informal discussion with his/her immediate supervisor, the issue may be brought to the attention of management through the grievance procedure.

**12.2 Matters Excluded from the Grievance Procedure.** The following matters are exempt from the Grievance Procedure:

- a. Matters that have their own appeal process, such as disciplinary action; and
- b. Matters and issues that are solely within the discretion of management, such as staff reorganizations and reductions in the workforce (budgetary layoffs).



**12.3 Time Limit for Pursuing Grievances.** To ensure timely resolution of grievances, they shall be pursued within 30 calendar days after the employee has become aware of the grievance, or reasonably should have been aware of it. All other grievances shall be deemed untimely and may be rejected unless the City Manager, in his/her sole discretion, determines that there is good cause for the late filing of a grievance.

**12.4 Grievance Procedure.** There are four steps to the grievance procedure:

**Step 1: Informal Discussion with Immediate Supervisor.** An employee shall first take his/her grievance up informally with his/her immediate supervisor. If the grievance is not resolved by informal discussion, the employee(s) may formally submit, in writing, the grievance to his/her immediate supervisor. The employee(s) shall briefly describe the grievance and, when possible, a suggested solution. The immediate supervisor shall forward the grievance within two (2) working days to the Department Head.

**Step 2: Department Head.** The Department Head shall meet with the employee(s) within three(3) working days after receiving the written grievance and shall deliver his/her answer in writing to the employee(s) within two (2) working days thereafter. The employee(s) shall have the right to present the grievance to the Department Head with or without a representative.

**Step 3: Human Resources Director or Assistant City Manager.** If the grievance is not resolved in Step 2, the employee(s) may submit it in writing to the Human Resources Director (or Assistant City Manager) within three (3) working days after the Department Head's answer is received by the employee(s) The Human Resources Director (or Assistant City Manager) shall meet with the employee(s) within three (3) working days after having received the written grievance and shall deliver his/her response to the employee in writing within three (3) working days after such meeting.

**Step 4: City Manager.** If the grievance is not resolved in Step 3, the employee(s) may submit it in writing to the City Manager within three (3) working days after the decision of the Human Resources Director/Assistant City Manager is received. The City Manager shall meet with the employee within five (5) working days after having received the grievance and shall deliver his or her response in writing within five (5) working days after such meeting, or subsequent meeting(s), if any. The decision of the City Manager shall be binding and conclusive on all parties.

## **13. DRUG AND ALCOHOL FREE WORKPLACE**

### **13.1 Policy Statement**

In compliance with the Drug-Free Workplace Act of 1988, the City of Beaumont has a longstanding commitment to provide a safe, quality-oriented and productive work environment. Alcohol and drug abuse poses a threat to the health and safety of City employees and to the security of the City's equipment and facilities. For these reasons, the City is committed to the elimination of drug and alcohol use and abuse in the workplace. This policy applies to all employees and all applicants for employment of City. The Human Resource (HR) Department is responsible for policy administration.

It is the intent of the City to maintain a workplace that is free of drugs and alcohol and to discourage drug and alcohol abuse by its employees. The City has a vital interest in

maintaining safe and efficient working conditions for its employees. Substance abuse is incompatible with health, safety, efficiency, and service to the public. The City does not allow or accommodate and has zero tolerance for the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace. Employees who are under the influence of a drug or alcohol on the job compromise the City's interests, endanger their own health and safety and the health and safety of others, and can cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for co-workers, behavior that disrupts other employees, delays in the completion of jobs, and disruption of service to the public.

### **13.2 Prohibition Against Alcohol and Drugs**

While on paid duty time, on City property, in a city uniform, including in City vehicles or while operating City equipment, employees shall not consume alcoholic beverages or marijuana or consume or possess controlled substances (as determined under state or federal law). Employees shall not work or be at work while under the influence of alcohol, marijuana, or any controlled substance (as defined herein), without written authorization from a qualified healthcare provider.

The unlawful manufacture, distribution, dispensing, possession, or consumption of any controlled substance is prohibited on the job, in the City's workplace, or while subject to duty (i.e., standby). Furthermore, evidence of having consumed a controlled substance as indicated by drug testing permitted herein, whether or not consumed or possessed while on the job, in the City's workplace, or while subject to duty, or evidence of impairment while working by the use of marijuana is prohibited. The City exercises its right to randomly test employees who perform safety-sensitive jobs to determine if that employee is under the influence of alcohol or a controlled substance, including those determined under state and federal law. Employees subject to testing requirements pursuant to federal Department of Transportation laws and regulations will be subject to testing for non-psychoactive cannabis metabolites. All other employees will not be tested for non-psychoactive cannabis metabolites.

In addition to prohibited acts already provided for, the following acts are prohibited and subject an employee to discipline in accordance with these policies and procedures:

- A. The use or possession of alcohol or impairing drugs, including illegal drugs, marijuana, and drugs without a prescription during working hours or while on stand by/on call, on breaks, during meal periods, or at any time while on City property;
- B. The presence of any detectable amount of any illegal drug, illegal controlled substance or alcohol (concentration equal to or greater than .04) in an employee's body system while performing city business or while in a city facility is prohibited.
- C. Reporting to work or being subject to duty while his/her ability to perform job duties is impaired due to on- or off-duty alcohol or drug use;
- D. Directly or through a third party, selling or providing drugs or alcohol to any person, including any employee, while either or both employees are subject to being called to duty;
- E. Reporting for duty or remaining on duty in a safety-sensitive capacity while having a blood alcohol level of 0.04 or greater;

- F. Performing safety-sensitive functions within 4 hours after using alcohol or using alcohol for 8 hours after an accident or until tested, whichever is first;
- G. Refusing to submit to drug and/or alcohol testing (such refusal is deemed to be a positive test);
- H. Failing to advise the immediate supervisor when other employee(s) have actual knowledge that an employee is in violation of this policy.

### **13.3 Procedure**

1. A supervisor or City Official, defined as an employee, officer, or elected official of the City or any person whose salary is payable, in whole or in part, from the City budget, must confirm the conduct which constitutes reasonable suspicion. Hearsay or secondhand information alone is not sufficient cause to require an employee to submit to a drug and/or alcohol test. Once the supervisor has confirmed the behavior, or if the suspect employee has been reported to the supervisor, and the supervisor has confirmed the behavior, the supervisor or City Official should complete the "*Reasonable Suspicion Record*" form to record the behavior. If possible, a second person should be present to corroborate the behavior. A separate form should be completed for each witness observing the behavior. Supervisor or City Official will notify the department Human Resources Officer or the Employee Relations office to notify another Human Resources Officer.

2. Once the conduct which constitutes reasonable suspicion is confirmed, the supervisor or City Official and staff witness (if requested) will discuss the conduct with the employee. If, after the observation and questioning the employee, it is reasonable to suspect substance abuse or use, the supervisor or City Official will direct the employee to submit to an alcohol and/or drug test for reasonable suspicion.

3. If the employee complies with the directive for drug and/or alcohol screening, the supervisor or City Official will arrange transport of the employee by a responsible party to the location from the list of authorized collection sites with the appropriate forms, both available from the department Human Resources Officer.

- 4. A urinalysis test will be given when testing for drugs or alcohol.

### **13.4 Negligent Enforcement**

Supervisor/department manager negligence in enforcing this policy may result in disciplinary measures imposed on the supervisor/department manager. Any supervisor/department manager who knowingly allows an employee to operate a city vehicle, equipment, or machinery while under the influence of alcohol or drugs, including prescription medications which may impair the employee's reflexes or judgment, or allows an employee to possess, use, or distribute alcohol or any illegal drug while on duty, on or off city property, is subject to disciplinary action up to and including termination.

### **13.5 Definitions**

For the purposes of this section, the following shall be defined as:

- A. "Abuse of any legal drug" means the use of any legal drug, including prescription drugs, (a) for any purpose other than the purpose for which it was prescribed or

manufactured; or (b) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.

- B. "Controlled substance" denotes any substance which could potentially impair the employee's ability to effectively and safely perform the functions of his/her duties, including, but not limited to: alcohol, coca leaves, cocaine, marijuana, opium and opiates, amphetamines, methamphetamine, lysergic acid (L.S.D.), etc. as outlined below, certain prescription drugs and medications shall also be classified as controlled substances.
- C. "Conviction" is a finding of guilt (including a plea of no contest), an imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- D. "Illegal drug" includes a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed health care professional. (Controlled substances are listed in schedules I-V of 21 C.F.R. Part 1308.) City recognizes that the State of California has legalized the use of cannabis for recreational and certain medical uses. However, in accordance with Federal Law, City treats cannabis the same as any other drug that is subject to regulation under this policy. Moreover, although the use of cannabis is legally permissible in the State of California, it remains a prohibited and controlled substance under Federal Law. City reserves the right to take disciplinary action under this policy when cannabis or cannabis products are involved, whether it is used for medicinal or non-medicinal purposes, and whether or not it has been prescribed for the employee's use.
- E. "Reasonable suspicion" means a belief based upon objective facts, evidence, or other indicators sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion:
- Slurred speech;
  - Alcohol odor on breath;
  - Cannabis odor on breath/person;
  - Unsteady walking and movement;
  - Physical impairment (e.g., glassy eyes, eye dilation, shaking, or erratic movement);
  - An accident involving agency property that provides a reasonable basis to believe that the accident was likely to have been caused by impairment from drugs or alcohol;
  - Physical altercation;
  - Verbal altercation;
  - Unusual behavior;
  - Job impairment;
  - Possession of alcohol or drugs

Reasonable suspicion may also be based on an employee's possession of drugs, alcohol, or paraphernalia in the workplace or on or in city property, facilities and vehicles.

- F. “Safety-sensitive functions” include operation or maintenance of a commercial motor vehicle, operation of motorized landscape maintenance equipment, operation or maintenance of tractors and other heavy equipment, supervising an employee who performs a safety-sensitive function, and any function which involves some special and obvious physical or ethical demand, and the compromise of the employee’s ability to meet such demands could have an immediate, disastrous, consequence upon public safety or security, or on the safety or security of the employee himself or his/her co-workers.
- G. “Refuse to cooperate” means to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.
- H. “Under the influence of alcohol” means an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.
- I. “Under the influence of drugs” means having drugs and/or alcohol in the employee’s system as evidenced by applicable testing procedures, and/or exhibiting conduct or behavior demonstrating that the employee is impaired by drugs or alcohol, including legal drugs. Legal drugs means any drug, including prescription drugs and over the counter drugs, that have been legally obtained under Federal and State Law and that is not unlawfully sold or distributed.

### **13.6 Prescription Drugs**

The use of prescription drugs which would not alter an employee's work performance is acceptable, if prescribed in writing by a qualified physician. Employees must notify their supervisor before beginning work when taking drugs (prescription or non-prescription) which may interfere with the safe and effective performance of their duties. In the event there is a question regarding an employee's ability to perform assigned duties safely and effectively while using such drugs, a written clearance from a qualified physician shall be required before the employee is allowed to resume the employee's regular duties. Abuse of any legal drug is prohibited and shall constitute grounds for disciplinary action, including termination.

### **13.7 Pre-Employment Testing**

Toward reaching this goal of a drug and alcohol free workplace, the City may conduct pre-employment drug or alcohol testing of applicants for City positions. Pre-employment drug or alcohol tests shall apply only to non-City employees; City employees who apply for another City position shall not be subject to pre-employment drug or alcohol tests. Any applicant who tests

positive shall be disqualified from consideration for employment for a period of six months. The City does not test for non-psychoactive cannabis metabolites.

### **13.8 Reasonable Suspicion Testing**

The City also reserves the right to require that an employee undergo testing (which does not include testing for non-psychoactive cannabis metabolites) if a supervisor or department manager has a reasonable suspicion that the employee is under the influence of a controlled substance, as defined in this section. Reasonable suspicion shall, whenever possible, be evaluated based on personal observations by the department manager or a supervisor who is familiar with the employee's normal behavior. Information which is obtained from a reliable person with personal knowledge of the employee may also be utilized in appropriate circumstances. Reasonable suspicion or cause means that a trained supervisor believes that the manner, disposition, muscular movement, appearance, behavior, speech, or breath odor of an on-duty employee is indicative of the use of drugs or alcohol.

The determination that a reasonable suspicion exists to require an employee to undergo a drug or alcohol test must be based on specific, objective, and contemporaneous facts concerning the manner, disposition, muscular movement, appearance, behavior, speech, or body odors of the employee. The determination must also be based on the supervisor's direct observations of the behaviors and not on hearsay. The supervisor(s) witnessing the impairment must document the specific observations upon which the reasonable suspicion is based.

Where there is a reasonable suspicion that the employee is under the influence of drugs or alcohol, the supervisor shall arrange for the employee to be transported to the testing facility and then driven home. The employee shall not be permitted to transport him/herself.

In the event that an employee suspects that the employee's supervisor is under the influence of drugs or alcohol, the employee may submit a written or oral complaint which contains detailed information regarding the allegation of alcohol or substance abuse to the supervisor's superior. The City also reserves the right to require an employee to undergo testing after reporting an industrial injury if the City has reasonable suspicion that the employee's drug or alcohol use or impairment from such use caused or contributed to the injury.

The City also reserves the right to require an employee to undergo testing if the employee causes \$1,000 or more of damage to City-owned property if the City has reasonable suspicion that the employee's drug or alcohol use or impairment from such use caused or contributed to the damage.

### **13.9 Random Testing**

- A. Applicability: All City employees who perform safety-sensitive functions shall submit to random alcohol and controlled substance testing, which does not include testing for non-psychoactive cannabis metabolites. The Administrative Services Director or designee shall provide department managers and supervisors with names of safety-sensitive employees selected to be tested, the date and time of the test, the type of test to be conducted, and the collection site location. Up to 50% of City safety-sensitive employees are required to be randomly tested annually.

- B. Selection Procedure: The safety-sensitive employees to be tested shall be randomly selected from the entire group of safety-sensitive employees. Each safety-sensitive employee will have an equal chance of being tested each time selections are made. The selected safety-sensitive employees shall proceed immediately to the collection site for testing.
- C. Timing of Random Testing: A safety-sensitive employee subject to random testing shall only be tested while performing a safety-sensitive function, just before the performance of such a function, or just after the performance of a safety-sensitive function.

### **13.10 Post-Accident Testing**

For purposes of this policy, employees are subject to testing when they cause or contribute to accidents that seriously damage a City vehicle, machinery, equipment or property or that result in an injury to themselves or another employee requiring offsite medical attention. A circumstance that constitutes reasonable suspicion will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle or equipment (including such equipment as a City forklift, pickup truck, overhead crane or aerial/man-lift) is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two hours following the accident, if not sooner. Refusal by an employee will be treated as a positive drug test result and will result in immediate termination of employment. Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. The supervisor or City Official will arrange transport of the employee by a responsible party to the location from the list of authorized collections sites with the appropriate forms, both available from the human resources department.

The following criteria apply when conducting drug and alcohol tests due to an accident:

- A. A breath alcohol test must be administered as soon as possible. If not within two hours following the accident, the supervisor or department manager must prepare and maintain records stating why testing was not completed. At that time, every effort should be made to ensure that a breath alcohol test is performed within 8 hours following the accident. If testing has not occurred within 8 hours, attempts to test should be discontinued, and the supervisor or department manager must record why he/she was unable to administer the required test.
- B. An impairment test may be administered at the scene of an accident or as soon as practicable thereafter to determine whether an employee was impaired. An impairment test for purposes of this policy involves testing methods similar to field sobriety tests conducted during traffic stops by law enforcement officials.
- C. A drug-screening test, which does not include screening for non-psychoactive cannabis metabolites, must be initiated within 32 hours following an accident. If the test is not administered as required, the supervisor or department manager must document the reasons testing was not performed.
- D. The employee must remain readily available for testing or he/she will be deemed to have refused the test (see 13.14). This rule does not require the delay of necessary medical attention for injured persons following the accident, nor prohibit

the employee from leaving the scene to obtain assistance or necessary emergency medical care.

- E. An employee subject to post-accident testing may not use alcohol within 8 hours following the accident or before an alcohol test, whichever comes first.

### **13.11 Drug Testing**

Urine specimens shall be screened for the following substances:

- A. Amphetamines/methamphetamine (i.e., speed and crystal);
- B. Cocaine;
- C. Opiates (e.g., codeine, heroin, and morphine); and
- D. Phencyclidine (PCP)

The testing is a two-stage process. If the initial screening is positive for one or more of the above drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis to ensure that over-the-counter medications are not reported as positive tests.

### **13.12 Alcohol Testing**

The initial test shall be a breath test by means of an evidential breath testing (EBT) device. An alcohol testing form shall be completed by the employee and a certified breath alcohol technician (bat) to ensure the results are properly recorded. Two breath tests are required to determine if the employee has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.04 alcohol concentration is considered a negative test, and no further testing is required.

If the alcohol concentration is 0.04 or greater, a second or confirmation test shall be conducted. When a confirmation test is required, the EBT equipment shall print the screening and confirmation test numbers in sequential order. The device shall also print the result, date, and time of both tests, along with the name and serial number of the EBT equipment in order to ensure the reliability of the results. Any action taken will be based on the confirmation test result.

### **13.13 Employee Consent**

Before a drug or alcohol test is administered, the employee will be asked to sign a consent form authorizing the test and permitting release of the test results to the appropriate City representative. The consent form shall provide a space to acknowledge that the employee being tested has been advised of the drug and alcohol testing policy.

### **13.14 Refusal to Consent**

Employees who refuse to submit to a drug or alcohol test immediately shall be sent home. An employee's refusal to submit to drug or alcohol testing may also result in disciplinary action, up to and including termination. Refusal to consent shall include, but is not limited to:

- A. Failure to provide adequate breath for alcohol testing, without valid medical explanation, after being notified of the requirement for breath testing;



- B. Failure to provide an adequate urine sample for testing, without a genuine inability to provide a specimen (as determined by medical evaluation), after being notified of the requirement for urine testing; and
- C. Engaging in conduct that clearly obstructs the testing process.

### **13.15 Searches**

Subject to the “police officer bill of rights,” City lockers, desks, cabinets, vehicles, computer files, and computer diskettes are the property of the City and are subject to search without the employee's consent by City management at any time with or without notice. Refusal to cooperate with a search may result in a disciplinary action, up to and including termination. Unless the supervisors are directed otherwise by the HR Director or designee, employees will be given the opportunity to be present when the search is conducted.

### **13.16 Consequences of Positive Test Results**

If drug and/or alcohol test results are positive or if an employee is determined to have been impaired while on the job, the employee may be disciplined, up to and including termination. If the employee is not terminated:

- A. If the alcohol concentration level is greater than 0.04 or an impairment test determines that an employee is impaired while on the job the employee may not return to work for a minimum of 24 hours and until another breath alcohol test is administered and the result is less than a 0.04 concentration or an impairment test determines that the employee is not impaired.

The employee's supervisor or other authorized manager shall make arrangements for alternative transportation when test results are positive for drugs or an alcohol concentration of 0.04 or greater or shows that an employee is impaired.

- B. If the alcohol concentration level is greater than 0.04 or a drug-screening test is positive for any of the prohibited controlled substances, the employee will not be permitted to return to work until:
  1. He/she undergoes medical evaluation and, where necessary, rehabilitation; and
  2. The employee has successfully complied with any required rehabilitation; and
  3. The employee undergoes a return-to-duty test with a result of a blood alcohol concentration of less than 0.04 if the employee initially tested positive for alcohol, and/or with a negative test result for controlled substances if the employee initially tested positive for controlled substances.

**Note:** if an employee tests positive, the City is not required to provide rehabilitation, pay for treatment or, in the case of a terminated or demoted employee, reinstate the employee.

### **13.17 Fitness for Duty Testing**

A fitness-for-duty test shall be required before returning to work. The test results must be negative.

### **13.18 Follow-Up Testing for Safety-Sensitive Positions**

Any safety-sensitive employee will be subject to unannounced follow-up testing upon returning to duty. A minimum of six unannounced tests will be performed over the following twelve-month period. Follow-up testing may be extended for up to sixty months following return-to-duty. The same criteria used for the fitness-for-duty testing will be used for any follow-up testing. Such testing shall not be subject to the random testing selection procedures. Moreover, follow-up testing may include tests for other substances beyond the employee's initial positive test of drug and/or alcohol use if the supervisor, department head or Administrative Services Director or designee has reason to believe that additional testing is warranted. If follow-up testing is required, the employee assumes full responsibility for paying the follow-up testing expenses.

### **13.19 Drug and Alcohol Rehabilitation**

If an employee voluntarily requests time off to enroll in a drug or alcohol rehabilitation program, the employee may request a personal leave of absence pursuant to section 7.2.3 of this manual, or if the leave is taken in connection with a serious medical condition, as certified by a physician, then the employee may request a medical leave pursuant to section 7.2.1. In either event, the purpose of the leave must be for voluntary participation in a bona fide rehabilitation program, not simply time off to "self cure". Following such rehabilitation leave, the employee is entitled to re-employment, without restriction.

**Exception:** if an employee requests leave for drug or alcohol rehabilitation after he/she is caught in a violation of this policy, the City is not obligated to grant a leave of absence for rehabilitation. If a leave is granted, however, then the employee shall sign a "last chance" agreement governing the employee's return to duties after successful completion of rehabilitation. In addition, the employee shall be subject to disciplinary action as the result of being caught violating this policy.

### **13.20 Testing Records**

Records shall be maintained on test results, prevention programs, policies, training, drug use and alcohol misuse, refusals to submit to testing, employee evaluations, and annual summary of the City testing program. The retention period for the records is as follows:

- A. **Five-Year Retention Period:** pertains to the results of alcohol tests of 0.04 or higher, confirmed positive drug tests, documentation of any employee who has refused to submit to a required drug or alcohol test, employee assessments and referrals.
- B. **Two- Year Retention Period:** pertains to records documenting the collection process for the drug and alcohol tests and training of supervisors.

- C. **One-year retention period:** pertains to any alcohol test results which are less than 0.04 and the documentation of any negative or canceled drug test.

All records are confidential. The records shall be kept in a separate file and will not be made a part of the employee's personnel file. An exception to this is when disciplinary action results from the incident. When there is disciplinary action, disciplinary notices and related documents will be placed in the employee's personnel file.

The result of any testing done pursuant to this policy shall be used for employment purposes only and shall not be released for use in the criminal justice system, unless by court order.

#### **13.21 Access to Records**

The following agencies shall have access to all test results without the verbal or written consent of covered employees:

- A. The City in proceedings initiated either by the City or the employee as a result of testing;
- B. The department of transportation and the California highway patrol or any state or local official with regulatory authority over the City or any of its employees; and
- C. The national transportation safety board when conducting an investigation of an accident where drug and/or alcohol testing was performed.

### **14. MISCELLANEOUS POLICIES**

#### **14.1 Employee's Home Address and Status of Driver's License – Duty to Update.**

All City employees shall notify his/her Department Head, and the Department Head shall ensure that the Human Resources Department is immediately updated on any change in their residential address, telephone number(s) and other personal information.

14.1.1 The possession of a valid California Driver's License is a requirement for many City employment positions. Convictions of certain offenses may restrict or prohibit an employee's ability to drive City vehicles or operate City equipment. All such employees shall promptly notify the Human Resources Department of any change in the status of their driver's licenses.

**14.2 Cell phones, Text Messaging, Personal Communication Devices** This policy establishes procedures for the use of City-issued and personal communication devices, including cell phones. Violation of this policy will result in disciplinary action, including termination.

14.2.1 City Issued Communication Devices (Cell Phones) City Cell Phones are issued for the purpose of providing employees a means of contact with supervisors, co-workers and the public.

#### **14.2.2 Use of City Communication Devices, Including Cell Phones**

a. Generally.

- 1. City cell phone usage, incoming and outgoing, voice and texting should be restricted to essential or emergency City business

while on duty. inappropriate cell phone conversations or texting may jeopardize, embarrass or reflect poorly on the City.

2. City cell phones and texting devices should only be used by the employee to whom the cell phone is assigned.

b. Use in motor vehicles. Employees shall not drive a vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving. With respect to employees whose safety-sensitive job duties subject them to Department of Transportation regulations, the City strictly prohibits and has a zero tolerance for the use of all hands-on mobile devices while such employees are operating a motor vehicle owned by the City or while conducting City business. This includes use of the device to send or receive calls, emails, texts, and other communications. Note that, pursuant to California law, use of hands-on mobile device while driving (whether for work or not) may be criminally punished.

**Exceptions:** This restriction against use of wireless telephones in vehicles shall not apply to:

1. a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity;

2. an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, in the course and scope of his or her duties; and

3. This section does not apply to a person driving a school bus or transit vehicle that is subject to Vehicle Code Section 23125

c. Personal calls. while on duty, other than supervisor approved breaks, City cell phones and text messaging devices may be used for urgent personal calls and messages ONLY such as:

1. Illness/injury of family member(s);

2. Unanticipated changes in work schedule;

3. Emergency child care issues.

d. Limitation on cell phone and texting use. City issued cell phones and text message devices used for off-duty personal business is authorized with the understanding that use charges which exceed the monthly allotment shall be reimbursed to the City.

#### 14.2.3 Employees Use Of Their Own Personal Devices

The City provides all employees who have a demonstrated need to use cell phones or other electronic communication devices to conduct City business with either an allowance to cover the costs incurred by employees for usage of their personal devices or a City-issued cell phone.

Employees have no need to use their own personal devices to conduct City business. However, the City recognizes that, on occasion, employees prefer to use their personal devices for

convenience. Employees are hereby advised that usage of their personal devices is entirely voluntary. The City does not require employees to use their own personal devices for any reason and has no expectation that employees rely on their personal devices to perform their job duties for the City.

If, on occasion, employees voluntarily choose to use their own personal devices, any costs incurred with such limited and voluntary usage will not be reimbursed by the City. Employees should notify their supervisors if they are required to regularly use their personal devices to conduct City business. The City will reimburse all expenses incurred by employees for work-related usage of their personal devices when such usage is required by the City or reasonably necessary under the circumstances. Reimbursement is defined in the respective MOU.

Employees are further advised that using their personal devices to conduct City Business may result in certain communications contained on such device to be subject to a public records request for the minimum requirement as per Federal and State law or other specific statutory exemption.

14.2.4 No Privacy Rights. All communications, including Email and text messages, sent and received on City equipment, including cell phones, pagers, blackberries, computers, and other texting devices and personal communications devices, are the City's property and are subject to monitoring. All communications, whether voice or text, shall not be deemed private or confidential, shall be deemed public records and may be read or monitored.

Employees using City-issued communications devices which utilize third party service providers with electronic communication services, computer storage or processing services shall sign a written release on a form provided by the City authorizing the City to obtain communications transmitted via the communications services provider.

**14.3 Email Use.** The e-mail system is owned by the City and should be used for business purposes only. All non-work-related uses of e-mail shall be kept to a minimum. Violation of this policy May result in disciplinary action, including termination –

14.3.1 No Right of Privacy. All e-mail is considered public records and, therefore, the property of the City. No employee should expect any privacy in any message he/she creates, receives, sends or deletes. The City reserves the right to access, audit and disclose, for any reason or no reason, all messages transmitted over its e-mail system, placed into storage or deleted.

If a communication must be private, another method to communicate the message shall be used, not the e-mail system.

14.3.2 Prohibited Use of Email.

- a. Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing or any other inappropriate messages on the e-mail system will result in disciplinary action.
- b. E-mail messages addressed to "Everyone" are only to be used for City business-related items that are of particular interest to all users **and** must be approved by a supervisor. Personal advertisements are prohibited.

- c. It is a violation of this policy to transmit a message under another user's name. Users are strongly encouraged to log off the network when the computer is unattended. This added security measure will prevent the misuse by others of an individual's e-mail, name and/or password.

14.3.3 Management of E-mail. Because the e-mail system is not designed for long-term retention of messages, e-mail that an employee desires to save or that becomes part of an official record should be printed.

Users of e-mail are solely responsible for the management of their mailboxes. Messages should be purged manually by the user at least once per week. All messages in excess of one month will be deleted at regular intervals from the server computer.

**14.4 Telephone, Computer, Fax and Copy Machine**. All telephones, computers, fax machines and copy machines are owned by the City and shall be used for business purposes only. All non-work-related uses of such office equipment is strictly prohibited. Violation of this policy will result in disciplinary action, including termination.

**Exception:** City telephones may be used for personal calls such as:

- a. Illness/injury of family member(s);
- b. Unanticipated changes in work schedule;
- c. Emergency child care issues; and
- d. Other emergencies, as approved by the employee's supervisor.

**14.5 Computer Software**. The City licenses the use of its computer software from a number of outside companies. The City does not own the software or its related documentation and, unless authorized by the software developer, the City does not have the right to reproduce it. In accordance with the Federal Copyright Act, the reproduction of software is subject to civil and criminal penalties, including fines and imprisonment. Therefore:

- a. Employees shall not copy or duplicate, or permit anyone else to copy or duplicate, computer software, documentation or other information furnished by an outside company except for purposes of back-up retention and/or maintenance functions as recommended by the software owner.

**Exception:** Employees may copy for their own use, solely in the scope of employment with the City, operation, training and other manuals and materials or portions thereof, and only after obtaining authorization from the City's Information Services Manager.

- b. Only authorized City employees or independent contractors will be permitted to use computer software.
- c. Computer software shall only be used internally for duties relating to City business.
- d. Computer software shall be used only in accordance with the licensing agreement with the outside company providing the software.

Employees shall notify the Information Services Manager immediately of any unauthorized possession, use or knowledge of any City-licensed computer software by any person not authorized to have such possession or use.

**14.6 Use of City Seal or City or Department Emblems.** All official seals, emblems or logos, including patches, badges and business cards, of the City or of any of its Departments, including the Police Department, are the property of the City. Such seals, emblems and logos shall not be reproduced, duplicated, sold, traded or given away without the express written permission of the City Manager.

**14.7 News Media Relations.** From time-to-time the City, its officials and employees are contacted by representatives of the news media, including press, radio and television. The ultimate authority and the individual responsible for the release of information to the media on behalf of the City is the City Manager. Any media requests for information on behalf of the City shall be referred to the City Manager, or his or her designee. At no time shall a City employee make any comment or release any information to the media on behalf of the City without prior approval from the City Manager or his or her designee.

**14.8 Media Access.** Authorized and bona fide members of the media shall be provided access to scenes of disasters and emergencies subject to the following conditions:

- a. The media representative shall produce valid press credentials which shall be prominently displayed at all times while in areas otherwise closed to the public;
- b. Media representatives may be denied access to emergency operations in situations where such access would reasonably appear to interfere with emergency operations; provided, however, that every reasonable effort should be made to provide representatives with access to a command post at a location nearest to the emergency operation.

14.8.1 Restricted Information. Information released to the media shall only be that which is authorized by the California Public Records Act (Government Code, Section 6254). When in doubt, consult the City Attorney.

**14.9 Restrictions on Employee Association/Union Activities.** The following restrictions shall apply to all employee organization/association/union activities:

- a. Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in the MOU and this Section of the Manual;
- b. Shall be limited to lawful activities that pertain directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety, and security of City Operations.

**14.10 Workplace Violence** The City will not tolerate any threats of violence made in the workplace, either implied or direct. The City will not tolerate any threats of violence made toward anyone in the workplace at any time. It is a violation of this policy to use threats in an attempt to intimidate, prevent work from being completed, or in any way interfere with providing a safe workplace. In compliance with Senate Bill No. 553, the City has set up a workplace violence prevention plan, see that document for additional information. In addition, the city will keep a workplace violence log to document each incident.

The City recognizes that individuals will experience difficulties related to their work, their relationships with co-workers, supervisors, managers, or members of the public. The City offers an Employee Assistance Program for all employees to receive support in handling any difficulties that may arise. The City also provides a Grievance Process if the difficulties are due to issues of harassment, discrimination, or other unfair treatment.

This policy provides guidelines for City employees on how to proceed if and when a threat is made. For a comprehensive methodical approach to handling Workplace Violence, refer to the City's separate Workplace Violence Prevention plan. The guidelines will clarify the roles and responsibilities of all parties involved with handling the threat.

14.10.1 Definitions

- a. **Violence.** Any act that is committed with the result of physical or psychological harm to another individual. This also includes any act of destruction of property belonging to the City or its employees.
- b. **Threat.** A direct or implied expression of intent to inflict physical harm and/or actions that a reasonable person would perceive as a threat to physical safety or property. The following are some examples of behaviors that may be considered threats, taking into consideration the employee's history along with the tone of voice, body language, and behavior of the employee when the threat was made and the context of the discussion:
  - Verbal threats, which include descriptions of what the violent person plans to do;
  - Threatening conduct, such as intimidating others, showing off or actually brandishing a weapon;
  - Bizarre statements or actions threatening physical harm, often stemming from a perceived work injustice;
  - Obsessions, such as nursing a grudge against a co-worker or Supervisor; or
  - Jokes about physical acts of violence.

14.10.2 Mandatory Report. When any employee becomes aware of a threat, implied or direct, to self or others, the employee shall immediately notify his/her Supervisor or the Human Resources Director, who shall notify the threatened employee and conduct an investigation.



**14.11 No-Weapons Policy** The City prohibits all persons (except Police Officers) who enter City property (which includes all vehicles and all facilities under the control of or used by the City) from carrying a handgun, firearm, illegal knives, or weapon of any kind onto the property, regardless of whether the person is licensed to carry the weapon or not. This includes the possession of such weapons in an employee's vehicle, locker, desk, etc.

All City employees (except Police Officers) are also prohibited from carrying a weapon while in the course and scope of performing their job for the City, whether they are on City property at the time or not and whether they are licensed to carry a weapon or not. Employees may not carry a weapon while performing any task on the City's behalf.

14.11.1 Scope. This policy applies to all City employees, contract and temporary employees, visitors on City property, and customers and contractors on City property, regardless of whether they are licensed to carry a concealed weapon or not. The only exceptions to this policy are police officers, security guards, or other persons who have been given written consent by the City to carry a weapon on the property.

14.11.2 Definition. Prohibited weapons include any form of weapon or explosive restricted under local, State, or Federal regulation. This includes all firearms, illegal knives, or other weapons covered by the law. If an employee has a question about whether an item is covered by this policy, he/she should call the Human Resources Director. Employees are responsible for making sure that any potentially covered item in their possession is not prohibited by this policy.

14.11.3 Mandatory Report. If any employee becomes aware of anyone violating this policy, he/she shall report it to his/her immediate Supervisor or the Human Resources Director immediately.

**14.12 Automobile Usage and Accidents**. It is the policy of the City to provide vehicles for business use. In instances where a City vehicle is not available, employees will be reimbursed for using their private vehicles during the course of business as set forth below.

14.12.1 Driver's Licenses. Employees who drive City vehicles must possess a valid driver's license, be approved to operate such vehicles by Human Resources, and participate in DMV's "pull notice" program. Employees holding jobs designated as requiring driving for business as a condition of employment must be able to meet the driver approval standards of this policy at all times. The driving requirements are set forth in each job description. In addition, such employees must inform their Supervisor(s) of any changes that may affect their ability to meet the standards of this policy. The City obtains, on a regular basis, motor vehicle records of all employees.

14.12.2 City Vehicles; Rentals; Private Vehicles. City vehicles will be assigned to those departments which have demonstrated a continuing need for them. Additional vehicles are maintained for use as needed. Employees traveling out of town on City business, subject to management approval, may also be authorized to use rental cars. Optional insurance on rental vehicles should not be obtained.

Employees who need transportation in the course of their normal work may be assigned a City vehicle for their use. All other employees needing transportation for City business may use vehicles assigned to their Department or drawn from the motor pool. As a last alternative, when no City vehicles are available, employees may use their own vehicles for business purposes, provided evidence of insurance has been received and approved by the City and with the prior approval of the Human Resources Director.

Employees who are on call on a 24-hr basis may be allowed to take a company vehicle home so they can respond to business needs as soon as possible. Such employees must provide a written acknowledgement that they fully understand that the vehicle is used only as part of emergency response and is not for personal use.

14.12.3 Responsibility for Vehicle and Tickets. Employees who drive a vehicle on City business must exercise due diligence to drive safely and maintain the security of the vehicle and its contents. Employees are responsible for any driving infractions or fines as a result of their driving.

14.12.4 Reimbursement for Expenses. Employees driving on City business may claim reimbursement for parking fees and tolls actually incurred. In addition, employees may also claim reimbursement for out-of-pocket expenses due to vehicular accidents that occur while conducting City business while using their own private vehicle. Employees may claim up to \$500 per accident. Employees driving City vehicles may claim reimbursement for gasoline and other expenses directly incurred for business purposes.

Employees who use their personal vehicle for approved business purposes will receive a mileage allowance equal to the Internal Revenue Service standard mileage rate. This allowance is to compensate for the cost of gasoline, maintenance, and usage. Reimbursements shall not be approved if the employee has not complied with the above insurance requirements or if a City vehicle was available and the employee failed to use it.

14.12.5 Proof of Insurance. Employees who drive their own vehicle on City business must, on an annual basis, provide the Human Resources Director with a certificate verifying that they have insurance coverage. Before any employee can obtain reimbursement, the employee must have the prior approval from his/her Supervisor and have a current insurance certificate on file with the Human Resources.

14.12.6 Safety While Driving. Employees are not permitted, under any circumstances, to operate a City vehicle, or a personal vehicle for City business, when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication, or intoxication.

14.12.7 Accidents and Theft. Employees must report any accident, theft, or damage involving a City vehicle, or a personal vehicle used for City business, to the Human Resources Director and the City Manager, regardless of the extent of damage or lack of injuries. Employees are expected to cooperate fully with authorities in the event of an accident. However, they should not make any statements other than in reply to questions of investigating officers.

14.12.8 Pay. Time spent by non-exempt employees in driving a City or personal vehicle on City business during normal working hours is considered hours worked for pay purposes.

14.12.9 Disciplinary Action for Accidents. Employees who drive City and personal vehicles on City business or carpooling are expected to maintain a good driving record. If an employee whose job requires driving as a condition of employment has a chargeable accident in a City vehicle, or personal vehicle while conducting City business, the employee is subject to disciplinary action. If an employee operates any City vehicle (including heavy equipment) while physically or mentally impaired, the employee is subject to immediate suspension or termination. This prohibition includes, but is not limited to, instances where an employee is temporarily unable to operate a vehicle safely or legally due to illness, medication, or intoxication.

14.12.10 Department of Transportation Regulations. The City, pursuant to Federal Highway Administration regulations, requires all individuals possessing and using commercial drivers' licenses to be randomly tested for drugs and/or alcohol. For more information, see the appropriate section of the Human Resources Policies & Procedures Manual.

**14.13 Smoking Policy.** Smoking is not allowed in City buildings or within 20 feet of the front entrance of a City building. Smoking is also prohibited in City vehicles and violators are subject to discipline for non-compliance.

#### **14.14 Identification Card/Business Access Card Policy**

The following rules govern the issuance and use of Identification Cards and Building Access Cards:

##### 14.14.1 Identification Cards ("I.D. Cards") and "Building Access/I.D. Cards"

##### 14.14.2 Introduction

Certain City facilities are equipped with electronic locks and a card reader to permit access into these buildings and the rooms therein when the doors are locked. Depending upon an employee's department and his/her functions, the employee's I.D. Card may also serve as a Building Access Card. Consequently, such dual-function Building Access/I.D. Cards are security keys to important public buildings. For the security of these areas, Building Access/I.D. Cards should be carefully safeguarded.

##### 14.14.3 Issuance of Building Access/I.D. Cards

Depending upon an employee's department and his/her functions, such employee shall be issued a dual-function Building Access/I.D. Card by his/her department head or

appropriate administrative official, subject to approval by the City Manager.

#### 14.14.4 Returning Building Access/I.D. Cards

All department heads, designees, and appropriate administrative officials shall notify the Resources Director if an employee's building access authorization is to be modified or terminated. Building Access/I.D. Cards shall be turned in by the affected employee to his/her department head, designee, or appropriate administrative official as property of the City, to be retained, or modified and reissued, to the employee under the following conditions:

- a. Upon transfer to another department;
- b. Upon request of the department head or appropriate administrative official;
- c. Upon being granted a leave of absence without pay for a period of 30 or more calendar days; however, employees granted such leave may retain his/her card if he/she is authorized to have access to a building and/or office during the leave; or
- d. Upon termination or suspension of employment.

#### 14.14.5 What To Do If Your "I.D. Card" or "Building Access/I.D. Card" Is Lost or Stolen

- The loss or theft of any City I.D. card or access card must be reported as soon as you discover that the card is missing.
- If a card is lost during business hours: The employee must immediately notify his/her supervisor or department head. Upon notification, the supervisor or department head must immediately report the loss or theft to the Resources Director. If the employee's supervisor or department head is out of the office, employees may directly contact the Resources Department. The employee must notify their supervisor of the Lost or Stolen I.D. Card form stating when the card was lost and an explanation of the incident.
- If an I.D. card or access card is lost after business hours or during the weekend: The employee must immediately notify the Human Resources Department. Upon notification, Human Resources will terminate the I.D. Card access with the help of the IT Department on call if needed. Immediately upon returning to work, the employee must notify their supervisor of the Lost or Stolen I.D. Card stating when the card was lost and an explanation of the incident. That information should be forwarded to the Human Resources Department.

#### **14.15 How to Protect and Enhance your Personal Security; Security Rules and Reminders**

An electronic record is made each time your Building Access Card is used to open a door; thus, you may be implicated if your card is used by an unauthorized individual to gain access. Therefore:

- a. You are solely responsible for safeguarding your Card;

- b. Do immediately report its loss to your supervisor;
- c. Do not write or attach alarm codes or other security information on your Card;
- d. Do not loan your Card to anyone; and
- e. Guard your I.D. Card or Building Access Card as you would your own credit cards, keys or other important personal property.

**CITY OF BEAUMONT**  
**CONFIDENTIAL COMPLAINT FORM FOR SEXUAL HARASSMENT**

IT IS THE POLICY OF THE CITY THAT ALL OF ITS EMPLOYEES BE FREE FROM SEXUAL HARASSMENT. PLEASE USE THIS FORM TO REPORT SEXUAL HARASSMENT, SO THAT WE MAY INVESTIGATE AND TAKE APPROPRIATE DISCIPLINARY OR OTHER ACTION WHEN THE FACTS SHOW THAT THERE HAS BEEN SEXUAL HARASSMENT. PLEASE PROVIDE US WITH AS MUCH FACTUAL DETAIL AS YOU CAN RELATING TO THE CLAIM, SO THAT WE CAN PROPERLY INVESTIGATE IT.

PLEASE SEE THE PERSONNEL HANDBOOK OR OBTAIN A COPY OF THE CITY'S POLICY CONCERNING SEXUAL HARASSMENT FOR A DESCRIPTION OF THE TYPES OF CONDUCT THAT ARE CONSIDERED TO BE SEXUAL HARASSMENT.

THIS FORM SHOULD BE FILED WITH HUMAN RESOURCES. IF THE COMPLAINT CONCERNS CONDUCT BY SOMEONE IN THE HUMAN RESOURCES DEPARTMENT, OR YOU DO NOT WISH TO FILE THE COMPLAINT WITH THE HUMAN RESOURCES DEPARTMENT FOR SOME OTHER REASON, YOU SHOULD FILE THIS COMPLAINT WITH THE CITY MANAGER OR THE CHIEF OF POLICE, INSTEAD.

YOU MAY, IF YOU WISH, FILE THIS COMPLAINT ANONYMOUSLY, AND WE WILL INVESTIGATE THE CLAIM AS THOROUGHLY AS WE CAN BASED ON THE INFORMATION YOU GIVE US. DEPENDING ON THE NATURE OF YOUR COMPLAINT, HOWEVER, IT MAY BE MORE DIFFICULT FOR US TO INVESTIGATE YOUR CLAIM TO YOUR SATISFACTION IF WE CANNOT DISCUSS YOUR CLAIM WITH YOU AND OBTAIN ADDITIONAL INFORMATION.

DESCRIBE EVENTS OR CONDUCT THAT ARE THE BASIS OF THE COMPLAINT (ATTACH ADDITIONAL PAGES IF NEEDED):

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

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

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

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

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

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