

City of Delano



Personnel Rules and Regulations

Personnel
Rules and Regulations

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Section 1. Introduction and Administrative Provisions

1.01 Purpose and Policy

The objective of these Rules and Regulations is to facilitate effective and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. These Rules and Regulations set forth in detail those procedures which ensure equal treatment for all employees, and define the obligations, rights, privileges, benefits, and prohibitions placed upon all employees in the municipal services.

1.02 Adoption of Rules and Regulations

The following Personnel Rules have been adopted by resolution of the City Council after notice of such action has been sent to recognized employee organizations. The Rules shall establish regulations governing the Personnel System, including:

- A. Preparation, installation, revision, and maintenance of a position Classification Plan covering all positions in the Classified Service, including employment standards and qualifications for each class.
- B. Preparation, revision, and administration of a Compensation Plan directly correlated with the position classification plan, providing a rate or range of pay for each class.
- C. Announcement of all tests and acceptance of applications for employment.
- D. Preparation and conduct of test and the establishment and use of resulting employment lists containing names of persons eligible for appointment.
- E. Certification and appointment of persons from employment eligibility lists, and the making of provisional and emergency appointments.
- F. Performance evaluations of employees during probationary periods and on an annual basis thereafter, and special evaluations at the discretion of the City Manager.
- G. Transfer, promotion, demotion, reinstatement, disciplinary action and layoff of employees.
- H. Separation of employees from the City Service.

- I. Standardization of hours of work, attendance and leave regulations, working conditions and the development of employee morale, welfare, and training.
- J. The establishment of complete individual personnel records.
- K. The establishment of grievance and appeal procedures.
- L. Other related matters deemed necessary for the proper functions of the organization and its employees.

1.03 **Amendment and Revision of Rules**

Proposed amendments or revisions to these Rules shall be publicly posted for at least three (3) consecutive days prior to consideration by the City Council, following notice and consultation with the recognized employee groups. At the time of consideration, any interested party may appear and be heard. Amendments and revisions shall become effective upon adoption by the City Council. The City may adopt such revisions to these Rules as it deems necessary to facilitate the conduct of its business.

The provisions of these sections shall not prohibit the adoption of a revision to these Rules by an urgency ordinance or resolution in compliance with current law relating to the adoption of such urgency ordinance or resolution regarding these personnel policies.

1.04 **Administration of the Merit System**

The City Manager is the Personnel Officer and shall administer the Merit System. Recommendations for removal or appointment to fill positions in various departments of the City shall be made by the Department Heads to the City Manager who shall consider the recommendations. The City Manager has the power to hire, discipline, layoff and/or terminate employees at all levels except the City Attorney and elected officials. The City Manager, as hereinafter described, shall have general control and supervision over employees as stated herein.

The City Manager may delegate any of the powers and duties conferred upon him/her as Personnel Officer in this Manual to any other officer or confidential employee of the City, or may recommend to City Council that such powers and duties be performed under contract. The Personnel Officer Shall:

- A. Attend all meetings of the Personnel Board and serve as its Secretary.

- B. Administer all the provisions of this Manual and of the personnel rules not specifically reserved to the City Council or the Personnel Board.
- C. Prepare and recommend to City Council any and all revisions and amendments to these Rules and Regulations.
- D. Prepare or cause to be prepared a position Classification Plan, including class specifications and revisions to the plan. The plan, and any revisions thereof, shall become effective upon approval of the City Council.
- E. Prepare or cause to be prepared a Compensation Plan, and revisions thereof, covering all classifications in the Classified Service. The plan, and any revisions thereof, shall become effective upon approval of the City Council.
- F. When required, provide for the publishing or posting notices of tests for positions in the competitive service; the receiving of applications therefor; the conducting and grading of tests; and the certification of the appointment to the appropriate position in the Classified Service.

1.05 **Right to Contract for Special Service**

The Personnel Officer shall consider and make recommendations to the City Council regarding the extent to which the City should contract for the performance of technical or special services in connection with the establishment or operation of the City's business, following notice and consultation with the recognized employee groups. The City Council may contract with any qualified person or agency for the performance of all or any of the following responsibilities and duties.

- A. The preparation of Personnel Rules and subsequent revisions and amendments thereof.
- B. The preparation of a position Classification Plan, and subsequent revisions and amendments thereof.
- C. The preparation of a Compensation Plan, and subsequent revisions and amendments thereof.
- D. The preparation, conduct and grading of competitive tests.
- E. Special and technical services of advisory or informational nature on matters relating to personnel administration.

F. Nothing contained herein shall prohibit the City from contracting for services in accordance with state laws.

1.06 Application of Rules

These rules shall apply to all departments. Any Department Head may, with the specific approval of the Personnel Officer, establish special rules to meet the needs of that department or any of its divisions if said rules and regulations are consistent with and do not conflict with applicable legislation, the personnel rules as set forth herein or MOU then in effect.

1.07 Employment Constitutes Acceptance of Rules

In accepting employment with the City of Delano, each employee agrees to be governed by and to comply with the Personnel Rules and Regulations, administrative procedures established by the Personnel Officer pursuant thereto, as herein adopted, amended or revised, and stipulates and agrees that he or she has read and understands all these rules, including Exhibits to these Rules and additionally, rules, regulations and directives of the department in which he/she is employed.

Upon accepting employment with the City of Delano, each employee shall be given a copy of this Manual for which he or she will sign a receipt. A signed receipt constitutes employee's acceptance of City's Rules and Regulations as described in the prior paragraph. The receipt will be made part of the personnel file of each employee.

This Rules and Regulations document is the property of the City, and it is intended for the personal use and reference of City employees and supervisors.

1.08 Memorandums of Understanding (M.O.U)

It is understood and agreed that, from time to time, amendments may be made to the Rules and Regulations in order to conform with current Memorandums of Understanding (MOUs). Where the expressed written provisions of an approved MOU are in conflict with these Rules and Regulations, the MOU shall prevail.

1.09 Severability

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

Section 2. Definition of Terms

- 2.01 **Advancement** means a salary increase within the limits of a pay range established for a class. Increases shall not be granted automatically.
- 2.02 **At will** means individuals or employees who provide services to City at the pleasure of the City Manager and may be dismissed at any time without benefit of an Administrative Hearing or Personnel Board Hearing unless otherwise required by Law.
- 2.03 **Business Day** means a day in which City Hall is open and doing business with the public.
- 2.04 **City** means the City of Delano and, where appropriate herein, refers to the City Council or any duly authorized City representative as defined in these Rules and Regulations.
- 2.05 **City Council** means the City Council of the City of Delano.
- 2.06 **Classification Plan** means a list of class titles for all regular full time positions in the classified service. It shall include job descriptions – a written specification including the class title and general description of the work, a summary statement of required duties and responsibilities, desirable qualifications for appointment, and may include such other pertinent information, as the Personnel Officer may deem necessary.
- 2.07 **Classified Service** means the service of all full-time employees of the City, whether regular or probationary, who are covered by the provisions of these Rules and Regulations.
- 2.08 **Continuous Service** means employment on a regular basis which is not interrupted by lay-off, termination or leaves of absence without pay for a period in excess of one year, unless a statutory exception applies.
- 2.09 **Day** means calendar day unless expressly stated otherwise.
- 2.10 **Employee Relations Officer** means the City Manager
- 2.11 **Examination:**
- A. **Open-competitive examination:** A structured examination process for a particular position which is open to all persons meeting the qualifications for the position.

- B. **Promotional examination:** An examination for a particular position. Admission to the examination is limited to all employees in the Classified Service who have completed the probationary period and who meet the qualifications for the position.
- C. **Continuous examination:** An open-competitive examination which may be administered periodically to establish an Eligibility List and such names may be placed on an employment list in order of final written and oral results for a period of not more than one year.
- 2.12 **Part-Time Employee** means an at-will employee whose normal workweek is less than the standard forty-hour week.
- 2.13 **Pay Status** means the period in which an employee is at work, or on vacation leave, sick leave, or compensation leave as a result of an industrial accident; leave with full pay in lieu of temporary disability benefits, or compensatory time off, paid temporary military leave of absence, or on an approved leave of absence with pay.
- 2.14 **Personnel Officer** means the City Manager
- 2.15 **Position** means a position consists of a variety of duties and responsibilities, or things to be done, assigned by competent authority, requiring the full or part-time employment of one person.
- 2.16 **Probationary Period** means the employment period during which employees must demonstrate their ability to perform the duties of the position. An employee is an at-will employee during the probationary period. Probationary period ranges from six to eighteen months depending on position held, and will not be extended by the Personnel Officer unless an employee was on leave of absence during employee's probationary period. Any extension shall not exceed the number of days employee was absent during the probationary period.
- 2.17 **Promotion** means the movement of an employee from one class to another class having a higher rate of pay.
- 2.18 **Regular Employee** means a full-time employee who has successfully passed their probationary period and is in the classified service.
- 2.19 **Temporary Employee** means an employee who is employed for a limited time to meet a temporary or seasonal need. Temporary employees are not subject to a probationary period,

may be terminated at any time without advance notice to the extent allowed by law and may not be employed by the City for more than six (6) consecutive months. Temporary employees shall not be covered by these rules and shall not receive any benefits other than those mandated by law.

2.20 **Termination** means the separation of an employee from service. Termination may be by death, discharge with cause, resignation, reduction-in-force, retirement, work completion, lack of work or funds.

2.21 **Unclassified Service** means any of the following officers, positions, or forms of employment. Except as otherwise provide in these Rules, the provisions of these Rules do not apply to the Unclassified Service.

A. City Manager

B. Assistant City Manager

C. Elective Officers

D. City Attorney

E. Department Heads

F. Members of appointive Boards, Commissions and Committees.

G. Persons engaged under contract to supply expert, professional, technical or other services.

H. Volunteer personnel

I. Temporary and/or provisional positions.

J. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.

K. At-will employees, including part-time employees.

2.22 **Volunteer** means an individual who performs service for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation. Reimbursement or payments for expenses and/or the granting of benefits shall not constitute compensation for the purpose of determining volunteer status.

Section 3. Equal Employment Opportunity Policy

3.01 Equal Employment Opportunity Policy

The City affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. The City prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or any other basis protected by law. Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these rules and regulations, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing.

Section 4. Discrimination, Harassment and Retaliation

4.01 Purpose

The City has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. The City has zero tolerance for any conduct that violates this policy. Conduct need not arise to the level of a violation of state or federal law to violate this policy. Instead a single act can violate this policy and provide grounds for discipline or other appropriate sanctions. This policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. The City encourages all covered individuals to report any conduct they believe violates this policy as soon as possible. Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

4.02 Individuals Covered

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

4.03 Definitions

- A. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, or military and veteran status, or any other basis protected by law. This policy prohibits discrimination, harassment or retaliation because: 1) of an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.
- B. "Protected activity" includes: making a request for or receiving an accommodation for a disability; making a request for or receiving accommodation for religious beliefs or practices; making or supporting a complaint under this policy; opposing violations of this policy; or participating in an investigation pursuant to this policy.

- C. **Discrimination.** This Policy prohibits treating covered individuals differently and adversely because of the individual’s protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.
- D. **Harassment.** Harassment includes, but is not limited to, the following types of behavior that are taken because of a covered individual's actual or perceived protected classification:
1. Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race, ethnic or sexually-oriented stories and jokes.
 2. Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
 3. Visual acts, such as derogatory gestures, posters, cartoons, emails, pictures or drawings related to a protected classification.
 4. Sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.
- E. **Retaliation.** Retaliation occurs when adverse conduct is taken against a covered individual because of the individual’s protected activity as defined in this policy. “Adverse conduct” may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

4.04 **Complaint Procedure**

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor, manager, or department head, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the Personnel Officer. Upon receiving notification of a harassment complaint, the Personnel Officer will complete and/or delegate the following steps. If the Personnel Officer is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
2. Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
3. Timely notify the complainant and the accused when the investigation has concluded and that any necessary corrective action will be taken in accordance with this policy. Any information about the imposition of discipline will not be disclosed to the complainant.
4. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
5. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

4.05 **Confidentiality**

Every effort will be made to assure the confidentiality of complaints made under this policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative.

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

4.06 **Responsibilities**

- A. All employees are responsible for:
1. Treating all individuals in the workplace or on worksites with respect and consideration.
 2. Modeling behavior that conforms to this Policy.
 3. Participating in periodic training.
 4. Cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.
 5. Taking no actions to influence any potential witness while the investigation is ongoing.
 6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this policy, to his or her immediate supervisor, or department head, or Personnel Officer.
- B. All managers and supervisors are responsible for:
1. Informing employees of this policy.
 2. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
 3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
 4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
 5. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged policy violations.
 6. Assisting, advising, or consulting with employees and the Personnel Officer regarding this policy.

7. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these policies, up to and including termination.
8. Implementing appropriate disciplinary and remedial actions.
9. Reporting potential violations of this policy of which he or she becomes aware to the Personnel Officer, regardless of whether a complaint has been submitted.
10. Participating in periodic training and scheduling employees for training.

4.07 **Option to Report to Outside Administrative Agencies**

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

Section 5. Workplace Violence

5.01 Statement of Policy

The City is committed to providing a safe, violence-free workplace and strictly prohibits employees (whether classified or unclassified), consultants, customers, visitors, or anyone else on the City premises or engaging in a City-related activity from behaving in a violent or threatening manner. As part of this policy, the City seeks to prevent workplace violence before it begins and reserves the right to deal with behavior that suggests a propensity towards violence even prior to any violent behavior occurring.

The City believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs and is committed to ensuring that safety policies and procedures involving workplace security are communicated and understood by all employees.

For purposes of this policy, “employee” includes all job classifications – whether in the classified or unclassified service – as well as volunteers and appointed and elected officials.

5.02 Definition

Workplace violence shall be defined as:

1. Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
2. The destruction of, or threat of destruction of City property or another employee’s property.
3. Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
4. Striking, punching, slapping, or assaulting another person.
5. Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
6. Harassing or threatening phone calls.
7. Surveillance.

8. Stalking.

9. With the exception of security personnel, bringing weapons or firearms of any kind on City premises, in City parking lots, or while conducting City business.

5.03 Reporting Requirements

1. If any employee observes or becomes aware of any of the above-listed actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify their supervisor, department head or the Personnel Officer immediately.
2. Further, employees should notify their immediate supervisor, department head or the Personnel Officer if any restraining order is in effect, or if a potentially violent non-work-related situation exists that could result in violence in the workplace.

5.04 Investigation

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, the City will inform the reporting individual of the results of the investigation. To the extent possible, the City will maintain the confidentiality of the reporting employee and of the investigation but may need to disclose results in appropriate circumstances, for example, in order to protect individual safety. The City will not tolerate retaliation against any employee who reports workplace violence.

5.05 Corrective Action and Discipline

If the City determines that workplace violence has occurred, the City will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include oral warning, written reprimand, transfer or reassignment, suspension, or termination. Under certain circumstances, the City may request or require that the employee participate in counseling, either voluntarily or as a condition of continued employment. If the violent behavior is that of a non-employee, the City will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

5.06 Employee Assistance Program

The EAP is a professional, confidential counseling service that is available to all personnel and members of their household to assist in resolving emotional difficulties, marital and family conflict, stress, chemical dependency, conflicts at work, and other concerns. The

EAP counselor can help to clarify a problem and to develop an action plan during the counseling session. EAP services are prepaid by the City.

Further information regarding the City's Employee Assistance Program may be obtained from the Department Head or from the Human Resources department.

Section 6. Alcohol and Controlled Substance Abuse

- A. The City is committed to providing a work environment that is safe, healthy and free of any adverse effects caused by alcohol or controlled substances. City employees (whether classified or unclassified) shall not be permitted to possess, distribute, or use alcohol or controlled substances while on duty for the City, on City property, or using City equipment; and are not permitted to perform services while under the influence of those substances.

For the purpose of enforcing this policy and maintaining a drug and controlled-substance free workplace, the City reserves the right to search, with or without prior notice to the employee, all work areas and property in which the City maintains full or joint control with the employee, including but not limited to City vehicles, desks, lockers, file cabinets, and bookshelves.

- B. While the use of medically prescribed medications and drugs is not per se a violation of this policy, failure by the employee to notify his/her supervisor before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties or operation of city equipment can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.
- C. The City may notify the appropriate law enforcement agency that an employee may have illegal drugs in his/her possession or in an area not jointly or fully controlled by the City.
- D. The City will provide reasonable accommodation and is required by law to those employees whose drug or alcohol problems classify them as disabled and/or suffering from a medical condition under federal and/or state law.
- E. Definitions;
1. Controlled Substance means any drug or substance or substance that (a) is not legally obtainable under either state or federal law, or both; or (b) is legally obtainable but not legally obtained or used. This includes marijuana/cannabis, prescription drugs obtained illegally and prescription drugs not being used for the

prescribed purpose or being used in excess of the prescribed dosage. It does not include prescription drugs possessed and used under a valid prescription.

2. Reasonable Suspicion is based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. Such observations can include the employee's activity or inactivity, equilibrium, attention span, mental and physical reactions, slurring of speech, unfocused vision, odor of intoxicants on the breath or clothing of the employee, or any other conduct or behavior of the employee which indicates probable alcohol misuses or uses of controlled substances. Observations may also include indications of the chronic and withdrawal effects of controlled substances.

F. Drug Testing

1. Testing of Applicants

The City may require an applicant to undergo testing for alcohol, drugs and controlled substances as part of the City of Delano's employment screening process. Applicants will be informed of the City's drug testing policy in the job announcement. An applicant's failure to consent to this test will result in the withdrawal of his or her conditional offer of employment.

2. Reasonable Suspicion Testing

If there is a reasonable suspicion that an employee is working in an impaired condition or is otherwise in violation of this policy, the employee will be asked about any observed behavior and offered an opportunity to give a reasonable explanation. If the employee is unable to satisfactorily explain the behavior, he or she will be requested by the Personnel Officer or his/her designee to take a drug test in accordance with the procedures outlined below. If the employee refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result.

3. Drug Testing of Safety-Sensitive Positions

The City shall also conduct drug testing of employees in accordance with its Substance Abuse and Procedures Policy for Safety-Sensitive employees, pursuant to the Department of Transportation regulations.

4. Procedures for Drug Testing

The City will refer the applicant or employee to an independent, certified medical clinic or laboratory, which will administer the test and which will follow medically accepted laboratory and chain of custody procedures. The drug test shall include

drawing split samples, one half to be tested and the other half to be held in case of dispute. The City will pay the cost of the test and reasonable transportation costs to the testing facility. The employee will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that he or she has taken that may affect the outcome of the test. Unless otherwise notified all drug testing will be performed by urinalysis. Positive results will be confirmed by a second test on the same sample.

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

Applicants or employees whose test results are positive will be afforded the opportunity to explain or rebut the results.

The test results will be confidential. Unless authorized by the applicant or employee in writing the results will not be disclosed to persons inside or outside the City who are not required to know the information. Laboratory reports or test results will not appear in an applicant's general personnel file, but will be contained in a separate confidential medical file which will be securely kept under the control of the Personnel Officer. Disclosures, without patient consent, may also occur when the information is compelled by law or by judicial or administrative process, the information has been placed at issue in a formal dispute between the City and the applicant or employee, the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure, or the information is required by a chemical dependency counselor to make an assessment and/or evaluation.

The test results will not be used for the purpose of determining any medical or bodily condition other than the presence of drugs and/or alcohol.

5. Acknowledgement and Consent

Any employee subject to testing under this policy will be asked to sign a form acknowledging the procedures governing testing, and consenting to (1) the collection of a urine sample for the purpose of determining the presence of alcohol or drugs, and (2) the release to the City of medical information regarding the test results. Refusal to sign the agreement and consent form, or to submit to the drug

test, will result in the revocation of an applicant's job offer, or will subject an employee to discipline up to and including termination.

Section 7. Nepotism and Fraternization Policy

- A. This policy is intended to avoid conflicts of interest between work-related and personal/familial obligations; reduce favoritism or even the appearance of favoritism; prevent personal/familial conflicts from affecting the workplace; and decrease the likelihood of sexual harassment and/or gender discrimination in the workplace. This policy applies to all employees, whether in the Classified or Unclassified Service. This policy also applies to applicants for City employment whose selection would conflict with the provisions of this policy.
- B. A “close personal relationship” is defined as one or more of the following:
- a. A “romantic and/or sexual relationship” exists when two City employees become personally involved with each other to the point that there is dating, exchange of personal affection, sexual or physical intimacy and/or live together.
 - b. A “relative” means a spouse, child, step-child, parent, step-parent, grandparent, great-grandparent, grandchild, great-grandchild, brother, sister, step-brother, step-sister, aunt, uncle, great-aunt, great-uncle, niece, nephew, cousin, parent-in-law, brother-in-law, sister-in-law, legal guardian, and/or any other individual related by adoption, blood or marriage living in the same household as the City employee.
- C. Employees who have a close personal relationship may appropriately work in the same program or organizational unit, however, appointments or assignments shall not be made where any of the following would apply:
1. Employees would work in a small unit or close association with each other.
 2. Employees would have a direct supervisor-subordinate or Department Head/subordinate relationship.
- D. Employees who have a close personal relationship shall not be appointed or assigned where such a relationship would adversely affect them in any of the following:
1. Work, safety, and/or morale of the program, activity, or unit.
 2. Fair and impartial supervision and evaluation of employees.

Section 8. Conflict of Interest

8.01 Conflict of Interest

No employee (whether classified or unclassified) shall engage in any business transaction or shall have a financial interest, direct or indirect, which is incompatible with the proper discharge of employee's official duties in the public interest or would tend to impair his/her independence of judgment or action in the performance of his/her official duties, or is otherwise contrary to existing State or Federal Laws or regulations of the City of Delano.

Outside Activities

An employee's outside employment, activity, or enterprise may be prohibited if it:

1. involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of the City or employment at the City;
2. involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee would be required or expected to render in the regular course of his/her City employment;
3. involves the performance of an act in other than his/her capacity as a City employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he/she is employed; or
4. involves time demands that would render the employee's performance of his or her regular City employment less efficient or dangerous to the employee.

8.02 Outside Employment

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with his or her City duties, functions, responsibilities, or that of the department in which he or she is employed at the City. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the Personnel Officer prior to undertaking any outside employment as described in this Policy.

A. The Procedure for Approval by the Personnel Officer

1. Fill out an off-duty employment permit, which in turn is to be approved or denied by the employee's Department Head. A copy of each permit shall be approved by the Department Head and the Personnel Officer. Forms for this purpose are

available at the Human Resources Department. Approved permits will be maintained in the employee's personnel file.

2. Each request to engage in outside work is to be considered individually. Certain types of work, which are incompatible to the department, would be so designated in writing by the Department Head. The Department Head may refuse outside employment for employment not listed as incompatible.

B. Changes in Status of Outside Employment

The employee must promptly report in writing to the Personnel Officer any of the following changes that may occur during the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties.

C. Revocation and/or Suspension of Outside Employment

Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below.

1. The employee's work performance declines; or
2. An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the City.

8.03 **Political Activity**

The allowable political activity of City employees and elected officials shall be governed by the appropriate provisions of the State and Federal laws.

8.04 **Request for Assistance from Private Citizen**

Under no circumstances shall a City of Delano employee (whether classified or unclassified) request or authorize a private individual to assist in any manner in the performance of employee's job function or duties, except in the case of volunteers or law enforcement personnel engaged in an emergency.

8.05 **Disaster Service Workers**

Pursuant to California Government Code section 3100 and Delano Municipal Code sections 2.44.060(F)(3) and 2.44.090, all City employees are designated as Disaster Service Workers. In a disaster or emergency situation, the City may assign City employees, acting in their capacity as Disaster Service Workers, to perform essential functions necessary to continue City services. The City may require employees to report to work or remain at work outside of employees' regular work schedule, and may reassign employees to perform

essential functions outside of employees' regular work duties. When directed by their supervisor or applicable Department Head to report to work following a declaration of an emergency or disaster, City employees are expected to report to work as directed or as soon as practicable.

8.06 **Gifts or Payments**

No employee shall accept or receive any compensation for any service performed in connection with his/ her duties as a City employee from any source other than the City of Delano. No City employee shall accept any gift, service or thing of value from any person or company with which employee has or may have official dealings as governed by City, State or Federal laws. If any such gift is received and cannot be returned, it shall be turned over to the Personnel Officer for proper disposal.

8.07 **Smoking**

Smoking shall not be permitted in any workplace, meeting room, classroom, or restroom of any City facility except for designated areas. Smoking shall not be permitted in any City vehicles.

8.08 **Dress and Grooming Standards**

The professional atmosphere and image of the City is maintained, in part, by the image that employees present to the public. While the City has no formal dress code, it is expected that all employees will dress in a manner consistent with good hygiene, safety, and good taste. Employee should utilize good judgment in determining their dress and appearance and dress conservatively and professionally in a manner appropriate for a safe and business-oriented work place. Neatness and cleanliness are necessary at all times. Individual City departments may adopt more stringent dress and grooming standards.

8.09 **City Equipment or Resources**

City equipment and resources may only be used to conduct City business, except for incidental personal use that is consistent with this Policy. As a result, City equipment and resources are non-public forums. Every City employee (whether in the Classified or Unclassified service) is required to adhere to this Policy. This policy also applies to elected and appointed City officials, volunteers, and interns.

City equipment or resources is any City-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet,

intranet, City network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through City electronic resources or equipment.

The City reserves the right to search, with or without prior notice to the employee, all work areas and property in which the City maintains full or joint control with the employee, including but not limited to City vehicles, desks, lockers, file cabinets, and bookshelves. The City periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through City networks or electronic resources.

City employees must provide the agency with the employee's username, password, or access code for any City issued equipment or resource. The existence of passwords or delete functions does not restrict the City's access. As a result, City employees have no expectation of privacy in their use of any City equipment or resources.

8.10 **Uniform, Official Badge or Insignia**

No official or employee who wears a uniform, badge or other official insignia as evidence of his/her authority and identity shall permit such uniform or insignia to be used or worn by any other person without approval by the Personnel Officer.

Section 9. Employment, Selection and Appointment

9.01 Application

Application shall be made as prescribed on the job announcement. Application forms shall require information covering training, experience, education and other pertinent information. All applications must be signed by the individual applying. Incomplete applications are subject to rejection according to standards established by applicable law.

A. Ineligibility or Disqualification

The Personnel Officer may withdraw anyone from consideration who does not meet required qualifications and whose appointment is not in the best interests of the City. Whenever an application is disqualified or rejected, notice shall be mailed to the applicant.

Reasons for disqualification may include, but shall not be limited to the following:

1. Lack of any of the requirements and qualifications established for the examination or position applied for.
2. Use of intoxicants.
3. Use of habit-forming drugs.
4. Criminal conviction.
5. Resignation from any position to avoid dismissal.
6. Deception or fraud in making the application.
7. Unacceptable driving record.
8. Request by applicants that their names be withdrawn from consideration.
9. Failure to apply within the time frame as specified by the Personnel Officer to an advertised/posted position.
10. Disqualification or unsuitability for employment for any reason specified in any City or pertinent department rules and regulations.

9.02 Announcement

All examinations for positions in the Classified Service shall be publicized by posting announcements in City Hall, on official bulletin boards, and by such other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the manner of making applications; and other pertinent information.

9.03 Recruitment

Recruitment for qualified applicants may be a continuing process in order that the City will have available applications of interested, qualified persons for possible future employment. Notices of employment opportunities may be placed in newspapers, magazines, announcements, or given to reputable agencies offering those services which it is felt will bring response from qualified persons.

9.04 Special Provisions

- A. The Personnel Officer may authorize the expenditure of funds or reimburse applicants for cost and expenses related to the recruiting and selection process where it is in the best interest of the City to do so.

- B. The Personnel Officer may limit the number of qualified applicants to be examined in the selection process when there is a large pool of qualified applicants. The determination of those qualified applicants to be examined shall be determined by lot, date of application or other means as determined by the Personnel Officer. Those qualified applicants not examined may be retained and processed later.

9.05 Conduct of Examination

The Personnel Officer may contract with any competent agency for the rental of examinations. The Personnel Officer shall see that grading of written examinations are performed in compliance with these policies.

9.06 Notification of Examination Results and Review of Papers

Each candidate taking an examination shall be given written notice of the results thereof. Candidates shall have the right to inspect their own examination answer sheet for the purpose of determining errors in computation only, within five working days after the notices of examination results are mailed. Any error in computation, if called to the attention of the Personnel Officer within this period, shall be corrected. Such corrections shall not, however, invalidate appointments previously made. Candidates shall not be permitted to examine test booklets or compare scores of other candidates.

9.07 Promotional Examinations

- A. Existing qualified regular or part-time employees may be given the opportunity to apply before positions become available to applicants who are not in City service. Promotional examinations may be conducted whenever, in the opinion of the Personnel Officer, if it is in the best interest of the City to have such an examination.
- B. Only regular or part-time employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations. Consideration will be given to education, training, experience, seniority, and time in grade.
- C. Promotional recruitment announcements will be posted for a minimum of five (5) business days in all departments and at a central location in the Personnel Department until the final filing date specified in the announcement.
- D. The announcement will specify a tentative selection process which may include any one or a combination of the following: application appraisal, written test, performance test, physical fitness test, personal interview or any other selection techniques which, in the judgment of the Personnel Officer, are necessary to evaluate the candidate's capacity to perform the job tasks.
- E. The Personnel Officer may extend the filing period for any recruitment based upon consideration such as the quantity and quality of applications received.

9.08 Scoring Examinations and Qualifying Scores

- A. A candidate's score in a given examination shall be the average of his/her scores on each competitive part of the examination, weighed as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing in the entire examination or as disqualified for subsequent parts of an examination.
- B. The Personnel Officer may at his or her discretion include, as a part of the examination, tests, which are qualifying only.

9.09 Eligibility Lists

- A. **Employment/Eligibility Lists** within a reasonable time after successful completion of all phases of the City's recruitment process, the Personnel Officer shall prepare and keep available an Eligibility List. If there are less than three (3) candidates on the list,

the Personnel Officer may cause the list to expire and may commence a new recruitment.

- B. **Duration of Lists:** Employment/Eligibility lists may remain in effect for six months, unless sooner exhausted and may be extended prior to expiration date by action of the Personnel Officer. All open-competitive and promotional lists shall remain in effect for six (6) months unless exhausted or abolished with that period as provided below. The Personnel Officer may extend any such list for additional periods, but in no event shall an employment list remain in effect for more than one (1) year. The effective date of a list shall be that date on which it is approved by the Personnel Officer.

9.10 **Removal of Names From List**

- A. The name of any person appearing on an employment, re-employment or promotional list shall be removed by the Personnel Officer if the eligible person requests in writing that his/her name be removed.
- B. The name of any person appearing on an employment, re-employment or promotion list shall be removed by the Personnel Officer if the person fails to respond within seven calendar days from the date of a notice that he/she has been selected from an eligibility list that was mailed to their last known address, or for any of the reasons specified herein.
- C. The names of persons on promotional employment lists who resign from City service shall automatically be dropped from such lists.

9.11 **Types and Categories of Appointment**

All vacancies in the Classified Service may be filled by transfer, promotion, demotion, re-employment, reinstatement, or from eligibility lists certified by the Personnel Officer, if available and in effect. In the absence of persons eligible for appointment in this manner, provisional appointments may be made in accordance with these Rules.

Employment in the Classified Service is divided into the following categories:

- A. **Regular:** Regular employees are those who have been appointed to an authorized position in the City's Compensation Plan, having successfully completed the probationary period and retained as hereafter provided in Section 11 of these Rules and Regulations.

- B. **Probationary:** Probationary employees are those who, through the regular examining process, have been appointed to an authorized position in the City's Compensation Plan who have not completed the probationary period provided in Section 11 herein.

9.12 **Provisional Appointment**

- A. In the absence of existing names of at least three (3) individuals on appropriate employment lists who are acceptable or willing to accept appointment to a vacant regular position, a provisional appointment of a person meeting the minimum qualifications for the position may be made by the Personnel Officer for a period not to exceed six (6) months.
- B. An employment list shall be established within six (6) months for any regular position filled by provisional appointment. The Personnel Officer may extend these periods for any provisional appointment for not more than thirty (30) days beyond the date that the eligibility list was created.
- C. No special time-in-service credit shall be allowed in meeting any qualification, in the giving of any examination, or the establishment of any open-competitive or promotional lists for service rendered under a provisional appointment.

9.13 **Temporary Appointments**

- A. Temporary positions and appointments exist to fill a temporary need, including but not limited to vacation relief, sick leave relief, temporary projects, extra help to accelerate a program, seasonal work surges, and under special circumstances to temporarily substitute for a provisional appointment.
- B. Temporary appointments may be made from existing appropriate employment lists or from among qualified applicants and shall be no longer than 6 months in duration. "Qualified applicants" for this purpose shall mean individuals who meet the minimum qualifications for the classification as defined in the class specification.
- C. Temporary employees shall not be covered by any provisions of these rules relating to employment, selection, and appointment to the Classified Service, and shall not receive any benefits other than those mandated by law and those benefits explicitly made applicable to temporary employees under these rules.
- D. In no event shall a period of temporary appointment constitute satisfactory completion of any part of a probationary period for any appointment in a regular position in City service.

E. Temporary employees shall not gain a property interest in their jobs.

9.14 Certification of Eligibility

A. If it is not considered in the City's best interest to fill the vacancy by reinstatement, transfer or demotion, or if it is not possible to fill the vacancy by re-employment, certification shall be made from an appropriate eligibility list, provided eligible are available.

B. Nothing in this Rule or Section shall require the Personnel Officer to fill any vacancy in the Classified Service, which may occur. The Personnel Officer has the discretion to recommend to the City that the vacant position be eliminated; and the Personnel Officer may also recommend to the City that, an alternative position or positions be created in place and instead of the vacant position thus eliminated. However, nothing within this Rule or this Section shall require the City to replace any vacant position with any alternative position or positions.

C. Regular appointments are contingent upon results of background investigations, agility, psychological, physical and any other examinations, which may be required.

9.15 Notice to Personnel Officer

Whenever a vacancy in the Classified Service is to be filled, the Department Head shall notify the Personnel Officer in the manner prescribed. If there is no re-employment list available for the class, the appointment can be made by reinstatement, transfer, demotion, and appointment from a promotional employment list, or appointment from an existing eligibility list.

9.16 Appointment

The Personnel Officer shall make appointments from among the top three certified candidates and shall immediately notify his/her designated representative of the person appointed. The person accepting appointment shall appear for processing on or before the date of appointment. If the applicant accepts the appointment and appears for duty on the date and time prescribed by the appointing authority, applicant shall be deemed to be appointed; otherwise, said individual shall be deemed to have declined the appointment.

9.17 Legal Authority to Work

All offers of employment and continued employment are conditioned on furnishing satisfactory evidence of identity and legal authority to work in the United States. Each applicant must attest to his/her legal authority to work and identity in accordance with applicable federal statute by completing and signing the INS Form I-9. All offers for

employment will be contingent on receiving this verification, which must be completed as soon as possible after an offer of employment is made and in no event more than three (3) business days after an individual reports to work.

9.18 Minimum Employment Age

All persons who are selected for regular employment by the City must be at least eighteen (18) years of age. All persons who are selected for temporary and/or seasonal employment by the City must be at least fifteen (15) years of age. Applicants may be asked to provide proof of age at any time. Persons employed under the age of eighteen (18) must provide a valid minor work permit and may not be assigned to “hazardous” duties.

9.19 Employment Medical Examination

Each prospective employee may be required to complete a pre-employment health questionnaire and/or take a pre-employment medical examination after receiving a conditional offer of employment. The medical examination shall be conducted by a physician authorized or approved by the City at its expense.

9.20 Continued Employment

Continued employment with the City of Delano shall be subject to good behavior, satisfactory work performance, necessity for the performance of work, the availability of funds and the requirement that said employment is in the best interest of the City.

9.21 Reappointment – Break In Service

An employee who leaves the City Service and is rehired at a later date is not eligible to receive any benefits that may have previously been afforded. Such reappointments after termination will be considered as new employment.

Section 10. Promotion, Transfer, Reassignment and Demotion

10.01 Promotion

- A. In accordance with the best interests of the City and the employees, vacancies in the Classified Service may be filled by promotion from within the Classified Service, after a promotional examination has been given and a promotional or eligibility list is established. The City will observe all legal requirements relative to compliance with Equal Employment Opportunities of the State and Federal Government.
- B. If, in the opinion of the Personnel Officer a vacancy in the position could be filled more appropriately by an open-competitive examination rather than a promotional examination, then he/she shall arrange for an open-competitive examination and for the preparation and certification of an open-competitive employment list.

10.02 Transfer

- A. No person shall be transferred to a position for which employee does not possess the minimum qualifications. An employee may be transferred by the Personnel Officer, from one position to another position in a comparable class. For transfer purposes, a comparable class in one with the same maximum salary, involves the performance of similar duties, and requires substantially the same basic qualifications.
- B. If the transfer involves a change from one department to another, both Department Heads must consent thereto unless the Personnel Officer orders the transfer for purposes of economy or efficiency. Transfers shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these Rules.

10.03 Reinstatement

With the approval of the Department Head and the Personnel Officer, a regular or probationary employee who has resigned with a good record may be reinstated, at the discretion of the City, within one (1) year of the effective date of resignation, to a vacant position in the same or comparable class. However, employee will not be entitled to any previous privileges such as longevity pay and will, by necessity, be considered a probationary employee.

10.04 Demotion

- A. The Personnel Officer or Department Head may demote an employee:

1. Whose ability to perform his or her required duties falls below acceptable standards;
 2. For disciplinary reasons;
 3. When the need for the position which an employee fills no longer exists;
 4. When an employee requests such demotion.
- B. No employee shall be demoted to a classification for which employee does not possess the minimum qualifications. When the action is initiated by the Department Head for disciplinary reasons, written notice of demotion shall be given to the employee at least five business days before the effective date of the demotion and a regular employee may appeal such action. (See Section 18.07 Right of Appeal.)

Section 11. Probationary Period and Seniority

11.01 Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing an employee's work performance for securing the most effective adjustment of a new employee to his or her position and for rejecting any probationary employee during this period whose performance does not meet acceptable standards of work.

11.02 Performance Evaluation Reports

- A. A performance evaluation report of each regular and part-time employee shall be made as follows:
1. New Hires:
 - a. Completion of three months employment;
 - b. Completion of six months employment;
 - c. Completion of 12 months employment; and
 - d. Every 12 months thereafter.
 2. Regular Employees who have satisfactorily completed their probationary period and part-time employees will be re-evaluated on an annual basis. However, for regular employees who are at the top step of the applicable salary scale and who are therefore not eligible for a merit increase, the City may skip an annual evaluation if, in the determination of the employee's supervisor, the employee's performance during the preceding year meets expectations, and provided that each employee is given a performance evaluation at least every two years.
 3. Special evaluations deviating from these time frames may be authorized by the Personnel Officer.
 4. Employees promoted to other positions will be evaluated as in item "1" above.
- B. The performance evaluation report shall be signed by the employee's Supervisor and Department Head. Each report must be discussed with and signed by the evaluated employee. It shall then be submitted to the Personnel Officer and permanently retained in the Employee's Personnel file.

- C. If an employee is on a leave of absence of thirty days or more, the due date for the employee's annual performance evaluations and effective date of corresponding merit increases shall be adjusted by the number of days the employee was on approved leave of absence.

11.03 **Probationary Period**

- A. All original appointments and promotional appointments shall be subject to a probationary period.
- B. Full-Time Employees
The probationary period for Police Officers and Public Safety Dispatchers is 18 months. The probationary period for Police Commanders, Police Sergeants, Police Corporals, and Dispatch Supervisors is 12 months. The probationary period for all other positions is six months.

The probationary period may be extended due to the employee's approved leave of absence. Any extension shall not exceed the number of days employee was on approved leave of absence.

11.04 **Rejection of Probationer**

- A. During the initial probationary period, an employee may be separated from City service by the Personnel Officer without appeal rights.
- B. Notification of rejection in writing shall be served on the probationary employee and a copy included in employee's personnel file.

11.05 **Rejection Following Promotion**

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which the employee was promoted with no loss in seniority unless charges are filed and he or she is discharged in the manner provided in these Rules for positions in the Classified Service.

11.06 **Seniority**

- A. Seniority shall mean the status attained by length of continuous service with the City, regardless of time in class, time in department or time at a particular location.
- B. A probationary employee shall have no seniority until the employee has completed his/her probationary period. Upon the completion of the probationary period, the employee will acquire seniority from the date of hire.

- C. An employee promoted shall accrue no seniority in the new position until completion of six months in pay status in the new position. Upon completion, the employee's total seniority shall be credited. During this six month period, the employee will continue to hold and accrue seniority in the position from which promoted.
- D. Whenever more than one person is appointed to the same classification on the same day, the seniority of each individual will be equal.

11.07 **Loss of Seniority**

Seniority shall not be broken by vacations, sick time, or any authorized leave of absence or call to military service. All seniority rights shall be lost by an employee under the following circumstances if the employee:

- A. Quits.
- B. Is discharged and fails in appeal.
- C. Does not return to work when being recalled after a layoff.
- D. Is laid off for one year without being recalled. Any disagreement over the application of any method of applying seniority utilized by any department will be subject to the grievance procedure.

Section 12. Position Classification Plan

12.01 Preparation of Plan

The Personnel Officer shall ascertain and record the duties and responsibilities of all positions in the Classified Service and, after consulting with heads of departments affected, shall recommend a Classification Plan for such positions. The Classification Plan shall consist of classes of positions in the Classified Service defined by class specifications, including job title. The Classification Plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

12.02 Adoption, Amendment and Revision of Plan

The Classification Plan shall be adopted and may be amended from time to time by resolution of the City Council. Notice of City Council consideration of the proposed Classification Plan amendments or revisions shall be provided to Recognized Employee Organizations that represent the new or amended position class.

12.03 Assignment of Positions

Following the adoption of the Classification Plan, the Personnel Officer shall assign every position in the Classified Service to one of the classes established by the plan.

12.04 New Positions

Newly established classifications shall be approved by the City Council.

12.05 Reclassification

The duties of any position which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions. Reclassification shall become effective after approval of the City Council.

12.06 Salary Schedule Conformance

No position shall be assigned a salary not in conformance with the salary schedule unless the salary schedule for the class is amended with approval of Council.

12.07 Interpretation of Class Specifications

The class specifications are descriptive and explanatory and not restrictive. They are intended to indicate the kinds of positions that are allocated to the various classes and should not be construed as limiting the assignment of duties and responsibilities to any position or modifying the power of any Department Head to assign, direct and control the work of employees under his/her supervision. The use of a particular expression or an illustration as to duties should not be interpreted to exclude others not mentioned that are of similar kind or quantity, nor shall any specific omission necessarily mean that such factor is not included. The specifications for each class should be considered in its entirety and in relation to other classes in the classification plan. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications desired, and relation to other positions, as affording together a picture of the kind of employment the class is designed to embrace.

12.08 Use of Class Title

Class title shall be the official title of every position allocated to the class for the purpose of personnel actions and shall be used on all payrolls, budget estimates, official records, and reports relating to the position. Any other working title desired and authorized to be used by the Department Head may be used as a designation of any position for purposes of internal administration or in contacts with the public.

Section 13. Compensation and Salary Administration

13.01 Compensation Plan

- A. A Compensation Plan shall be established to provide salary schedules, rates, ranges, and steps for salary review. Each class in the City Classification Plan shall be assigned a salary range and rates established in the Plan. All regular employees of the City shall be compensated in accordance with the Compensation Plan currently in effect.
- B. The Personnel Officer shall prepare a Compensation Plan covering all classes of positions in the Classified Service. In arriving at salary rates or ranges, consideration shall be given to prevailing rates of pay and consideration of working conditions for comparable work in other public and in private employment to current costs of living, to suggestions of department heads, to the City's financial condition and policies, and to other relevant factors. The Personnel Officer shall thereafter make such further studies of the Compensation Plan as may be requested by the City Council.

13.02 Administration and Review of Compensation Plan

- A. The City Council shall administer the Compensation Plan for the City Attorney and City Manager. The Personnel Officer shall administer the Compensation Plan for all other employees, which shall be ratified by the City Council.
- B. From time to time, the Personnel Officer may recommend to the City Council an appropriate salary range for each class. In case the salary range for a class is changed by the City Council, all employees whose positions are allocated to this class shall be adjusted to the corresponding step in the new range (e.g., Range 10, Step "C" Old Range, To Range 22, Step "C" New Range).

13.03 Application of Salary Ranges and Rates

- A. **Appointment:** Initial appointments designated in the City Job Classification Plan shall normally be at the first step of the appropriate salary range. The Personnel Officer may make an appointment to a position at an appropriate higher salary step when, in his or her opinion, it is difficult to acquire qualified personnel at the starting salary, or when it appears that the education or experience of a proposed employee is substantially superior to that required of the class, and justifies a beginning salary in excess of the first step.
- B. **Promotion:** Any employee receiving a promotion shall start on the first step of the salary range of the class to which he/she is promoted, and be eligible for merit increases

as elsewhere provided, unless his/her present salary level is equal to or exceeds the first step of the class to which he/she is promoted. In that event, the employee shall be assigned to the step in the salary range to which he or she is promoted, which is the equivalent of at least a five percent (5%) increase in salary. When the promotion includes the assigned responsibility of supervision over other employees, the salary level shall be increased by assigning the promoted employee to a higher step within the salary range to allow annual salary to be above the salary of those supervised.

- C. **Transfer:** A transfer may or may not affect an employee's salary level, depending on the classification. The City reserves the right to transfer an employee from one division or department to another. (See Section 10.02)

13.04 Advancement within Salary Range

An employee shall be considered for salary advancement in accordance with the time intervals established in the Compensation Plan and the following provisions:

- A. **Merit/Step Increases:** Advancement in a salary range shall be granted for continued improvement and efficient and effective service by the employee in the performance of his/her duties. Such merit advancements shall be made only upon recommendation of the Departments Head concerned, and with the approval of the Personnel Officer. Step advancements are merit increases and are not automatic. An employee must perform the duties of the position in a manner satisfactory to the Department Head to receive a step advancement.
- B. **Steps:** A new employee hired in the "A" Step, whose job performance is satisfactory, may be granted a salary increase after six months (13 pay periods) of continuous employment; thereafter, proposed merit increases may be afforded on an annual basis (26 pay periods).
- C. Any employee hired above "A" Step will receive a salary review one year from date of hire.
- D. Nothing herein prohibits the granting of a merit salary advancement prior to the normal time intervals established in the Compensation Plan.
- E. Salary adjustments shall become effective on the first day of the pay period coinciding with or following the employee's step advancement, promotion, demotion, reclassification, transfer, basic salary rate change, longevity pay eligibility, bilingual pay eligibility, education incentive pay eligibility, etc.

- F. All time intervals for step increases described in this section are subject to extension where the employee's evaluation date is adjusted pursuant to Section 11.02.C of these Rules

13.05 **Criteria for Step Increase**

No salary advancement shall be made so as to exceed any maximum rate established in the pay plan for the class to which the advanced employee's position is assigned. Advancements shall not be automatic but shall depend upon increased service value of an employee to the City as exemplified by recommendation of his/her supervising official, length of service, performance, record, special training undertaken, or other pertinent evidence.

13.06 **Request for Step Increase**

Before an employee becomes eligible for a step increase, the Department Head shall provide advanced notice of the employee's eligibility for such increase via a Performance Evaluation form. If the Department Head notifies the Personnel Officer in writing of the employee's satisfactory service and recommends the advancement, a step increase may be granted by the Personnel Officer.

13.07 **Assignment for Promotion, Reclassification and Demotion**

- A. Any regular employee who is promoted from one class to a class in a higher salary range in a similar type of work shall be entitled to the step in the new range which will result in a salary increase of not less than 5% above the employee's salary in the lower range. In no instance shall the increase be greater than the highest step in the new range.
- B. As a result of reclassification which is not to be construed as a promotion, no classified employee shall suffer a salary reduction, but employee's salary may be held at the current amount at time of reclassification until the salary range of the new classification is equal to or exceeds the employee's salary. This shall be referred to as "Y-rate". An employee may be placed in a lower or higher salary step at time of reclassification with the approval of the Personnel Officer.
- C. In the event of demotion, the Personnel Officer shall determine the step within the applicable salary range to which the employee shall be assigned.
- D. Special merit/step increases may be granted to regular employees with approval of the Personnel Officer in cases where the continued performance of an employee is

consistently outstanding or superior. Such step increases shall not exceed the maximum range established in the Compensation Plan for the classification.

13.08 **Computation of Salary**

Salary rates for all authorized classified positions are forth in the Compensation Plan. Hourly rates are based on 2080 hours per year (52 weeks/year).

13.09 **Compensation during Attendance at Training Courses during Vacation, Holidays, and Days Off**

City employees should feel free to attend training courses available during their vacation, holidays or days off if they are authorized. However, compensation for attendance at training courses held during days off, weekends, vacations, or holidays will be authorized only where employees have been directed by their Department Heads to attend such, on the following basis:

- A. **Days Off:** Employee directed to attend training courses held on their day (s) off will have their work schedule adjusted to reflect day(s) off in compensation.
- B. **Holidays:** Employees directed to attend training courses on a holiday will be compensated.
- C. **Vacations:** Employees directed to attend training courses held on their vacation days will be permitted to reschedule their vacation days spent in such training courses in lieu of compensation.

Section 14. General Working Conditions

14.01 Rest Periods/Breaks

Regular employees are entitled to take a paid 15-minute rest period in each 4-hour period they are scheduled to work.

14.02 Meal Periods

Unless an applicable MOU provision applies, a regular employee who is scheduled to work at least eight (8) hours in a shift may be entitled to take an uninterrupted, unpaid meal period of a minimum of thirty (30) minutes and a maximum of sixty (60) minutes at or about the mid-point of his or her shift at the discretion of the Personnel Officer and/or his or her delegee.

14.03 Overtime and Compensatory Time

- A. Overtime shall be worked only at the request of the Department Head. Regular employees required to work in excess of forty hours in a work week shall be compensated in cash or compensatory time off at rate of time and one-half of the base rate of pay at the option of the Department Head.
- B. Any overtime worked in a pay period should be reflected on the time sheet when the employee acknowledges or signs his or her time sheet. In the unusual circumstance that overtime cannot be recorded when an employee acknowledges or signs his or her time sheet for the period covering the hours worked, it must be reported and recorded as soon as practicable, and not later than the pay period following the period in which the hours are worked.
- C. Unless an applicable MOU provision applies, in computing overtime earned, all paid leave shall be counted as time worked.
- D. No overtime pay shall be granted to any employee for extra hours of work required by a civil disaster unless the City Council appropriates or receives moneys for such payment. In the event that funds are not made available, then compensatory time shall be earned.
- E. If a state of emergency has been declared pursuant to Municipal Code section 2.44.060 and the City has secured Federal or State reimbursement for the additional expense, the Personnel Officer may approve additional compensation for employees otherwise exempt from overtime regulations to compensate them for an increased

workload resulting from the emergency. In such case, exempt employees shall be eligible for additional pay at their regular base hourly rate for each hour worked beyond their regularly assigned work schedule.

14.04 **Compensatory Time Accumulation and Use**

Regular employees may accumulate up to 60 hours of compensatory time off. If compensatory time is not allowed, employee shall be paid for such overtime in cash at rate of one and one-half times the base rate of pay.

The use of compensatory time shall be scheduled through mutual agreement between the regular employee and his/her Department Head. Employees retain the right to cash payment for any compensatory time on the books, subject to budgetary restraints.

14.05 **Tuition Reimbursement**

- A. Regular employees may be eligible to receive tuition reimbursement for educational purposes, which tend to improve their ability to accomplish their City job duties, subject to approval of the Personnel Officer.
- B. Reimbursement will be for books only. Employee must maintain at least a "C" in every class. Employee will be reimbursed after proper proof of completion of class is submitted by producing a transcript.
- C. In order to be eligible for tuition reimbursement under this provision, employees must submit a transcript showing successful completion of the class within one year of the completion of the class.

14.06 **Compensation for use of Private Automobile for City Business**

- A. **General Policy:** It is the policy of the City to ensure that all employees requiring transportation for the satisfactory completion of their assigned duties will either (1) have a City vehicle available for their use as required by the nature of their work or (2) be reimbursed for the use of their own private vehicle when such use is authorized.
- B. **Authorization for Use of Privately-Owned Vehicles:** Use of privately owned vehicles in connection with official City business during normal work hours may be authorized prior to such use by the Personnel Officer or his/her designee.
- C. **Mileage Allowance:** The City will attempt to make a City vehicle available for official use, to employees when so required. If there are no City vehicles available and the employee must use a personal vehicle the employee will be reimbursed for use of the private vehicle at the IRS authorized mileage reimbursement rate in effect at the time.

- D. **Administrative Regulations:** Administrative regulations covering conditions for use, financial responsibility, procedures for requesting travel authorization and reimbursement procedures shall be established by the Personnel Officer.

14.07 **Pay Periods**

- A. The Pay periods for all employees shall be on a biweekly basis, every other Friday. When a regular payday coincides with a holiday, paychecks will be issued on the workday immediately preceding such holiday. Salaries will be paid on regular payday only, unless early payment is approved by the Personnel Officer.
- B. Employees will receive their final paycheck on the regular payday for the pay period in which they separate from City service. The final paycheck will include payment for all earned salary due and not previously paid, and accrued but unused leave balances, which are subject to pay-off.
- C. The method of distributing payroll checks shall be established by the Personnel Officer.

14.08 **Deductions from Pay**

Deductions from employee's pay shall be made in accordance with prevailing laws, contract and administrative rules and procedures established by Personnel Officer.

14.09 **On-The-Job Injuries**

- A. **Report of Injury** any employee who sustains any injury on the job shall report to his/her supervisor or Department Head as soon as possible, but in any case before completing that shift in which the injury occurred. The injury report must be written and it must be made within the specified time or said employee may be subject to disciplinary action up to and including dismissal.
- B. **Treatment at Authorized Facilities** any employee who sustains any injury on the job shall report for medical treatment only at those medical facilities approved by the City for treatment of City employees, or at a medical facility pre-designated by the employee as the employee's preferred medical provider. If the employee suffers the injury at a location outside the City, which makes this impractical, he/she may seek emergency medical attention at the nearest emergency medical facility in the vicinity where the injury occurred.

14.10 Physical Examination

The Personnel Officer shall have the authority to request any and all employees to submit to physical and/or psychological fitness-for-duty examinations from time to time as reasonably required to insure that the City employees maintain the necessary health to perform their assigned work tasks in a full, complete and safe manner. Such examinations shall be done at the City's expense by such physicians or medical care providers as the City may select.

14.11 Modified Duty/Return to Work Program

A. **Program Objectives** the City acknowledges the high cost of workers' compensation insurance, and strives to reduce this cost by all reasonable means. An essential feature of a cost containment effort includes the availability of a modified duty/return to work program which enable injured employees to return to work as soon as medically authorized. Therefore, the City shall establish a modified duty/return to work program in furtherance of the following objectives:

1. To return all injured employees to work as soon as medically authorized without the danger or re-injury.
2. To make the maximum use of our human resources.
3. To provide an opportunity of productive work for an injured employee while accomplishing job duties for the City which generally require the employment of periodic extra help.
4. To reduce the number of lost workdays and unnecessary temporary total disability payments.
5. To reduce the frequency and expense of litigated claims.
6. To facilitate communication with injured employees and to dispel any perception of unconcern on behalf the City.
7. To reduce the total time off work in an unproductive status which contributes to general depression.
8. To reinstate self-confidence and dignity through an early return to work and to allow the employee to progress to a full duty status.

9.To assist injured employees in the preservation of their overall financial security and accrued leave benefits.

B. **Policy Statement** modified duty/return to work assignments are designated for employees who were injured in the course of City employment and who can return to work within the physical restrictions set forth by the attending physician. Modified duty shall not be made available to employees for non-work related injuries. Modified duty/return to work assignments are temporary in nature to assist injured or ill employees to progressively escalate to full-duty status. These assignments are established for a period not to exceed two (2) months: Assignments established for modified duty/return to work participants are not permanent in nature. The City has the responsibility to reasonably accommodate an injured employee within their current work assignment, under the requirement of the ADA.

C. **Program Guidelines**

1. Injured employees will be medically treated as deemed appropriate. The City's designated medical provider will be aware of this policy so as to assist in placing the injured employee in an appropriate assignment.
 - a. Upon return from the medical provider, the employee and Department Head will meet to discuss the work restrictions as determined by the attending physician. If the work restrictions require modified/light duty work, then such assignment will be evaluated and made available in the work place if possible.
 - b. If any question should arise concerning the injured employee's ability to perform a specific modified/light duty assignment, the attending physician who authorized the modified/light duty work shall be contacted for clarification.
 - c. If no modified duty/return to work assignment is available within the injured employee's regular department; the injured employee may be placed in a modified duty/return to work assignment within a different site or department. If no modified duty/return to work assignment is available within the injured employee's regular department or at a different site or department, the injured employee will be placed on temporary disability leave until such time as appropriate work, within the work restrictions, is available, or the restrictions are lifted pursuant to direction from the attending physician.

2. Written notification outlining the modified duty/return to work assignment shall be provided to the injured employee. If the injured employee refuses the modified duty/return to work assignment, no temporary disability benefits will be paid to the employee.
 3. Where it appears the injured employee will not return to their regular job within a reasonable period of time (two months), the Personnel Officer shall notify the workers compensation plan administrator so that an appointment be made with a specialist for consultation and/or treatment. The purpose of this appointment will be to make a determination on the issue of returning to regular work duties.
- D. **Establishing Assignments** Modified duty/return to work assignment will be established on a case-by-case basis tailored to the specific limitations of an injured employee. Modified duty/return to work assignment shall be established with the approval of the Department Head and the Personnel Officer. Assignments may be made based on the following:
1. The assignment is not designed to be demeaning and/or punitive in any manner whatsoever.
 2. The assignment should benefit the employee by giving them an opportunity to return to work and benefit the City by providing supplemental tasks, enhancing services, or having tasks accomplished which may not otherwise been completed without additional expense.
 3. Modified duty/return to work assignments will be based upon the volume of modified duty type assignments available. Any modified duty/return to work assignment shall be made based upon the business necessity or business requirements of the City.
 4. While assigned to a modified duty/return to work assignment, the injured employee will earn the normal and customary wage of his/her regular job assignment.

14.12 **Personnel Files and References**

- A. An employment history of each City employee will be maintained by the City. The information in the personnel file is permanent property of the City and shall be maintained in a confidential manner. The personnel file shall contain, but is not limited to, information pertinent to dates of employment, positions held, salary

history, payroll, benefits, sick leave, annual leave, performance evaluations, leave of absence requests, training data, compensation and other information as may be deemed appropriate and/or required by law.

- B. The official repository of personnel file and record for each employee shall be maintained by the Personnel Department. Department files may be established for the purpose of having readily available pertinent employee records.
- C. The personnel file of an employee will be open for inspection by the employee or his/her authorized representative at his/her request during business hours by appointment. The employee or his/her authorized representative, as designated in writing on a case-by-case basis, shall have access to review his/her personnel file in the presence of the Personnel Officer or designee. The employee will have access to all contents of the file except those materials which are a part of the employment/selection process (including letter of reference) and any records relating to investigations of possible criminal offenses. A copy of the material in the personnel file to which the employee has access will be provided to the employee upon request. Employee must initial the personnel file log and indicate the date he/she reviews the file.
- D. An employee shall be entitled to read any statement written by the Supervisor or Department Head, regarding employee's work performance or conduct, if such statement is to be filed. The employee shall acknowledge reading such material by affixing employee's signature or initials and date on the document, with the understanding that such signature or initials merely signifies that the employee has read the material to be filed and may not necessarily indicate agreement with its content. If the employee refuses to initial, the Personnel Officer, or designee, will sign, noting the refusal of the employee to affix his/her signature or initials.
- E. Each employee has the responsibility to keep personal data up-to-date and must notify Personnel within five (5) days in the event of any change of name, address, telephone number, person(s) to be notified in case of an emergency, and any change of beneficiary or dependent(s).
- F. Requests for verification of employment or employment-related inquiries should be directed to the Personnel Department. The City will only verify factual information such as length of employment and current employment status. Any requests for additional information contained in the personnel files shall be based upon written employee consent and must be approved by the Personnel Officer, or designee.

- G. An employee shall have thirty (30) days within which to file a written response to any adverse comment entered in the employee's personnel file. Such written response shall be attached to and shall accompany the adverse comment.

14.13 **Reports of Change of Status**

All actions involving employment and change in status of employment shall be reported by the Department Head to the Personnel Officer in writing. Copies of such reports shall be furnished to the employee involved. All recommendations of transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of employees shall be submitted in writing to the Personnel Officer by the respective Department Head.

14.14 **Job Abandonment**

An employee is deemed to have resigned from his/her position if he or she is absent for three consecutive scheduled work days/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at his or her address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the agency's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Personnel Officer before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee separated for job abandonment has the right to a post-separation appeal.

14.15 **Resignation and Exit Interview**

- A. **Resignation** an employee wishing to leave City employment in good standing shall file with the Department Head a written resignation stating the effective date and reasons for leaving the service at least ten (10) working days prior to the effective date of said resignation. A final performance evaluation as to the resigned employee's service performance and other pertinent information shall be forwarded to the Personnel Department by the Department Head. Failure of the employee to give notice as required by this section may be cause for denying future employment by City. The Department Head or the Personnel Officer may authorize a resignation in good standing when, in their opinion, there are sufficient reasons to waive the requirements of this section.

- B. **Exit Interview** the Personnel Officer or his/her designee may conduct an exit interview for employees who resign to verify reasons for resignation. Department Heads are requested to assist terminating personnel to keep exit interview appointments. Copies of the information obtained during the exit interview shall be furnished to the Department Head as appropriate.

Section 15. Leave of Absence Provisions

15.01 Annual Vacation Leave

A. Eligible employees shall be entitled to annual vacation leave with pay except those serving their original probationary period in City service. Vacation credits for the probationary time shall be granted to each employee who later receives a regular appointment. All eligible employees working a forty hour work week shall earn vacation credits based on the following schedule:

Years of Service	Vacation Schedule Annual	Vacation Accrual Biweekly
1 – 5 years	12 days- 96 hours	3.69 hours
6 years	13 days- 104 hours	4.00 hours
7 years	14 days- 112 hours	4.31 hours
8 years	15 days- 120 hours	4.62 hours
9 years	16 days- 128 hours	4.92 hours
10 years	17 days- 136 hours	5.23 hours
11 years	18 days- 144 hours	5.54 hours
12 years	19 days- 152 hours	5.85 hours
13 years	20 days- 160 hours	6.15 hours
14 years	21 days- 168 hours	6.46 hours
15 years	22 days- 176 hours	6.77 hours
Over 15 years	22 days- 176 hours	6.77 hours

B. The times during a calendar year at which an employee may take vacation shall be determined by the Department Head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that an employee cannot take part or all of earned annual vacation in a particular calendar year, such vacation either shall be taken prior to March 31st of the following calendar year, or paid for at the discretion of the appointing power. Payment in-lieu of vacation must be approved by the Personnel Officer.

C. Vacation accrues to an eligible employee only in those pay periods when he/she is in pay status. An employee in a pay status on a full-time basis shall accrue full vacation during the pay period. Full-time employees in a pay status less than 40 hours per week shall accrue vacation proportional to the hours on pay status during the pay period.

D. An employee who is a new hire, re-employed or reinstated shall receive vacation credit effective with the closest pay period in which he/she is hired, re-employed or reinstated if the start date is after the first working day of the pay period.

15.02 Use of Vacation

- A. The purpose of annual vacation leave is to enable each eligible employee to return to work mentally refreshed. For this reason it is the intention of the City that vacation be taken, insofar as possible, in periods of one week or more.
- B. Employee shall complete six months of continuous service before becoming eligible to use accrued vacation leave.
- C. Requests for vacation leave usage of more than two (2) weeks must be requested at least two (2) weeks prior to the desired vacation period.
- D. Vacation or compensation time may be used when taking time off for illness of family members who do not qualify under the sick leave policy.
- E. Employee shall not work for the City during his or her vacation (double compensation).

15.03 Holidays Falling during Vacation

In the event a City holiday falls within an employee's vacation period which would have excused the employee from work and for which no other compensation is made, said holiday shall not be charged as a vacation day.

15.04 Vacation Accrual

Vacation credits shall be granted as set forth in Section 15.01, of this Manual.

- A. **Limits of Annual Accruals:** Non-management employees may not accrue more than twenty-four work days (192 hours) of vacation per calendar year. Management employees may not accrue more than forty-eight workdays (384 hours) of vacation per calendar year. The maximum accrual of vacation shall include any vacation time; which has been deferred from the previous calendar year.
- B. Loss of accrued vacation shall not occur if vacation has been delayed by written request of the City.
- C. Temporary employees are not eligible for vacation leave.

15.05 Vacation at Termination

- A. Employees who terminate employment shall be paid in a lump sum for all accrued vacation and compensatory time earned at employee's current rate of pay.

- B. Vacation leave will not be granted immediately prior to termination of employment for the purpose of extending service to encompass paid holidays or for additional vacation leave accrual.
- C. In the event of death of an employee during employment with the City, all earned unpaid vacation will be paid to employee's designated beneficiary.

15.06 Sick Leave

California's Healthy Workplaces, Healthy Families Act of 2014 ("Paid Sick Leave Law") requires the City to provide paid sick leave accruals to all employees, including part-time, seasonal and temporary employees, subject to the terms and conditions of the law.

- A. Sick leave shall be available only for medical, dental, personal or family illness, death in family (death in family only available to full time employees; part time, seasonal, and temporary employees not eligible) or physical incapacity preventing performance of duties caused by factors over which the employee has no reasonable immediate control or for any purpose allowed by the California Healthy Workplaces, Healthy Families Act as outlined below:
 - 1. The diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee or a family member; or
 - 2. For an employee who is a victim of domestic violence, sexual assault, or stalking and needs time off for any of the following:
 - a. To obtain or attempt to obtain any relief to help endure the health, safety, or welfare of the employee or the employee's child, such as a temporary restraining order, restraining order, or other injunctive relief;
 - b. To seek medical attention, obtain services from a shelter, program, or rape crisis center;
 - c. To obtain psychological counseling;
 - d. To participate in safety planning; or
 - e. To take other actions to increase safety from future incidents.

B. Accrual

- 1. Regular Full Time Employees:

All eligible full time employees working a forty-hour workweek shall accrue paid sick leave based on the following schedule:

Per Year	Per Month	Per Pay Period
12 days	1 day	3.69 hours

All eligible full time employees working less than forty hours in a workweek shall accrue paid sick leave proportional to the hours on pay status during the pay period.

2. Temporary, Seasonal and Part Time employees:

All temporary, seasonal and part time employees shall accrue paid sick leave at the rate of one (1) hour for every thirty (30) hours of work, subject to the maximum balance limitations contained in this policy. A temporary, seasonal, or part time employee qualifies for paid sick leave by working for at least 90 days before any paid sick leave can be used. Qualifying employees begin to accrue paid sick leave beginning on July 1, 2015 or if hired after that date, as of the first day of employment.

C. Sick leave accrues to an eligible employee only in those pay periods when he/ she is in pay status.

D. Maximum Accrual

1. Full Time Employees:

Full time employee only may accumulate up to a maximum of one hundred and fifty workdays or 1,200 hours. Employees will continue to accrue sick leave until the conversion period contained in this policy.

2. Temporary, Seasonal, and Part Time Employees:

May accumulate up to a maximum of forty-eight (48) hours or six (6) days (whichever is greater of the two amounts). If an employee reaches this cap, no further paid sick leave hours will be accrued until the employee falls below the cap.

E An employee who is a new hire, re-employed or reinstated shall be eligible to accrue sick leave credit effective with their date of hired, re-employed or reinstated.

- F. Sick leave shall not be construed to be a privilege, which an employee may use at his discretion, but shall strictly be allowed for specific reasons indicated in this policy only. Sick leave is not to be used for extending vacations or any other reason not outlined in section “A” above.
- G. In order to receive compensation while absent on sick leave, the employee shall provide notice as described in this section. If the need for sick leave is foreseeable, the employee shall provide reasonable advance notification to his/her immediate supervisor prior to the time set for the beginning of his/her daily duties. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable. In any event, the employee shall provide notice not later than one half hour after the time set for beginning employee’s daily duties unless given the circumstances of the leave it is not possible to do so.
- H. An employee who takes a sick leave of absence for four (4) consecutive work days or longer must provide a physician’s certification that excuses the employee for all days taken upon their return to work, if not sooner. Upon return from sick leave, employee must submit a leave request indicating dates sick time was taken.

In addition, the City may require that an employee provide a physician’s certification to support any request for sick leave if the City suspects that there is an abuse of sick leave by the employee, regardless of whether the request involves the illness of the employee or that of a family member.

All employees who use sick leave to address issues related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave as defined in Section 230 of the California Labor Code within a reasonable time thereafter.

- I. No payoff of accrued sick leave shall be granted to terminated employees, unless provided for in applicable provisions of a Memorandum of Understanding.
- J. A former employee that is rehired or re-instated within one year from the date of separation shall have any previously accrued and unused sick leave reinstated up to 48 hours. If the rehired or re-instated employee had not previously completed ninety (90) days of employment, the employee shall be required to reach the ninety (90) days of employment before using any reinstated accrued and unused sick leave hours with the following limitations:

1. Any payoff of accrued sick leave received at the time of separation shall not be reinstated as it no longer exists.

K. Length of employment shall be measured using the employee’s hire date.

L. Well Day (Sick Leave) Conversion

1. Each year during the month of January only, an employee may ask in writing for the conversion of sick leave to vacation leave according to the following schedule. It is the employee’s responsibility to make this request.
2. For Full Time employees only the City will automatically convert sick leave in excess of 1,200 hours to vacation leave in January of every year. In cases where employees are leaving the employment of the City, the conversion will be made at the time of separation.

If you have an accumulated sick leave balance of at least:	And in the last year you have earned at least this many days after deducting all sick leave taken during the year:	Then you are eligible to convert all of the year’s earned days over the amount in the column to the left, which could be up to:
20 days (160 hrs.)	11 days (88 hrs.)	1 day (8 hrs.)
40 days (320 hrs.)	10 days (80 hrs.)	2 days (16 hrs.)
60 days (480 hrs.)	9 days (72 hrs.)	3 days (24 hrs.)

M. State Disability Program (S.D.I)

1. Accrued sick leave, vacation and compensatory time will be automatically integrated with the State Disability Program (SDI) whenever an employee has forty (40) hours or more of accrued time. The amount of accrual to be integrated will be the minimum necessary for employees to maintain their income level during the disability period.
2. Checks received from S.D.I. must be forwarded to City of Delano, Finance Department. City will then issue a City of Delano check to employee.
3. An employee may refuse S.D.I. integration but it must be specifically requested in writing at the time of or prior to, the disability, and such refusal will continue through the entire period of disability.
4. Employees classified as Temporary, Seasonal, Part time, or Police Officers are not covered under the S.D.I. Program.

15.07 Sick Leave Eligibility

- A. Regular and probationary employees shall be eligible to accrue sick leave as of their date of hire but may not use any accrued leave until after ninety (90) days of employment.

15.08 Use of Sick Leave

- A. **Employee Illness:** Sick leave may be used as needed and approved to the point of depletion, at which time the employee will no longer receive pay for sick leave. Sick leave cannot be used retroactively during a period of time previously used for vacation or other non-medical related leave of absence. The only exception is as follows: An illness or injury occurred while on vacation leave may be covered by sick leave when such illness or injury causes the employee to be hospitalized, beginning on the date of the hospitalization through the discharge of hospitalization.
- B. **Family Illness:** Sick leave may be taken for Family Illness such as spouse, registered domestic partner; son, daughter, adopted child, step-child, foster child; parent, adoptive parent, foster parent, stepparent, or legal guardian to employee or employee's spouse or registered domestic partner; grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, or close relative if residing in employee's household. If not residing in employee's household, then other type of leave must be used such as vacation or earned compensatory time off, unless otherwise approved by the Personnel Officer.
- C. **Temporary, Seasonal, and Part Time Employees only:** May use only up to twenty four (24) hours or three (3) days (whichever is greater) of paid sick leave within a twelve (12) month period. The twelve month period shall be counted on a fiscal year basis effective July 1, 2015.
- D. An employee may not use paid sick leave hours before they are accrued.

15.09 Deductions of Sick Leave

Unless otherwise provided, sick leave will be deducted as follows:

- A. **All employees:** All City employees shall be charged sick leave at the rate of their normally scheduled shift for each full day absent. Unless exceptions are approved by the Personnel Officer, absence less than a full day will be charged sick leave at the rate of one hour sick leave for each hour absent.
- B. **When Illness Occurs on a Holiday:** Any employee scheduled to work on a holiday who reports off sick will be charged sick leave at the appropriate rate and the holiday

will be accrued. Employee must notify the Supervisor or Department Head within forty-eight hours upon returning to duty.

15.10 **Depletion of Sick Leave**

Upon depletion of accumulated sick leave for injury or illness, leave of absence without pay may be authorized by the Personnel Officer in accordance with the provisions of Section 15.15 Authorized Leave of Absence Without Pay.

15.11 **Bereavement (Compassionate) Leave**

A. Sick leave can also be used for bereavement leave up to three work days for regular full time employees only. Bereavement leave may be granted to a regular full time employee by the respective Department Head in the event of a death in the employee's immediate family. For the purpose of this section only, the employee's immediate family shall mean the spouse, registered domestic partner; son, daughter, adopted child, step-child, foster child, parent, adoptive parent, foster parent, stepparent, or legal guardian to employee or employee's spouse or registered domestic partner, grandparent, grandchild, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, or a close relative if residing in the household of the employee.

B. Request for bereavement leave in excess of three days for this purpose shall be subject to approval of the Personnel Officer, and will be charged to accumulated sick leave.

C. Leave for family members other than immediate family and others shall be taken as vacation or compensatory time off unless otherwise approved by Personnel Officer.

15.12 **Catastrophic Leave**

A. **Policy and Guidelines**

1. Catastrophic leave benefits have been established for all regular City employees who have exhausted all accumulated leave rights. Catastrophic leave is an attempt to provide a portion or all of an employee's pay during the time the employee would otherwise be on medical leave of absence without pay. Although employees on catastrophic leave will receive catastrophic pay, for all other purposes, such employees will be considered on leave of absence without pay, and they shall not accrue any vacation, sick or holiday leave rights.

2. The catastrophic illness/vacation compensation time transfer banks are completely voluntary.

3. Catastrophic leave and leave of absence without pay including leaves of absence under the Family Medical Leave Act shall run concurrently. An eligible employee may be paid during the ninety (90) day period he/she is on catastrophic leave for all or a portion of his/her time off work depending on the amount of catastrophic leave donated to the employee.
4. Catastrophic leave may be approved when: An eligible employee suffers a severe illness, injury or emergency which is expected to incapacitate the employee for an extended period of time and which creates a financial hardship because the employee has exhausted all of his/her accumulated leave or when an immediate family member (i.e., spouse, son, daughter, step-son, step-daughter, foster son, foster daughter, parents, grandparents, brother or sister of the employee) results in the employee being required to take time-off from work for an extended period of time to care for the family member, which creates a financial hardship because the employee has exhausted all of his/her accumulated leave.
5. This policy allows employees to donate compensatory time or vacation to another employee when the donating employee's combined vacation and/or compensatory time would not be reduced to less than forty (40) hours and the recipient employee has met all of the requirements of the policy. Employees may not donate sick leave or administrative leave. Information about donors will be kept strictly confidential.

B. Establishing a Catastrophic Leave Bank

1. Regular employees (or their designees) requesting establishment of a catastrophic leave bank must submit a written request to the Personnel Department. The request must provide sufficient information to enable a determination to be made whether the employee qualifies for catastrophic leave. This information will be maintained confidentially.
2. Catastrophic leave requests for injury/illness must include medical verification from a physician, which describes the employee's, or the family member's catastrophic illness or injury. If the request is for a family member, it should also specify that the employee's attendance of the ill or injured family member is required. Leave requests must include the estimated date of return to work.

C. Donation Procedure

1. It is the responsibility of the employee or his/her designee to canvass other employees for the donation of leave credits. However, it must be recognized that

donations are voluntary; coercion or harassment of fellow employees to donate will not be tolerated.

2. Employees may donate vacation or compensatory time to another employee by use of the Catastrophic Leave Donation Form available from the Personnel Department. The completed authorization forms must be returned to the Personnel Department.
3. The Personnel Department will verify that the donating employee has enough specified leave credits available to make the donation. If there are not enough leave credits available, the authorization form will be returned to the donating employee with an explanation.
4. Donations must be a minimum of four (4) hours. The donated vacation or compensatory time hours will be converted to an equivalent dollar amount. That dollar amount will then be converted to hours, using the recipient's hourly wage, resulting in hours applied to recipient's catastrophic pay.
5. On the off-payroll Thursday, the Personnel Department will turn a form into Payroll indicating donated hours given and recipient hours received for the next bi-weekly pay period. This will then be used to reduce the donor's vacation or compensatory time balances. A copy will then be given to the recipient's Department in order to prepare the time report for the following Monday.
6. Once Payroll has been given the bi-weekly pay period hours, the donation is deducted from the donor. If the recipient returns to work before the bi-weekly donations are exhausted, the donations are eliminated from the catastrophic leave bank. They are not returned to the donor or the recipient. Once a donation has been made it is irrevocable.
7. Medical insurance coverage will continue as if the recipient employee was on sick leave; however, the recipient employee will not accrue sick leave or vacation benefits while using catastrophic leave.
8. The donated time will be charged to the recipient's subprogram.
9. Catastrophic pay will be coordinated with SDI should the recipient be receiving SDI. The recipient will be required to follow the City's SDI policy.

10. If the recipient employee should become eligible to receive long-term disability payments, he/she will no longer be eligible to receive donations under this policy.
11. Federal and state income taxes will be deducted from the leave recipient's pay at the time of usage and at the recipient's normal payroll deductions.

D. Termination of Catastrophic Leave Participation in the Catastrophic Leave program shall be terminated when one or more of the following occurs:

1. The employee has exhausted ninety (90) calendar days of "Leave of Absence Without Pay". (Any leave of absence for a period of time longer than ninety (90) calendar days must be approved by the City Manager and during such time, the employee may only participate in the Catastrophic Leave Program if approved by the City Manager.)
2. Donated leave credits have been exhausted.
3. Death of the ill or injured employee or family member.
4. The employee returns to regular employment.

15.13 Workers' Compensation – Public Safety Officers

- A. A Public Safety Officer who is absent from work by reason of an injury or illness covered by Worker's Compensation shall be allowed up to one year leave of absence, as required by employee's condition, with the City supplying the difference between the amount granted pursuant to such Worker's Compensation and the employee's regular rate of pay only. For purposes of this provision, a "Public Safety Officer" means an employee whose employment falls within the scope of Labor Code section 4850.
- B. A Public Safety Officer who is absent from work by reason of an injury or illness covered by Workers' Compensation will continue to accrue sick leave and vacation benefits. The timeframe for the officer's performance evaluation and pay increases is subject to adjustment pursuant to Section 11.02.C of these Rules. A Public Safety Officer Employee shall not receive credit for holidays or paid days in-lieu of holidays.
- C. Whenever such disability of a Public Safety Officer continues for a period beyond one year, the paid leave of absence may continue until the depletion of employee's accrued sick leave, vacation, and/or compensatory time at employee's regular rate of pay. If the Public Safety Officer depletes all accrued leaves, further leave will be unpaid and the Public Safety Officer will no longer accrue additional vacation and sick leave.

- D. A Public Safety Officer shall not be paid any disability indemnity under Workers' Compensation concurrently with wages or salary payments made by the City amounting to more than employee's regular rate of base pay at any time during such leave of absence.
- E. Any employee bringing action against a third party to recover for injuries or disabilities for which the City has made payments of salary or compensation, shall forthwith give the City written notice of such action and, therefore, the City shall be entitled to reimbursement out of any recovery made by employee in such action for amounts paid for salary or compensation during the employee's disability. Such sick leave shall then be restored to employee's account upon making restitution.

15.14 Workers' Compensation – City Employees other than Public Safety Officers

- A. Any employee, other than a Public Safety Officer as defined in Section 15.13, who is absent from work by reason of an injury or illness covered by workers' compensation, shall continue in pay status under the following provisions:
 - B. Any employee who suffers an incapacitating injury in the course of employment and who is eligible to receive workers' compensation benefits shall receive from the City, for a period not to exceed twenty-two (22) days, salary payments in an amount equal to the difference between the amount granted to the employee pursuant to workers' compensation and the employee's regular rate of pay. If the employee remains absent from work due to his/her incapacitating injury beyond twenty-two (22) days, the difference between the amount granted pursuant to workers compensation and the employee's regular rate of pay shall be deducted from employee's accumulated sick leave and, when authorized by the employee, vacation days may be deducted.
 - C. Such an employee shall continue in pay status and receive compensation as set forth above until employee's accumulated sick leave and vacation days have been depleted.
 - D. During the time a regular employee is in pay status while absent from work by reason of injury or illness covered by Workers' Compensation, employee shall continue to accrue sick leave and vacation benefits as though he/she were not on leave of absence, but shall not receive credit for holidays, uniform allowance, and vehicle allowance, if applicable. The timeframe for the employee's performance evaluation and pay increases is subject to adjustment pursuant to Section 11.02.C of these Rules.
 - E. Any employee, other than a Public Safety Officer, who depletes accumulated sick leave, holidays, and vacation days to maintain pay status while absent from work by

- reason of injury or illness covered by Workers' Compensation, shall be removed from pay status and not entitled to further compensation other than Workers' Compensation benefits.
- F. Payment of City benefits, including any compensation in addition to salary or other form of monetary pay, shall be provided to the employee in accordance with existing State and Federal law. Unless so required by such law, no fringe benefits (compensation other than pay) shall be provided to an employee while on leave.
 - G. Any employee bringing action against a third party to recover for injuries or disabilities for which the City has made payments of salary or compensation, shall forthwith give the City written notice of such action and, therefore, the City shall be entitled to reimbursement out of any recovery made by employee in such action for amounts paid for salary or compensation during the employee's disability. Such sick leave shall then be restored to employee's account upon making restitution.

15.15 **Authorized Leave Of Absence Without Pay**

- A. Leave of absence without pay may be granted in cases of emergency or where such absence would not be contrary to the best interests of the City. The Personnel Officer shall, at his/her sole discretion, make such determination. Such leave is not a right but a privilege. An employee must exhaust all eligible paid leave accruals to be considered for an authorized leave of absence without pay.
- B. Leave of absence without pay may be authorized by the Personnel Officer depending on the merit of the individual case. Written request for leave of absence without pay must be made by the employee in writing to the respective Department Head, with copy to Personnel Officer and subject to approval or disapproval of the Personnel Officer. Leave request form cannot be substituted for notification in writing for leave of absence.
- C. Employees on authorized leave of absence without pay may not extend such leave beyond ninety days without express approval of the City Manager. Employee is required to submit an additional written request for extension of leave of absence.
- D. No vacation, sick leave or holiday benefits shall be accrued during the time that employee is on leave of absence without pay.
 - 1. While on approved Leave of Absence Without Pay, employee shall be responsible for payment to City of health insurance premiums and continuance of other benefits including retirement contributions. City shall not provide fringe benefits such as

uniform allowance, educational incentives or cafeteria benefits during absences without pay. An employee on pay status less than 80 hours in a pay period shall accrue benefits proportional to the number of hours in paid status during the pay period.

2. An employee on an authorized leave of absence without pay is eligible for coverage under the City's group health insurance plan for no more than six months, except where maintenance of benefits is provided by applicable law.
3. Health insurance premiums are due on the first day of the month, whether or not an actual invoice is issued. Non-payment of health insurance premiums while an employee is on an authorized leave of absence without pay is valid cause for termination of benefits.

15.16 Administrative Leave With Pay

The Personnel Officer may place an employee on Administrative Leave with pay while awaiting disciplinary action. Leave should be based on the best interest of the operation of the City, based upon the discretion of the Personnel Officer.

15.17 Attendance at Industrial Accident Commission Hearings or Related Physical Examinations

An employee who has been injured in the course and scope of his/her employment with the City and who is required as a result of such injury to be absent from duty to take physical or medical examinations required by the City's Workers' Compensation Insurer or the Industrial Accident Commission, or to attend hearings of the Industrial Accident Commission, shall be granted leave with pay for such absences by the Personnel Officer. The Personnel Officer shall determine if such absences are in the best interest of the City, and only if the employee is in pay status at the time of the scheduled examination or hearing. Time spent by employees at such hearings and examinations shall not count as hours worked for purposes of calculating overtime, unless attendance at a physical or medical examination is at the express direction of the City.

15.18 Pregnancy Disability Leave

- A. Regular and probationary female employees shall be provided up to a maximum of four months disability leave for pregnancy. Such leave may be taken before or after birth or at any period of time that the woman is physically unable to work because of the pregnancy or pregnancy-related condition. Periods of leave shall be totaled in computing the four-month required. Pregnancy-related absenteeism may be counted against the 4-month leave requirement.

- B. An employee shall use accrued sick leave during any otherwise unpaid portion of her pregnancy disability leave to the extent she is eligible to do so. At her request, an employee may also elect to use vacation leave and any other accrued leave credits in order to receive compensation during otherwise unpaid pregnancy disability leave.
- C. As with all other types of leave of absence without pay, employees on Pregnancy Disability Leave will not earn sick leave, vacation or holiday accruals during such leave, nor will the City pay any fringe benefits. This rule applies when an employee does not utilize her accrued sick leave, vacation and/or compensatory time.
- D. City requires that employee obtain written medical verification from her physician of her inability to work because of the pregnancy, in addition to a medical verification that continuing work will not be hazardous to the woman.
- E. The employee is obligated to inform her Department Head or the Personnel Officer in writing as soon as she determines with reasonable certainty the date and duration of her intended pregnancy leave. If employee desires to return to work earlier than agreed, City has up to 30 days to accommodate her request for change in return date.
- F. Employee is entitled to the same job upon return only if she returns no later than the end of the four-month disability leave. If business necessity justifies the inability to offer the employee the same job, the City shall offer a job that is similar in terms of pay, location, job content, promotion, and all opportunities, etcetera.
- G. If the employee fails to return upon the termination of the four-month Pregnancy Disability Leave, the employee is not afforded any right of return to her prior employment unless other employees of the City with other disabilities are afforded certain rights after the return has passed.

15.19 **Family Medical Leave Act and California Family Rights Act**

The City shall provide Family Care and Medical Leave (FMLA and CFRA) consistent with applicable Federal and State laws.

- A. **Eligibility for Paid or Unpaid Leave.** Employees with more than one (1) year of continuous service with the City, who have worked at least 1250 hours during the previous year, may take up to twelve (12) workweeks of paid or unpaid leave in a 12-month period because of:
 - 1. The birth of a child or to care for a newborn of an employee;

2. The placement of a child with an employee in connection with the adoption or foster care of a child;
3. The employee is needed to care for a family member (child, spouse, parent, or – for CFRA leave only – a registered domestic partner, grandparent, grandchild, or sibling) with a serious health condition;
4. The employee’s own serious health condition makes the employee unable to do his/her job.
5. The employee has a qualifying exigency arise out of the fact that their family member (child, spouse, parent, or – for CFRA leave only – a registered domestic partner) is a covered active duty or call to covered active duty status with the United States Armed Forces.

Or may take up to twenty-six (26) weeks of paid or unpaid leave (FMLA only) in a single 12-month period because of:

1. The employee’s need to care for a child, spouse, registered domestic partner, parent, or a “next of kin” service member or veteran in the preceding five years of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty.
- B. **Birth of Child.** Entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement.
- C. **Accrued Leave.** A leave granted under this provision will normally be leave without pay except that an employee shall exhaust accrued sick leave, vacation or other accrued time off prior to leave without pay.
- D. **Intermittent Leave.** Leave may be used in one or more increments, but shall not exceed a total of twelve (12) workweeks of leave in a 12-month period measured backward from the date leave is taken. A leave for the care of a newborn, adopted or foster care child shall be taken on a continuous basis in increments of not less than two (2) weeks. An employee may request intermittent leave in one-day increments for the care of a seriously ill family member; or for the treatment of a serious health condition of the employee. A reduced leave schedule (i.e. a work schedule that reduces the number of hours per workweek or workday) may be established where medically necessary for an employee to care for a seriously ill family member; or for the treatment of a serious health condition of the employee.

- E. **Advance Notice.** Unless the need for leave arises out of an unforeseen emergency, employees requesting leave will be expected to provide reasonable advance written notice of the need for the leave and, at a minimum, written notice of five (5) working days. Failure to provide advance notice may be cause for delaying the effective date of the leave to ensure adequate coverage of the position.
- F. **Medical Certifications.** The City shall require employees requesting family care leave for the care of a seriously ill family member, or medical leave for the treatment of a serious health condition of the employee to provide medical certification of the illness. An employee who is off work (paid or unpaid) for reasons covered under FMLA, CFRA or Pregnancy Disability Leave (PDL) for five (5) consecutive work days or longer will be required to submit medical certification and apply for protected leave regardless of whether the leave is paid or unpaid, or whether the accrual used is sick leave, vacation leave, or compensation time off.
- G. **Insurance Premiums.** Employees on leave will be eligible to continue medical and dental insurance coverage and other group coverage as if the employee were in a regular pay status. The City will pay the premiums necessary to maintain coverage as if the employee remained in a paid status. If an employee elects to maintain insurance coverage while on family care leave and there is normally a payroll deduction, the employee may authorize a payroll deduction or pay the premiums in advance in accordance with the requirements necessary to maintain coverage. Failure to pay premiums that are the employee's responsibility may result in cancellation or loss of benefit coverage. For the period of family care leave in a paid status, if any, the employee will continue to accrue vacation, sick leave and holidays.
- H. **Employee Status while on Leave.** Employees retain "employee" status while on medical and family leave. The leave shall not constitute a break in service for seniority or any employee benefits. An employee on leave without pay for thirty (30) consecutive calendar days, or more, shall have their evaluation date adjusted to reflect the time absent without pay, as described in Section 11.02.C of these Rules. Employees on probation will have their probationary period extended by the length of time on leave.
- I. **Reinstatement Guarantee and Fitness for Duty.** The employee shall cooperate with the City in scheduling his/her date to return to work, and, whenever possible shall give the city at least thirty (30) days advance notice of availability. Upon return from leave, the City shall restore the employee in his/her previous position or comparable position provided the employee gives the City thirty (30) days advance notice. Where the medical leave was for the treatment of a serious health condition of the employee, the

City shall require the employee to provide medical verification of fitness to return to duty.

- J. **Exemptions.** The City retains the right to deny reinstatement upon appropriate notice to key salaried employees returning from FMLA leave who are among the highest paid (in the 10% salary bracket) if required to prevent substantial and grievous economic harm to the City resulting from such reinstatement. This provision shall not apply where the employee is returning from CFRA leave.

15.20 **Jury Duty Leave**

- A. A regular, full-time employee of the City who is required to serve as a trial juror shall be entitled to absent himself/herself from duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, the regular, full-time employee shall be paid full salary provided any payment received, except travel pay for such duty, is remitted to the City.
- B. An employee called to Jury Duty service on a regular day off shall not be compensated by City.
- C. A Leave Request must be submitted with copy of Jury Duty Notice attached thereto.

15.21 **Witness Duty**

A regular, full-time employee who because of his/her employment with the City is requested to appear by subpoena as a witness in court or to respond to an official order from a governmental jurisdiction for reasons not brought about through an action brought by that employee or through the connivance or misconduct of the employee may be granted a leave of absence with pay from his/her assigned duties. The employee shall remit all fees received for such appearances to the City within three (3) days from the date any fee is received by the employee. Compensation for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee.

In those instances where the required testimony is not related to knowledge or information gained pursuant to the employee's employment with the City, and in which the employee was called to appear as a witness in court other than as a litigant, and for reasons not brought through the connivance or misconduct of the employee (e.g., a car accident viewed after hour or on a Saturday, etc.), the employee has the option of requesting the time off from his/her vacation leave or retaining the fees and having the time considered as being on the job and returning the fees to the City.

15.22 Military Leave

- A. Military leave shall be granted in accordance with the provisions of State and Federal Law. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken.
- B. Effect of Extended Military Leave: An employee who interrupts his/her municipal service because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.
- C. Active Duty: In accordance with Sections 395.01 through 395.03 of the California Military and Veterans Code, employees who have been employed by the City for at least one year will be paid their regular salaries for up to the first thirty (30) calendar days of any one military leave of absence, but in no case will an employee receive salary for more than 30 calendar days of military leave in any one fiscal year.
- D. Employees returning from Active Military Duty shall be reinstated to their regular full time job classification, without any loss of benefits previously afforded to them.

15.23 Employee Time Off to Vote

Time off with pay to vote at any general, direct primary, or presidential primary election shall be granted to employees. Employees who are registered voters may request time off to vote at an election if the employee does not have sufficient time outside of his/her regular working hours to vote. The employee may, without loss of pay, take up to two (2) hours of time off to vote. The time off for voting shall be only at the beginning or the end of the regular work shift, whichever allows the most free time to vote and the least time off from work. The employee shall give his/her supervisor at least two (2) working days notice of the need for time off to vote.

Section 16. Layoff Procedure

16.01 Layoff Due to Lack of Work or Funds or Other Reasons

- A. **General.** The City shall have the sole right to determine which class(es) shall be subject to lay-off. Whenever, in the judgment of the City, one or more positions are to be eliminated for reasons of lack of work, lack of funds, reorganization, or other reasons of economy or efficiency, an employee filling such position may be laid off, transferred or demoted.
- B. **Notice.** Ten working days before the effective day of layoff, the Personnel Officer shall notify the employee in writing of the intended action indicating reasons, and a statement certifying whether or not employee's services have been satisfactory. A copy of such notice shall be given to the Department Head and employee affected. If certified as having given satisfactory service, the name of the employee laid off shall be placed on an appropriate reemployment list as provided by these Rules. Such non-disciplinary action shall not be subject to appeal.

If not certified as having given satisfactory service, the employee laid off may interpret the action as a discharge and request a hearing as provided in these Rules. Lay-off must conform in principal with the seniority provisions in the applicable Memorandum of Understanding. Unless otherwise provided in a Memorandum of Understanding with a recognized employee organization, seniority shall be defined as outlined in Section 11.06 and 11.07 of these rules.

- C. **Bumping.** An employee subject to lay-off may first displace employees of lower seniority in any comparable classification, as determined by the City Manager. As a second alternative to lay-off, employees subject to lay-off may take a voluntary demotion to any lower classification within the same department in which the employee had prior permanent status, provided a vacancy exists or the demotee has higher seniority than an employee working in that classification. As a third alternative, an employee subject to lay-off may take a voluntary demotion to a vacant position in a lower classification provided the employee can, through a non-competitive examination, establish proof to the satisfaction of the Personnel Officer, that he/she is capable of performing the job.

This process, known as "bumping" will give the employee with greater seniority the right to replace an employee with less seniority on another job in which the former has had previous City experience and ability.

- Disputes over previous experience and ability will be subject to the Grievance Procedure. Under this provision, a layoff can only take place when the affected employee has no job available to which employee can be downgraded or transferred.
- D. In the case of layoffs, temporary, part-time, and probationary employees within the class or classes subject to lay-off will be laid off before any regular employees are affected by layoffs.
 - E. Order of lay-off of probationary and regular employees shall be according to seniority with the employee(s) having lowest seniority to be laid off first. Among employees with equal seniority, the order of lay-off shall be determined by order of appointment or by lottery.

16.02 **Re-employment.**

Employees laid off or demoted in lieu of lay-off shall have a priority right of return to their prior class or to any lower class in the same or comparable classification series. This right shall remain effective for one (1) year from the date of demotion or separation from the City service.

The names of probationary and regular employees who have been laid off may be placed on appropriate Re-employment Lists in the order of total continuous cumulative time served in probationary and regular status. Such names may remain thereon for one year unless such persons are rehired sooner.

When a Re-employment List is to be used to fill vacancies, the Personnel Officer shall certify from the top of such list, the number of names equal to the number of vacancies to be filled, and the appointing power shall appoint such persons to fill the vacancies.

Section 17. Grievance Procedure

17.01 Grievance Procedure

A. General Provisions:

1. If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the most recent step utilized.
2. If a Supervisor or Manager fails to respond with an answer within the given time period, the grievant may appeal the grievance to the next higher level.
3. The grievant may be represented by a person of his/her choice at any formal level of this procedure.
4. Time limits and formal levels may be waived by mutual written consent of the parties.
5. Proof of service shall be accomplished by registered mail.
6. Day Defined. For purpose of this grievance procedure, “day” is defined as a day in which City Hall is open and doing business with the public.

B. Grievance Defined. A grievance is a dispute concerning the interpretation or application of a specific section of these rules which provide a specific benefit to the Grievant, that is not subject to the discretion of management.

C. Grievance Procedure - Informal Level

1. The employee may bring a grievance to the attention of his/her immediate supervisor at the earliest possible date, but within a period of ten (10) days from either the date of the alleged action that caused the grievance, or the date the employee should reasonably have become aware of such action. The employee shall inform his/her immediate supervisor that he/she wishes to discuss an informal grievance. The supervisor shall discuss, or set a date and time for such discussion, at that time. The grievance does not have to be in writing at the informal stage. The supervisor and the employee shall discuss and attempt resolution of the issues at the informal level.

2. If the issues are not resolved at the informal level, or the supervisor does not make himself/herself available for discussion during the informal level, the employee may, within the specified time limits, file a formal grievance.
3. If the employee does not make himself/herself available for discussion during the informal process, the grievance shall be considered abandoned.

D. Grievance Procedure – Formal Levels

1. The employee may file a formal grievance within twenty-five (25) days from either the date of the alleged action that caused the grievance, or the date the employee should reasonably have become aware of such action, provided the following have taken place:
 - The employee has taken his/her grievance to his/her supervisor for discussion as in Sub-Section C, above.
 - The issues have either been discussed without resolution or without resolution satisfactory to the employee; or the supervisor did not make himself/herself available for discussion.

Level 1: A formal grievance shall be submitted to the Supervisor in writing, containing the following: the name, classification, and department of the grievant; the date and a description of the action that caused the grievance, the section of these rules or departmental rules that were allegedly violated; and the remedy sought. The formal grievance shall be signed by the employee. The formal grievance shall also include reference to the date that the informal grievance was taken to the grievant's supervisor, the date(s) of discussion with the supervisor, and a brief summary of the outcome of that discussion.

The Supervisor (or designee) shall, within five (5) days have a meeting with the grievant and within five (5) days thereafter give a written answer to the grievant.

Level 2: If the grievant is not satisfied with the written answer from the supervisor, the grievant may, within five (5) days from the receipt of such answer, file a written appeal to the Department Head. Within fifteen (15) days of receipt of the written appeal the Department Head or his/her

designee, shall investigate the grievance, which may include a meeting with the concerned parties and thereafter give a written answer to the grievant within five (5) days.

Level 3: If the grievant is not satisfied with the written answer from the Department Head, the grievant may, within (5) days from the receipt of such answer, file a written appeal to the Personnel Officer. Within fifteen (15) days of the receipt of the written appeal, the Personnel Officer or his/her designee, shall investigate the grievance, which may include a meeting with the concerned parties and thereafter give written answer to the grievant within five (5) days. The decision of the Personnel Officer shall be final.

17.02 **Advisory Arbitration Procedure**

A. Eligibility:

Grievances which are not settled pursuant to the grievance procedure above and which either party desires to contest further, may be submitted to this Advisory Arbitration Procedure within ten (10) business days after the final decision of the Personnel Officer.

Only those grievances which directly concern or involve the interpretation or application of the specific terms and provisions of a Memorandum of Understanding are arbitrable.

B. Appointment of Arbitrator:

1. As soon as possible and in any event not later than ten (10) working days after either party receives written notice from the other of the desire to submit the issue to Arbitration, the parties shall meet and attempt to agree on the appointment of an arbitrator.
2. If no agreement is reached within ten (10) days, an arbitrator shall be selected from a list of five (5) persons submitted by the California State Mediation and Conciliation Service by alternate striking of names until one name remains. The party who strikes the first name from the panel shall be determined by lot. The Arbitrator selected through the State Mediation and Conciliation Service shall serve as the Arbitrator.

C. Conduct of Hearing:

1. The Arbitrator shall preside at the hearing and shall conduct the proceedings in accordance with acceptable arbitration procedures and codes.

2. Either the Employer or the grievant may call any employee as a witness, and the Employer agrees to release said witness from work at no loss of pay with adequate prior notification to the City. Release time for witnesses called by a recognized employee organization shall not be counted as hours worked for purposes of overtime calculation unless otherwise provided in an applicable MOU.
- D. Timeliness of Decision:**
The decision of the Arbitrator shall be rendered within forty-five (45) days of the close of the hearing. Such decision shall be set forth in writing and signed by the Arbitrator.
- E. Presentation to the City Council:**
After the Arbitrator's decision is issued, the City Attorney shall present the decision to the City Council for consideration as soon as practicable, and in no event later than thirty (30) days after the date of the decision. The decision shall be presented to the Council and considered by the Council in closed session to the extent permitted by applicable law including the Brown Act.
- F. Effect of Decision:**
The decision of the Arbitrator shall be binding on both parties unless the City Council overrules the decision of the Arbitrator within thirty (30) days from the date of the decision. In order for the City Council to overrule the decision, it is required that at least four (4) Council members (if five members are present) or three (3) Council members (if three or four are present) must vote in favor of the motion to overrule. The Council's decision shall be final and binding.
- G. Extension of Time Limits:**
The parties may extend any of the time limits by mutual agreement.
- H. Copies of Proceedings:**
All parties to the proceeding shall receive a copy of all documents, rulings and decisions at their own expense.
- I. Fees and Expenses:**
All fees and expenses of the hearing shall be shared equally by the City and the the grievant or their labor representative, providing that each party shall be responsible for the fees of its own counsel.

J. Single Grievance:

The Arbitrator may hear and determine only one grievance at a time without the express agreement of the City and the grievant or their labor representative.

K. Limitation on Arbitrator's Authority:

The Arbitrator shall have no power to alter, amend, change, add to, or subtract from or interpret any of the terms of these Rules. This procedure constitutes a contract between the parties and by the Arbitrator in the same manner as any other contract.

Section 18. Disciplinary Procedure

18.01 Disciplinary Action – General

- A. The expected standard for employees of the City shall be to render the best possible service to the public, to reflect credit upon the City service, and to serve the public interest. The continued employment of every employee shall be conditioned on good behavior and satisfactory performance of duties. Disciplinary actions are intended to be corrective and progressive in nature with the objective of obtaining compliance with rules, orders, procedures, standards of conduct and expected job performance.
- B. The procedures set forth in this section shall not apply to probationary employees who are rejected during probation, to any employee serving in a seasonal or temporary appointment, or to any employee in an Unclassified appointment. These procedures shall not apply to a reduction in force, or a reduction in pay, which is part of a reclassification action or reorganization.
- C. The City Manager may take disciplinary action based upon a Department Head recommendation or initiate such action based upon his/her own authority. In addition to the disciplinary action initiated by the City Manager, Departments Heads are authorized to take appropriate disciplinary action up to but excluding discharge.
- D. The provisions of this section shall be subject to the Peace Officers Bill of Rights, Government Code Section 3300 et seq.

18.02 Causes for Disciplinary Action

Causes for disciplinary action against any employee may include but shall not be limited to the following, regardless of the frequency of occurrence or whether the violation is the first of its type:

1. Fraud or misrepresentation.
2. Neglect of duty
3. Insubordination
4. Incompetence
5. Dishonesty.

6. Inefficiency
7. Intoxication on duty
8. Gross misconduct
9. Unlawful use, sale or possession of controlled substances.
10. Absenteeism
11. Conviction of a felony or conviction of a misdemeanor involving moral turpitude.
12. Discourteous treatment of the public or other employees.
13. Improper political activity as defined by State Law.
14. Violation of safety procedures.
15. Misuse of City funds or property.
16. Violation of any of the provisions of these working Rules and Regulations or departmental Rules and Regulations.
17. Failure to abide by the ordinary and reasonable rules of behavior observed by law-abiding citizens or other failure of good behavior either during or outside of duty hours which is of such a nature that it reflects unfavorably upon or causes discredit to the City.
18. Refusal to take or subscribe to any oath or affirmation which is required by law in connection with employment.
19. Failure to maintain and continuously fulfill requirements of the position of employment as listed in the employee's job description.
20. Failure to maintain a valid California driver's license as and when needed to fully complete and fulfill all job duties required of employee.

18.03 **Types of Disciplinary Action**

As used in this section, “disciplinary action” shall mean any of the following and may be taken singularly or in combination:

- A. **Counseling Memo.** A counseling memo will be provided to an employee to identify: a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will be placed in an employee’s personnel file, and documented in a regular or special performance evaluation report of the employee, if the supervisor deems it necessary. A counseling memo is not considered a punitive action and not subject to the appeal process outlined below.
- B. **Written Reprimand.** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand shall be provided to an employee prior to being placed in the employee’s personnel file. Such reprimands shall not be subject to the appeal process outlined below, but the employee shall have the right of rebuttal by providing a written statement within 30 days from service of the written reprimand. Any rebuttal will be included in the personnel file along with the written reprimand.
- C. **Reduction in Pay** (Not to exceed one (1) year.). Such action may be subject to the appeal process outlined below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.
- D. **Demotion.** Such action may be subject to the appeal process outlined below.
- E. **Suspension** without pay (Fringe benefits such as vacation and sick leave shall not accrue during a period of suspension without pay. However, health, dental and life insurance shall remain in effect during a period of suspension without pay.). Such action may be subject to the appeal process outlined below. Suspensions without pay for an employee who is otherwise exempt from overtime pay shall not be for a period of time less than full-day increments, and only for violation of a workplace conduct rule or violation of a major safety rule.
- F. **Discharge.** Terminated employees shall be paid for accrued vacation, compensatory time, and paid days in lieu of holidays, up to effective date of termination. Such action may be subject to the appeal process outlined below.

18.04 Notice of Intended Disciplinary Action

In cases of proposed disciplinary action, except a counseling memo or written reprimand, the proposed disciplinary action shall be served on the employee personally or by mail, at last known address on file in the Personnel Department. The written notice of intended disciplinary action, which shall include:

1. The reason for the disciplinary action; those facts alleged to be the basis for the intended action copies of any documents or materials upon which the disciplinary action is based;
2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
3. The proposed effective date of the intended disciplinary action; and
4. The right of the employee to respond to the proposed disciplinary action either in writing or orally, at the option of the employee. The employee shall be advised that he/she has five (5) business days within which to file a written response or request, in writing, an informal predisciplinary conference before the disciplining authority or his/her designee. Failure to file a written response or request a predisciplinary conference shall constitute a waiver of the employee's predisciplinary rights.

18.05 Predisciplinary Conference

Where an employee has requested an opportunity to respond orally, the disciplining authority or his/her designee shall cause an informal predisciplinary conference to be held to review the statement of charges and to provide the opportunity for the employee or his/her representative to answer the charges. The disciplining authority or his/her designee shall allow the parties to present any relevant evidence tending to prove or disprove the facts upon which the action is based or upon the nature and severity of the proposed disciplinary action. Failure of the employee to appear at the predisciplinary conference shall constitute a waiver of all the employee's predisciplinary rights.

18.06 Notice of Discipline or Rejection of Discipline

- A. If the employee does not respond or following the conclusion of the predisciplinary conference, the disciplining authority or his/her designee shall, by written notice to the employee and the supervisor, affirm, reduce, or abandon the proposed disciplinary action.
- B. If the notice is to affirm or reduce the proposed disciplinary action, such action shall be implemented. The notice of discipline shall be placed in the employee's personnel

file. If the notice is to abandon all action, the notice of intended disciplinary action shall be removed from all personnel files.

18.07 **Right of Appeal**

Any regular employee shall have the right of appeal to the City Manager regarding the following disciplinary actions: reduction in pay, demotion, suspension, and discharge. Such appeal must be filed with the City Manager within ten calendar days after receipt of written notice of such disciplinary action. Failure to file an appeal within such period constitutes a waiver of right to appeal. The appeal must be in writing, signed by the appellant, and must state specifically the reasons upon which it is based.

18.08 **City Manager Hearing**

A hearing on an appeal shall be conducted within ninety days after receipt thereof. The City Manager may continue the hearing for the convenience of the City; or, upon written application of the appellant, for a period not to exceed an additional fifteen days from the receipt of the appeal. Written notice of the time and place of the hearing, and any continuance thereof, shall be given to the appellant. Such hearings shall be conducted in accordance with the provisions of Sec. 11513 of the Government Code of the State of California, except that the appellant and other persons may be examined as provided in Sec. 19580 of said Government Code and the parties may submit all proper and competent evidence against or in support of the causes.

18.09 **Representation**

The appellants may appear in person or be represented by their Union Representative or Legal Counsel.

18.10 **Notices to Witnesses**

The City Manager shall issue notices for the appearances of witnesses for the appellant upon written request.

18.11 **Failure to Appear at Hearing**

Failure of the appellant to appear at the hearing shall be deemed a withdrawal of an appeal and the action of the City Manager or Department Head shall be final.

18.12 **Decision of City Manager**

The City Manager shall thereafter render a written decision within thirty days after concluding the hearing. The City Manager's decision shall be final and conclusive. If the disciplinary action taken against the employee is reversed or modified by the City Manager, the employee may be compensated, in whole or in part, for the time lost at the sole

discretion of the City Manager. A copy of the City Manager's decision shall be forwarded to the employee. It shall be the responsibility of the employee to inform the City of his/her address. The City may also provide the final written findings and decision by e-mail.

Section 19. Employee Relations Policy

19.01 Statement of Purpose

- A. This statement implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et. Seq. or as such act or law may be amended or superseded) captioned “Local Public Employee Organizations”, by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of State or Federal Law, City, ordinances, resolutions, and rules which establish and regulate the merit system, or which provide for other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the City.
- B. The purpose of this policy is to provide procedures for meeting and conferring in good faith with Recognized Employee Organization regarding matters that directly affect and primarily involve wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by Federal or State law. However, nothing herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the missions of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operation; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

19.02 Definitions

As used in this section, the following terms shall have meaning as indicated:

1. **Appropriate Unit** means an established unit of employee classes or positions.
2. **City** means the City of Delano, and, where appropriate herein, refers to the City Council or any duly authorized City representative as herein defined.

3. **Conference Representative** shall mean the City Manager and his/her representatives, and/or the duly authorized representatives of an employee organization that has been granted employee recognition by the City Council as representing the employees of a representational unit.
4. **Confidential Employee** means an employee who, in the course of his or her duties, has access to information relating to the City's administration of employer-employee relations.
5. **Consultation in Good Faith** means to communicate orally or in writing for the purpose of presenting and obtaining views and advising of intended actions; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counter-proposals in an endeavor to reach agreement, nor is it subject to the Impasse Procedures contained herein.
6. **Employee Organization** shall mean any organization which includes employees of the City of Delano and which has as one of its primary purpose the representation of such employees in their employment relations with the City of Delano.
7. **Day** means calendar day unless expressly stated otherwise.
8. **Employee Relations Officer** means the Personnel Officer or his/her duly authorized representative.
9. **Impasse** means that the representative of the City and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remains so substantial and prolonged that further meeting and conferring would be futile.
10. **Management Employee** means an employee having responsibility for formulating, or administering or managing the implementation of City policies or programs.
11. **Mediation** means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the City of Delano and the Recognized Employee Organization through interpretation, suggestions, and advice.

12. **Proof of Employee Support** means (1) an authorization card recently signed and personally dated by an employee; or (2) a verified authorization petition or petitions recently signed and personally dated by an employee. An authorization will only be recognized for an employee whose name appears in legible handwriting or print on the card or petition. Where multiple authorizations exist for a single employee, only the authorization last signed by the employee shall be considered as proof of employee support hereunder. The words “recently signed” shall mean within one hundred eighty (180) days prior to the filing of a petition.
13. **Recognized Employee Organization** shall mean an employee organization which has been acknowledged by the City Council as an employee organization that represents employees of the City of Delano.
14. **Supervisory Employee** means any employee having authority, in the interest of the City, to effectively recommend to his or her Department Head to hire, transfer, suspend, lay off, recall, promote, discharge, assign, or discipline subordinate employee; or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a routine or clerical nature, but requires use of discretion or independent judgment.

19.03 **Classifications Restricted from Representing Recognized Employee Organizations**

The City Manager, Department Heads, elected officials, Management Employees, and Confidential Employees shall be restricted from representing a Recognized Employee Organization which represents other employees on matters within the scope of representation.

19.04 **Rights and Duties of Conference Representatives and Recognized Employee Organization**

- A. A Recognized Employee Organization shall keep the City informed of any changes to the information or documentation listed in Section 19.05, subsections A through H, of these Rules.
- B. Conference representative of either party shall have the right to meet with conference representatives of the other party upon reasonable notice to discuss any problem regarding employer-employee relations arising within the representational unit, or any problems arising under a written memorandum of understanding between the parties.
- C. The City of Delano shall allow a reasonable number of employee representatives of a formally Recognized Employee Organization reasonable time off without loss of

- compensation or other benefits when formally meeting and conferring with the City Manager or his/her representatives regarding matters within the scope of representation, or for the purpose of consultation in good faith.
- D. The City of Delano shall provide reasonable space on bulletin boards at places of work for the use of Recognized Employee Organizations to inform employees about organizational activities and affairs.
 - E. Agents of a formally Recognized Employees Organization when accompanied by representatives of the City of Delano chosen by the City Manager, shall be allowed to visit places of City employment where employees it represents are at work, for the purpose of observing conditions of work, or consulting with members regarding immediate grievances or job problems. Such visits shall not be permitted to interfere with the orderly flow of work, nor to cause an unsafe condition.

19.05 Filing of Recognition Petition by Employee Organization

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

- A. Name and address of the employee organization.
- B. Names and titles of its officers.
- C. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- D. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.
- E. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each other organization.
- F. Certified copies of the employee organization's constitution and by-laws.
- G. A designation of those persons, not exceeding two in number, to whom notice sent by regular United States mail or email will be deemed sufficient notice on the employee

- organization for any purpose, as well as the address and email address, if any, of such persons.
- H. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability, medical condition or any other legally-protected classification.
 - I. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
 - J. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.
 - K. A request that the Employee Relations Officer formally acknowledge the petitioner as a Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith. The petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the Employee Organization executing it.

19.06 City Response to Recognition Petition

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

- A. There has been compliance with the requirements of the Recognition Petition, and
- B. The proposed representation unit is an appropriate unit in accordance with Section 19.11.

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

petitioning employee organization may appeal such determination in accordance with Section 19.14.

19.07 Open Period for Filing Challenging Petition

Within thirty days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the recognized organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30%) percent and otherwise in the same form and manner as set forth in Section 19.05. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Section 19.11. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 19.14.

19.08. Granting Recognition Without an Election

If the Petition is in order, and the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the City Council shall formally acknowledge the petitioning employee organization as the Recognized Employee Organization for the designated unit. Any fees and costs incurred in retaining SMCS or another third party shall be shared equally by the petitioning employee organization and the City.

19.09 Election Procedures

A. Where recognition is not granted pursuant to Section 19.08, the Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this policy. All employee organizations who have duly submitted petitions which have been

- determined to be in conformance with this policy shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the City.
- B. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period which ended at least fifteen days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are still employed by the City in the same unit on the date of the election.
 - C. An employee organization shall be formally acknowledged as the Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of the valid votes cast in the election.
 - D. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.
 - E. There shall be no more than one valid election under this policy pursuant to any petition in a twelve-month period affecting the same unit.
 - F. In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service (CSMCS). If the parties cannot agree as to the time, place, and manner of the election, the parties shall authorize CSMCS and its election supervisor to unilaterally determine such issues and carry out the election accordingly. In the event that CSMCS declines to conduct the election, for any reason, the parties agree that the election shall be conducted by the Kern County Clerk's Office in accordance with that office's established election rules and procedures.
- If, once the alternate election monitor is appointed, the parties cannot agree as to the time, place, and manner of the election, the parties shall authorize the election monitor to unilaterally determine such issues and carry out the election accordingly.
- G. Costs of conducting elections shall be borne in equal shares by the City and by each employee organization appearing on the ballot.

19.10 Procedure for Decertification of Recognized Employee Organization

A. A Decertification Petition alleging that the incumbent Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer if none of the following circumstances apply:

1. The incumbent Recognized Employee Organization was recognized by the City Council within the 12 months immediately preceding the filing of the petition;
2. A representation election was held pursuant to this section or Section 19.09 within the 12 months immediately preceding the filing of the petition; or
3. There is currently in effect a memorandum of understanding between the City and the incumbent Recognized Employee Organization, except that a petition may be filed within the “window period” between 90 and 120 days prior to the expiration of such memorandum, or if such memorandum has been in effect for three years or more.

A Decertification Petition may be filed by two or more employees or their representatives, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

1. The name, address and telephone number of the petitioner(s) and a designated representative authorized to receive notices or requests for further information
 2. The name of the established appropriate unit and of the incumbent Recognized Employee Organization sought to be decertified as the representative of that unit.
 3. An allegation that the incumbent Recognized Employee Organization no longer represents a majority of the employees’ facts relating thereto.
 4. Proof of employee support that at least thirty (30%) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Recognized Employee Organization shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.
- B. An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this section in the form of a Recognition

- Petition that evidences proof of employee support of at least thirty (30%) percent and otherwise conforms to the requirements of Section 19.05.
- C. The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of Section 19.05. If determination is in the negative, the Employee Relations Officer shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employee organization with statement of the reasons therefor in writing. The petitioning employee organization may appeal such determination in accordance with Section 19.14. If the determination of the Employee Relations Officer is in the affirmative, or if a negative determination is reversed on appeal, the Employee Relations Officer shall give written notice of such Decertification or Recognition Petition to the incumbent Recognized Employee Organization and to unit employees. Upon request, the Employee Relations Officer shall provide a copy of the petition with names and all other identifying information redacted.
- D. The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about thirty days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 19.09.
- E. During the “window period” specified in subsection A above the Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with Section 19.05, which the Employee Relations Officer shall act on in accordance with that section.
- F. If, pursuant to this section a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

19.11 Policy and Standards for Determination of Appropriate Units

- A. The Employee Relations Officer shall maintain a list of all current bargaining units in the City and shall have the management discretion to form and define reasonable bargaining units, based on the procedures specified in this Policy. The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1): the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2): providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest.
- B. Factors to be considered shall be:
1. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
 2. History of representation in the City and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
 3. Consistency with the organizational patterns of the City.
 4. Effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
 5. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classification among two or more units.
 6. Effect of differing legally mandated impasse resolution procedures.
- C. Notwithstanding the foregoing provisions of this Section, management employees, as defined in Section 19.02, may only be included in units that do not include non-managerial employees. Management, and confidential employees may not represent any employee organization which represents other employees.
- D. In accordance with Section 3508 of the California Government Code, Peace Officers shall be in a bargaining unit consisting solely of Sworn Peace Officers and shall not be

- represented by an employee organization which represents other employees of the City or which is subordinate to any other organization.
- E. Professional employees, as defined in Section 3507.3 of the California Government Code, have the right to be represented separately from non-professional employees.
 - F. The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Employment Relations Officer shall be final.

19.12 Procedure for Modification of Established Appropriate Units

- A. Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section 19.10. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in this Section, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 19.11. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Section.
- B. When new classifications are adopted, existing classifications abolished, when a classification is no longer compatible with the existing bargaining unit under the standards described in Section 19.11, or during the period specified in Section 19.10, the Employee Relations Officer may, by his or her own motion, propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 19.11, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 19.14. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become Recognized Employee Organization for such new appropriate unit or units pursuant to Section 19.05.

19.13 Procedure for Processing Severance Requests

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing, form and processing of such request shall be as specified in Section 19.12 for modification requests.

19.14 Appeals

- A. An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer under this policy; an employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Section 19.06); Challenging Petition (Section 19.07) or Decertification Petition (Section 19.10) has not been filed in compliance with the applicable provisions of this Section, or an employee aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Section 19.10) has not been filed in compliance with the applicable provisions of this Section, may, within ten days of notice thereof, request the intervention of the California State Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3, or may, in lieu thereof or thereafter, appeal such determination to the City Council for final decision within fifteen days of notice of the Employee Relations Officer's determination or the termination of proceedings pursuant to Government Code Sections 3507.3 or 3507.3, whichever is later.
- B. Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer. The City Council shall commence to consider the matter within thirty (30) days of filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City Council on the use of such procedure, and/or any decision of the City Council determining the substance of the dispute shall be final and binding.

19.15 Initiation of Impasse Procedures

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

- A. To identify and specify in writing the issue or issues that remain in dispute.

- B. To review the position of the parties in a final effort to resolve such disputed issue or issues; and
- C. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

19.16 **Impasse Procedures**

Impasse procedures are as follows:

- A. If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- B. Otherwise, the parties can utilize any other impasse procedures provided in accordance with the MMBA.
- C. After any applicable impasse procedures have been exhausted, the City Council may hold a public hearing regarding the impasse, and take such action regarding the impasse as it in its discretion deems appropriate as in the public interest, including implementation of the City's last, best and final offer. Any legislative action by the City Council on the impasse shall be final and binding.

19.17 **Costs of Impasse Procedures**

- A. The costs for the services of mediation or a mediation panel utilized by the parties, and other mutually incurred costs of mediation, shall be borne equally by the City and the Recognized Employee Organization.
- B. Separately incurred costs shall be borne by the party incurring the cost.

19.18 **Submission of Current Information by Recognized Employee Organizations**

All changes in the information filed with the City by a Recognized Employee Organization under Section 19.04 shall be submitted in writing to the Employee Relations Officer within fourteen days of such change.

19.19 **Payroll Deductions on behalf of Employee Organizations**

- A. Upon formal acknowledgment by the City of a Recognized Employee Organization under this policy, only such Recognized Employee Organization may be provided payroll deductions of membership dues and voluntary deductions upon the written

authorization of employees in the unit represented by Recognized Employee Organization on forms provided therefor by the Recognized Employee Organization. The providing of such service to the Recognized Employee Organization by the City shall be contingent upon and in accordance with the provisions of Memoranda of Understanding and/or applicable administrative procedures and laws.

- B. No payroll deductions shall be made other than for Health Insurance, Pension Plan Contributions, LTD, SDI, Deferred Compensation, and recognized employee organization dues, unless otherwise approved by the Personnel Officer.

19.20 Employee Organization Activities – Use of City Resources

Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures; shall be limited to activities pertaining directly to the employer-employee relationship and not 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.

19.21 Administrative Rules and Procedures

The City Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this policy after consultation with affected employee organizations.

19.22 Savings Clause

If any provision in the Rules and Regulations is held to be contrary to law by a court of competent jurisdiction, such provision will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions in the current Rules and Regulations will continue in full force and effect.

City of Delano

**ACKNOWLEDGMENT OF RECEIPT OF
PERSONNEL RULES AND REGULATIONS**

Dated October 18, 2021

This is to acknowledge that I have received a copy of the Personnel Rules and Regulations dated October 18, 2021 and understand that it contains important information on the City's personnel policies and on my obligations and responsibilities as an employee. I acknowledge that I am expected to read, understand, and adhere to City policies and will familiarize myself with the provisions in the manual. I understand that I am governed by the provisions in the manual. I understand that I am governed by the provisions in these Rules; and that the City may change, rescind or add to any policies, benefits or practices declared in the manual from time to time in its sole and absolute discretion with or without prior notice. The City will advise employees of substantive changes within a reasonable time.

I acknowledge and agree to abide by the Personnel Rules and Regulations as set forth therein and any new or revised policies pertaining to the City Personnel Rules and Regulations.

Employee's Signature

Date

This document shall be signed by the employee and placed in the employee's personnel file.