



PERSONNEL RULES

Approved by the City
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Table of Contents

I. INTRODUCTION & PERSONNEL SYSTEM	11
<i>Purpose of the Personnel Rules</i>	<i>11</i>
<i>Applicability of the Personnel Rules.....</i>	<i>11</i>
<i>Hierarchy of Rules</i>	<i>11</i>
<i>Conflicting Rules.....</i>	<i>11</i>
1. State & Federal Law	11
2. Memorandum of Understanding (MOU) or Salary Resolution	11
3. Department Rules.....	12
<i>Employee Acceptance of Personnel Rules</i>	<i>12</i>
<i>Amendments and Revisions to Rules.....</i>	<i>12</i>
<i>Delegation of Authority.....</i>	<i>12</i>
<i>Not a Contract.....</i>	<i>12</i>
<i>Severability</i>	<i>12</i>
<i>Word Usage</i>	<i>12</i>
<i>Employer-Employee Relations.....</i>	<i>13</i>
<i>Categories of Employees.....</i>	<i>13</i>
1. At-Will Employee.....	13
2. Regular Employee.....	13
<i>Types of Employment Categories.....</i>	<i>13</i>
1. Full-Time or Part-Time Employees	13
2. Temporary/Seasonal/Extra-Help Employee	14
3. Volunteers	14
<i>Personnel Records</i>	<i>14</i>
1. Confidential City File	14
2. Employee Access to Inspect Personnel Files.....	14
3. Limitations of Access or Copying of Personnel Files	15
4. Notification of Changes	15
5. Confidential Medical Records	15
<i>Employment Verification</i>	<i>15</i>
<i>Public Records Act.....</i>	<i>16</i>
<i>Equal Employment Opportunity Policy</i>	<i>16</i>
II. CLASSIFICATION PLAN	16
<i>Classification Plan.....</i>	<i>16</i>

<i>Allocation of Positions</i>	16
<i>Classification Specification (Job Descriptions)</i>	16
<i>Title Changes</i>	17
<i>Modifications or Elimination of Classifications</i>	17
<i>Reclassification</i>	17
<i>Working Out of Class & Acting Pay</i>	17
<i>Use of Part-Time, Temporary or Emergency Workers</i>	18
III. RECRUITMENT AND SELECTION	18
<i>Recruitment Procedure – Open or Internal</i>	18
<i>Job Announcements</i>	18
<i>Applications for Employment</i>	19
<i>Disqualification/Rejection of Applications</i>	19
<i>Employment Examinations</i>	20
<i>Veteran’s Preference</i>	20
<i>Types of Appointment</i>	21
1. Full-Time or Part-Time Appointment.....	21
2. Temporary Appointment.....	21
3. At-Will Appointment	21
4. Appointment via Transfer	21
<i>Background and Post-Offer Pre Employment Process</i>	21
1. Background Process.....	21
2. Conditional Offers of Employment	22
3. Criminal Conviction Check	22
4. Physical and/or Psychological Examinations	23
<i>Probationary Period</i>	23
1. Probationary Period Defined.....	23
2. Length of Probationary Period.....	23
3. Extending the Probationary Period	23
4. At-Will Employees	24
5. Promotional Probationary Employees	24
6. Public Safety Officers	24
<i>Seeking New Employment</i>	24
IV. PAYROLL PRACTICES, COMPENSATION AND BENEFITS	24
<i>Workweek & Work Schedules</i>	24
1. Full-Time Non-Sworn Employees	24
2. Full-Time Sworn Employees	25

<i>Hours of Work</i>	25
<i>Overtime</i>	25
<i>Meal Periods</i>	26
<i>Rest Periods</i>	26
<i>Lactation Break Time</i>	26
<i>Salary Administration</i>	26
1. Timekeeping	26
2. Salary Ranges.....	27
3. Salary Advancement	27
<i>Overpayment & Underpayment of Compensation & Benefits Policy</i>	27
<i>COBRA</i>	28
1. Overview of COBRA.....	28
2. COBRA Continuation Coverage.....	28
3. Qualifying Events and Length of Coverage.....	28
4. Change of Dependent Status	28
V. ATTENDANCE	29
<i>Reporting to Work</i>	29
<i>Absences (partial or full-day)</i>	29
<i>Request for Leave Time</i>	29
<i>Notification of Unforeseen Late Arrival or Absence</i>	30
<i>Unauthorized Absence is Prohibited</i>	30
<i>Excessive Tardiness, Absenteeism and Abuse of Leave</i>	30
VI. Leaves of Absence	30
<i>Eligibility for Leave Benefits</i>	30
<i>Vacation Benefits for Represented Employees</i>	30
<i>Vacation Benefits for Unrepresented Employees</i>	30
<i>Vacation Leave Cash Out</i>	31
<i>Vacation Leave Upon Separation of Employment</i>	31
<i>Sick Leave</i>	31
<i>Sick Leave Accrual & Carryover for Different Categories of Employees</i>	31
<i>Sick Leave Requests</i>	32
<i>Certification of Use of Sick Leave</i>	32
<i>Sick Leave on Separation from Employment</i>	32

<i>Sick Leave Reinstatement</i>	32
<i>Leave Bank</i>	32
<i>Bereavement Leave</i>	32
<i>Jury Duty Leave</i>	33
<i>Court or Administrative Proceeding Appearances</i>	33
1. Regarding City Duties.....	33
2. Regarding Employee-Initiated Proceedings	33
3. Regarding Crime Victim/Victim Family Member Court Attendance Leave.....	33
4. Regarding Crime Victim/Family Member Victims’ Rights Proceedings Leave.....	34
5. Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief.....	34
6. Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning.....	34
<i>Military Leave</i>	35
<i>Leaves of Absence Without Pay</i>	35
<i>Paid Administrative Leave</i>	35
<i>School-Related Leave</i>	35
1. School or Licensed Day Care Activity Leave.....	36
2. Child Suspension Leave.....	36
<i>Holidays</i>	36
1. Recognized Holidays	36
2. Holidays that Fall on a Non-Work Day	37
3. Floating Holiday	37
<i>Time Off to Vote</i>	37
<i>Family and Medical Care Leaves</i>	37
1. Overview of FMLA/CFRA.....	37
2. Definitions.....	38
3. Employees Eligible for Leave.....	42
5. Amount of Leave/Total Leave Entitlement	42
6. Minimum Duration of Leave	43
7. Parents Both Employed By The City.....	43
8. Employee Benefits While on Leave	43
9. Substitution of Paid Accrued Leaves.....	44
10. City and Employee Rights if an Employee Requests Accrued Leave without Mentioning Either the FMLA or CFRA	44
11. Medical Certification	45
12. Time to Provide Certification	46
13. Second and Third Medical Opinions	46
14. Intermittent Leave or Leave On A Reduced Schedule	47
15. Employee Notice of Leave.....	47
16. Reinstatement Upon Return from Leave	47
17. Employee’s Obligation to Periodically Report On His/Her Condition	47

18. Fitness for Duty Certification	47
19. Reinstatement of “Key Employees”	48
20. Required Forms.....	48
<i>Leave Because Of Pregnancy, Childbirth, Or Related Medical Condition.....</i>	<i>48</i>
1. Eligibility	48
2. Reasons for Leave.....	48
3. Amount of Leave	48
4. Compensation and Benefits While on Leave.....	49
5. Employee Notice of Leave.....	49
6. Medical Certification	49
7. Reinstatement Upon Return From Leave	49
<i>Catastrophic Leave</i>	<i>50</i>
VII. LIGHT OR LIMITED DUTY	51
<i>Overview</i>	<i>51</i>
<i>Reasonable Accommodation.....</i>	<i>51</i>
<i>Supporting Documentation or Certification.....</i>	<i>51</i>
1. Reasonable Medical Documentation of Disability	51
2. Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions	52
3. Certification of Victim Status	52
VIII. FITNESS FOR DUTY EXAMINATIONS	52
<i>Applicants</i>	<i>52</i>
<i>Current Employee</i>	<i>53</i>
<i>Role of Health Care Provider.....</i>	<i>53</i>
<i>Authorization for Use of Medical Information</i>	<i>53</i>
<i>Medical Information from the Employee or Applicant.....</i>	<i>54</i>
<i>Interactive Process.....</i>	<i>54</i>
<i>Interactive Communication.....</i>	<i>55</i>
<i>Potential Accommodations for Applicants or Employees with Disabilities</i>	<i>55</i>
<i>Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions.....</i>	<i>55</i>
<i>Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking</i>	<i>56</i>
<i>Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice.....</i>	<i>57</i>
<i>Determination following Interactive Process</i>	<i>57</i>

<i>Access to Medical Information Regarding Fitness for Duty</i>	57
IX. SEPARATION FROM EMPLOYMENT	57
<i>Types of Separation</i>	58
<i>Probationary Release</i>	58
<i>Release of At-Will, Temporary, Seasonal, and/or Extra Help Employees</i>	58
<i>Resignation</i>	58
<i>Retirement</i>	58
<i>Job Abandonment</i>	59
<i>Non-Disciplinary Separation</i>	59
<i>Disciplinary Separation</i>	59
<i>Layoffs</i>	59
1. Order of Layoffs	59
2. Notification of Layoff.....	60
3. Reemployment Lists	60
4. At-Will Employees	60
<i>Return of City Property</i>	60
X. CITY-WIDE POLICIES	60
<i>Code of Conduct/Ethics</i>	60
<i>Appearance Standards</i>	63
1. Basis for Standards	64
2. Dress Code	64
3. Tattoos.....	64
4. Piercing	65
<i>Gifts and Gratuities</i>	65
1. Overview.....	65
2. Policy	65
3. Conflict of Interest Designated Employees	66
4. Evaluation of Acceptance of Gifts/Gratuity	66
5. Responsibility for Oversight:.....	66
<i>Outside Employment</i>	66
1. No Outside Employment Without Prior Approval	66
2. Authorization and Appeal Process.....	67
3. Analysis and Decision.....	67
4. One Year Authorization.....	67
5. Appeal.....	67
6. Prohibited Outside Activities.....	67
7. Changes in Outside Employment Status.....	68
8. Revocation / Suspension of Outside Employment Authorization	68

9. Use of City-Paid Time and City Equipment Prohibited	68
<i>Employee Recognition</i>	68
<i>Public Meeting/The Brown Act</i>	68
<i>Employee Safety</i>	68
<i>Discrimination, Harassment and Retaliation & Complaint Procedure</i>	69
1. Purpose.....	69
2. Covered Individuals and Scope of Policy.....	69
3. Definitions.....	69
4. Guidelines for Identifying Harassment.....	70
5. Retaliation.....	71
6. Complaint Procedure	71
7. Proactive Approach.....	72
8. Option to Report to Outside Administrative Agencies.....	72
9. Confidentiality	72
10. Responsibilities.....	72
<i>Drug and Alcohol-Free Workplace</i>	73
1. Purpose and Scope	73
2. Drug- and Alcohol-Free Awareness Program.....	74
3. Prohibited Conduct	74
4. Drug and Alcohol Testing.....	74
5. Pre-Employment Testing for External Applicants for Certain Jobs	74
6. Reasonable Suspicion Testing of Employees	75
<i>Nepotism</i>	75
1. Policy	75
2. Definitions.....	75
3. Employment of Relatives.....	76
4. Spouses or Domestic Partners.....	76
5. Marriage or Domestic Partnership after Employment	76
<i>Violence in the Workplace Policy</i>	76
1. Overview.....	77
2. Prohibited Behavior	77
3. “Workplace Violence” Definition.....	77
4. Incident Reporting Procedures.....	78
5. Investigation.....	78
6. Incident Related Support Services	78
7. Procedures - Imminent or Actual Violent Acts.....	78
8. Supervisor/Manager Responsibilities:	79
9. Procedures – Future Violence.....	79
10. Post-Incident Review	79
<i>Travel and Expense Reimbursement Policy</i>	79
1. Purpose.....	79
2. Travel & Expenses for Items Approved in City Budget.....	80
3. Specific Travel Expenses Requiring Advance Approval.....	80

4. Personal Expenses Not Authorized.....	80
5. Cost Control.....	81
6. Expense Reports.....	82
7. Public Disclosure of Expenses.....	83
8. Violations of this policy.....	83
<i>No Smoking Policy</i>	83
1. Purpose.....	83
2. Definitions.....	84
3. Policy	84
4. Application.....	84
5. Enforcement.....	84
<i>Social Media Policy</i>	84
1. Purpose.....	84
2. Definitions.....	85
3. Policy Statement	85
4. Policy	85
5. Public Records/Discovery/Record Retention	87
6. Brown Act Compliance.....	87
7. Administration of Social Media Accounts	88
<i>Fraud Prevention, Reporting, and Investigation Policy</i>	88
1. Purpose.....	88
2. Policy	89
3. Investigation Responsibilities	89
4. Reporting Procedures.....	90
5. Confidentiality	90
6. Disciplinary Actions	91
<i>Disaster Service Worker</i>	91
1. Purpose.....	91
2. Response	91
3. Identification	92
4. Work Related Injuries or Illness	92
5. Liability and Performance.....	92
<i>Motor Vehicle Safety</i>	92
1. Policy	92
2. Objectives	92
3. Responsibilities	92
<i>Employer Pull Notice Program</i>	94
1. Purpose of the EPN Program	95
2. Enrollment.....	95
3. Notification	95
4. Notice to Employee.....	95
5. Completion of EPN.....	96
<i>Workers' Compensation Policy</i>	96

1. Responsibilities	96
2. Objectives	96
3. Definitions.....	96
4. Policy	96
5. Medical Services.....	97
6. Transporting Injured Employees.....	97
7. Reporting of Injuries.....	97
8. Salary Continuance	98
9. Modified Duty, Return to Work, and Accommodation	98
<i>Use of Privately Owned Vehicles.....</i>	<i>99</i>
XI. PERFORMANCE MANAGEMENT.....	100
<i>Performance Evaluations.....</i>	<i>100</i>
1. Purpose.....	100
2. Timelines.....	100
3. Performance Evaluation Process.....	100
<i>Discipline</i>	<i>101</i>
1. Discipline Policy.....	101
2. Types of Disciplinary Actions	101
3. Grounds for Discipline.....	103
4. Authority to Discipline	105
5. Discipline Procedures	105
6. Discipline Appeal Procedures.....	107
7. Conduct of the Appeal Hearing	108
7. City Manager Review and Decision	109
8. Proof of Service of the Written Findings and Decision.....	109
9. Challenge by Writ.....	110
XII. GRIEVANCES.....	110
<i>Definition of a Grievance.....</i>	<i>110</i>
<i>Procedures</i>	<i>110</i>
<i>Grievance Procedure Principles.....</i>	<i>111</i>
XIII. USE OF AGENCY EQUIPMENT OR RESOURCES.....	112
<i>Policy and Applicability.....</i>	<i>112</i>
<i>City Equipment or Resources.....</i>	<i>112</i>
<i>No Expectation of Privacy</i>	<i>112</i>
<i>Appropriate Use Only -- No Misuse</i>	<i>112</i>
<i>City Email Address Must be Used for City Business</i>	<i>114</i>
<i>Incidental Personal Use of City Communications Equipment Permitted.....</i>	<i>114</i>

Cell Phone Use While Operating a Vehicle..... 114
Email Access for Bargaining Units..... 114
XIV. PUBLIC RECORDS..... 114

I. INTRODUCTION & PERSONNEL SYSTEM

Purpose of the Personnel Rules

The City of Cotati Personnel Rules (Rules) are designed to facilitate efficient and economical service to the public and provide fair and equitable system of personnel management in the municipal government. These Rules set forth policies and procedures to ensure similar treatment for those who compete for employment and define certain obligations, rights, privileges, benefits and prohibitions which are placed on the City and all City employees.

Applicability of the Personnel Rules

These Policies apply to all categories of employees of the City of Cotati unless a specific section or provision excludes them. Independent contractors, volunteers, and City Council members are not considered employees for the purpose of these rules except where specifically provided.

Certain positions in the City of Cotati are designated “at-will”, as defined in Cotati Municipal Code section 2.32.040 and may be amended from time to time. At-will positions are not subject to the job protections described in these personnel rules, including processes and rules for recruitment, discipline, termination, probationary periods, testing, and appointment from eligible lists. The employment of at-will personnel may be terminated at any time, for any legal reason, and without any requirement of demonstrating “good cause.”

Hierarchy of Rules

The hierarchy of rules/regulations governing the City’s employment policies and practices shall generally be as follows:

1. Federal and State Law
2. City of Cotati Municipal Code/Ordinances
3. Memoranda of Understanding (MOU’s) and Employment Contracts
4. City Council approved Resolutions
5. Personnel Rules
6. Departmental Rules

Conflicting Rules

1. State & Federal Law
If there is a conflict between items stated in these Rules and existing State or Federal law, the State/Federal statute shall prevail as required under the law.
2. Memorandum of Understanding (MOU) or Salary Resolution
If there is any conflict between the Rules and any valid MOU with a recognized bargaining unit or Resolution for non-represented employees, the MOU/Resolution shall take precedence.

3. Department Rules

City departments that establish internal personnel policies must provide a copy to the City Manager and the Administrative Services department for review prior to implementation. Any portion of such policy found to be in conflict with federal or state law, these Rules, or with any applicable code, ordinance, MOU, or resolution shall be reviewed to determine whether or not it needs to be modified prior to implementation.

Employee Acceptance of Personnel Rules

As a condition of employment, all employees are required to read and request necessary clarification of these Rules. Each employee is required to sign a statement of receipt acknowledging that: a) he or she has received a copy, or has been provided access to the Rules; and b) understands that he or she is responsible to read and become familiar with the contents and any revisions to the Rules.

Amendments and Revisions to Rules

The City reserves the right to modify, supplement, rescind or revise any provision of these Rules from time to time as it deems necessary or appropriate at its discretion. Any changes or modifications will be subject to City Manager review and approval. Any modifications involving a term or condition of employment are subject to the meet and confer process with designated representatives of the affected employee group(s).

To be effective, the City Council must approve amendments to the Rules via Resolution.

Delegation of Authority

The City Council delegates to the City Manager the authority, within City Council authorized and budgeted job classifications to, establish job responsibilities, and perform other personnel actions as to all subordinate employees in accordance with all federal and state laws and regulations and these Rules. The City Manager may delegate responsibility to human resources to perform personnel actions in accordance with this section.

Not a Contract

These rules do not create any contract of employment expressed or implied, or any rights in the nature of a contract.

Severability

If any part of these rules is determined to be unconstitutional or illegal, such part shall be severed from these rules and the remaining rules shall be given full force and effect.

Word Usage

The term "City" as used in these rules refers to the City of Cotati. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the City Manager in his/her discretion.

Employer-Employee Relations

The Meyers-Milias-Brown Act (MMBA), Government Code Section 3500, esq. contains the state regulations that govern employer and employee relations.

The City of Cotati's Employer-Employee Relations Resolution (Attachment 1) provides a labor relations framework and orderly procedures for the administration of employer-employee relations between the City and its employee organizations. The Resolution also identifies procedures for resolving disputes regarding wages, hours, and other terms and conditions of employment.

Categories of Employees

1. At-Will Employee

An at-will employee is one who serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural, due process, or evidentiary appeal. At-will employees include any of the following; as defined by CMC 2.32.040.

- City Manager
- Assistant City Manager
- City Attorney (if applicable)
- Department heads
- Employees whose positions are funded under a state or federal employment program
- Employees designated as part-time/temporary/ seasonal [or extra-help, limited-term, etc.]
- Probationary employees

2. Regular Employee

A regular employee is one who has satisfactorily completed the initial probationary period and cannot be disciplined except when the City has cause to do so. A regular employee has a property right in continued employment, and has the right to pre- and post-disciplinary procedural due process and an evidentiary appeal for certain types of disciplinary actions that result in a significant deprivation of property.

Types of Employment Categories

1. Full-Time or Part-Time Employees

A full time employee (either at-will or regular) is one whose position is budgeted to work at least forty (40) hours per week. Full time employees receive all benefits provided in these Policies, unless otherwise provided in a MOU, Resolution, or an employment agreement approved by the City Council. A part-time employee is one whose position is budgeted to work less than an average of forty (40) hours per week in any given fiscal year. Part-time employees may have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.

2. **Temporary/Seasonal/Extra-Help Employee**
A temporary/ seasonal/ extra-help employee is an at-will employee who is appointed other than from an eligible list for a short term or seasonal basis, not to exceed 1,000 hours in any given fiscal year. A temporary/ seasonal employee serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.
3. **Volunteers**
A volunteer is not an employee, but instead is an individual who provides services to the City for civic or philanthropic reasons and receives no compensation or benefits other than nominal fees and reimbursement of expenses. A volunteer serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

The use of volunteers is subject to City Manager approval.

Employees may volunteer to provide services to the City outside of their normal duties, provided they are not performing the same or similar duties for which they are normally compensated and the responsibilities are occasional and sporadic. Employees shall not be compensated for volunteer assignments.

Personnel Records

1. **Confidential City File**
The City maintains a personnel file on each employee. Files are kept after separation of employment pursuant to the City's records retention policy. A personnel file will contain only material that the City deems necessary and relevant or that is required by law. Personnel files are the property of the City, and access to the information they contain is restricted to protect employee privacy interests.
2. **Employee Access to Inspect Personnel Files**
 - a. **Current and Former Employee Inspection**
A current employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals, within two (2) days of a written request. A former employee is entitled to inspect his or her personnel records one time per year. A current or former employee and/or his or her representative, who wishes to review his or her personnel file should make a written request to human resources. Employees may review their personnel file on duty without loss of pay, provided that they make arrangements with their supervisors in advance. The inspection must occur with the presence of a City human resources representative.
 - b. **Copies of Files**
A current or former employee is entitled to receive a copy of his or her personnel records within 30 days after the employer receives a written request. A current or former employee who wishes to receive such a copy should contact human resources

and make the request in writing. The City may charge a fee for the actual cost of copying.

c. Representative's Inspection

If the current or former employee wishes to have another person/representative inspect his or her personnel file, he or she must provide the person/representative with written authorization. A representative from human resources will notify the employee and/or representative of the date, time and place of the inspection in writing.

d. No Removal of File Documents

No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

3. Limitations of Access or Copying of Personnel Files

Prior to making a copy of personnel records or allowing inspection, the City may redact the names of nonsupervisory employees. Under no circumstances will the City provide access or copying of the following categories of personnel file documents (unless required by law):

- Records relating to the investigation of a possible criminal offense;
- Letters of reference;
- Ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, obtained as part of the background process, or obtained in connection with a promotional examination.

4. Notification of Changes

Each employee is responsible to promptly notify human resources of any changes in his or her contact and benefits information, including: mailing address; telephone number; email; persons to contact in emergency; and number and names of dependents.

5. Confidential Medical Records

The City maintains injury reports and confidential medical records in separate files. The City will not obtain medical information about an employee or applicant except in compliance with the law. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate business reason, or if access is required by law, subpoena or court order. In the case of an employee with a disability, the manager/supervisor may be informed regarding restrictions on work or duties and necessary accommodations.

Employment Verification

All requests from outside the City for reference checks or verification of employment must be referred to human resources. Information will be released only if the employee provides a signed authorization to release form. Without such authorization, the following limited information will be provided: dates of employment and job title. Department heads and supervisors should not

provide information in response to requests for reference checks or verification of employment unless specifically approved by the City Manager or his/her designee on a case-by-case basis.

Public Records Act

Upon request, the city will release information about its employees as required by the Public Records Act. The City will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of privacy, unless required by law, and pursuant to procedural requirements for the discovery of peace officer personnel records, where applicable.

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 (over 40), sexual orientation, or military and veteran status or any other basis protected by law. Individuals 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 Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing.

II. CLASSIFICATION PLAN

Classification Plan

The Classification Plan provides a complete list of all positions in the City service and an accurate description and specifications for each job classification. The Classification Plan standardizes titles, each of which is indicative of a range of duties and responsibilities and has the same meaning throughout the City.

Allocation of Positions

The City approved budget has allocated every full-time and part-time position in the City service to one of the classifications established by the classification plan.

Classification Specification (Job Descriptions)

The classification of jobs is based upon the duties and responsibilities required for the job, rather than the abilities of specific employees. A written description, known as a class specification, is prepared for each classification listing the class title, major duties, knowledge, skills, and abilities required and minimum amount of education and/or experience required.

The positions in the City are grouped into classifications so that all positions with similar duties and responsibilities are in the same classification. Some classifications are in turn arranged in a

series. A typical class series may include the following types of classifications: Assistant, Associate, Senior, Principal or levels I, II, and III, etc.

Class specifications are to be interpreted in their entirety. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Specifications are intended to be descriptive and explanatory of the kind of work performed, and not necessarily inclusive of all duties performed by all employees in the classification.

Classification descriptions are available upon request.

Title Changes

Where the duties of a position have not substantially changed, the position may be retitled as a result of restructuring, reorganizing, or to more accurately identify the position. There is no change in the compensation level with a title change. No change in the title of any job classification shall affect the tenure of the incumbent, if any.

Modifications or Elimination of Classifications

The classification specification (job description) may be abolished or amended from time to time. In addition, new classifications may be added to the City's classification plan. The City provides notice to recognized employee organizations prior to abolishing, amending, or adding classifications to the City's plan.

Reclassification

Upon the request of a department director, human resources may initiate a job audit to determine whether the duties of a position have changed to such an extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification or to restructure a job on a prospective basis. Upon completion of the job audit, human resources shall make a recommendation regarding reclassification to the City Manager. Should a reclassification be recommended by the City Manager, the reclassification and position allocation will be authorized by the City Council during (1) the annual mid-year budget review or (2) annual budget process.

Working Out of Class & Acting Pay

Employees shall be assigned to perform duties which are included within the scope of the applicable job description. Generally, employees should be assigned work that is closely related in both kind and scope of work, and in level of responsibility, to the duties normally assigned to positions in the employee's classification, except on a short-term basis.

Working out of class assignments to duties of a higher level classification may be assigned for training purposes, to fill in on a limited basis due to vacations, short-term absences, assignment to a special limited-term project, due to a vacant position, etc. A short-term basis is identified as less than three months.

If an employee is performing substantially all of the duties that would normally be assigned to another higher level classification (i.e., works “out of class”) for a period of three consecutive months, the employee, with department head approval may be provided out of class/acting pay for any such assignment exceeding three months. Out of Class/Acting pay is provided prospectively following City Manager approval. The City Manager may grant out of class/acting pay in an amount of one to five percent (1%-5%) of base rate of pay. The City Manager has sole discretion in granting out of class/acting pay. A decision by the City Manager regarding out of class/acting pay is final and is not subject to any appeal process. An out-of-class appointment to a higher classification to fill a vacant position shall not exceed nine hundred and sixty (960) hours in a fiscal year.

Use of Part-Time, Temporary or Emergency Workers

The City may utilize temporary or emergency employees in the event of some legitimate need. The City may utilize part-time employees for various types of City business. Individuals working in part-time positions will have a class specification to reflect duties, responsibilities and requirements of the position.

III. RECRUITMENT AND SELECTION

Recruitment Procedure – Open or Internal

The City’s goal is to hire and retain the best qualified candidates for appointment to vacant positions. The City may utilize any lawful recruitment procedure for attracting qualified applicants. Recruitments may be “internal” or “open,” depending on the City’s needs. An internal recruitment is limited to individuals employed by the City. Open recruitments are open to both current employees and members of the public.

The City Manager will determine if recruitment will be internal or open. In order to conduct an internal recruitment, human resources should receive (1) a request by the department head where the vacancy exists to conduct an internal recruitment and (2) identify a minimum of two internal candidates who are believed to possess the minimum qualifications for the position. Upon posting recruitment internally, should less than two internal candidates apply for the position, the recruitment will be opened to members of the public.

Job Announcements

The City Manager will direct the preparation of a job announcement for a proposed recruitment. The announcement may be posted on the City’s website and other locations that human resources deems appropriate, depending upon whether the recruitment is open to the public or current employees only. Job announcements will be posted for a minimum of one week. The typical announcement may include:

- Whether the posting is an internal or open recruitment
- The title and pay for the position;
- The nature of the work to be performed and essential job duties of the position;

- Indication of exempt/non-exempt status and whether the job will have a confidential classification;
- The minimum qualifications;
- A statement of the type and employment status of the position;
- The last date that the City will accept applications, if any;
- The time, place, and type of employment examination, if known, and if a medical examination, and/or a drug screen will be required following a conditional offer of employment; and
- Such other information as determined in the discretion of human resources.

Applications for Employment

Each candidate shall complete those application forms designated by the City. Job applications shall require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including but not limited to: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. All applications must be completed in full and signed, physically or electronically, by the person applying. Human resources will not process any application which is not fully completed and signed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records.

Disqualification/Rejection of Applications

The City may reject or disqualify any applicant who:

- Has made false statements of any material fact, or practiced any deception or fraud on the application or declarations;
- Is found to lack any of the requirements, certifications, or qualifications for the position involved;
- Is physically or mentally unable to perform the essential functions of the job, with or without reasonable accommodation if disabled;
- Has been convicted of a crime, either a misdemeanor or felony, that relates to the position duties that the applicant would perform, subject to the requirements of Government Code section 12952, where applicable;
- Used or attempted to use political pressure or bribery to secure an advantage in the process;
- Directly or indirectly obtained confidential information regarding employment examinations;
- Failed to submit the employment application correctly or with the prescribed time limits;
- Fails the drug screening (if applicable);
- As part of the background process, is found to have unfavorable prior work performance or if the City is unable to verify information provided by the applicant;
- Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;

- For any material cause which in the judgment of the City Manager or designee would render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City, or a significant disciplinary action.

Whenever an application is rejected, notice of such rejection shall be mailed or emailed to the applicant. There is no appeal process for rejection or disqualification of applicants.

Should an appointment to a City position be made and it later determined that the application contained any of the abovementioned deficiencies, the employee may be subject to disciplinary action up to and including termination of employment.

As part of the pre-employment procedure, applicants may be required to supply references and a waiver to enable a thorough background check by the City. The City shall have the right to conduct a complete and exhaustive background investigation on all applicants seeking employment in the City of Cotati.

Employment Examinations

The City may utilize one or more examination techniques to determine the qualifications of applicants. Examination techniques may include but are not limited to: application review, supplemental questionnaires, written tests, physical agility tests, oral interviews, panel interviews, performance/practical tests, assessment centers, work style assessments, evaluations of prior training and performance, and evaluation of work samples or work performance. The content of all examinations will be job related and designed to test and/or assess knowledge, skills or abilities that help predict successful completion of job duties.

The scoring system for each examination process shall be determined by human resources. Scores on each examination or examination component may be qualifying (pass/fail), averaged, or given a weighted average. An applicant's failing score on one part of the examination may be grounds for failure on the entire examination or disqualification for subsequent parts of an examination.

The content of all examinations will be kept confidential.

An applicant with a disability may request accommodation in an examination process prior to the examination. Following receipt of a request for accommodation, human resources may require additional information, such as reasonable documentation of the existence of a disability and the accommodation requested.

Veteran's Preference

Pursuant to California Government Code Section 50088, the City has adopted a method to provide preference to Veteran's. In making an appointment to a vacant position, preference will be given to candidates who are veterans, if the candidates are identically qualified.

Types of Appointment

1. **Full-Time or Part-Time Appointment**
The City Manager, or his/her designee, shall fill any authorized full-time or part-time position either through the reclassification process or from among those approved eligibility lists according to the following priority: 1) re-employment list (pursuant to the layoff policy), 2) eligibility list or transfer request.
2. **Temporary Appointment**
In the absence of eligible candidates from which an appointment may be made, a person meeting the employment standards for a vacant position may be given a temporary appointment. The appointment shall be subject to certification by the City Manager that the appointee meets the employment standards prior to the effective date of employment. Within one month of a temporary appointment, human resources will commence a recruitment to establish an eligible list. Temporary appointments should not exceed six months.
3. **At-Will Appointment**
Individuals in at-will designated positions may be appointed without the completion of the formal recruitment and selection process. Individuals appointed to full-time or part-time at-will positions must meet the minimum qualifications of the classification and are subject to the applicable background process prior to appointment.
4. **Appointment via Transfer**
A non-probationary City employee, who was initially hired by the City through a competitive internal or open recruitment, and who has received at least a satisfactory performance evaluation rating overall may request a transfer to a lateral or lower level vacant position in the City. The employee must meet the minimum qualifications for the position and may be subject to selection processes (including written exams, interviews, etc.) and other pre-employment processes specified by human resources.

Employee requesting a transfer must provide notice of the request in writing to human resources. The discretion to transfer an employee rests solely with the City. Should an employee be granted a transfer request, the employee shall retain benefits and leave accruals provided that the employee has not changed bargaining units. Should the transfer result in placement in a new bargaining unit or unrepresented status, the employee is entitled to the benefits provided to that group.

Background and Post-Offer Pre Employment Process

1. **Background Process**
Prior to employment, a candidate must receive satisfactory results from a background investigation which may include reference checks, verification of work history/education, credit checks, and verification of any and all items submitted by the applicant during the selection process.

Candidates for Public Safety positions have additional background process requirements as permitted by law.

2. Conditional Offers of Employment

After a candidate has completed their application, interview and has been selected by committee, human resources may extend to a candidate an official conditional offer of employment in writing.

3. Criminal Conviction Check

The City may request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged.

For non-public safety positions, the City shall request information about a candidate's criminal history only after issuing a conditional offer to the candidate.

Unless required by law, the City will not deny employment to any applicant solely because he or she has been convicted of a crime. The City may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position, when selecting a candidate.

For non-public safety positions, if, following the issuance of a conditional offer and subsequent review of conviction history information, the City makes a preliminary decision that the applicant's conviction history disqualifies the applicant from employment, the City will notify the applicant of this preliminary decision in writing, and shall include:

A copy of the conviction history report, and an explanation of the applicant's right to respond to the notice before the decision becomes final, including notice that the applicant's response may include submission of evidence challenging the accuracy of the conviction history report that is the basis for rescinding the offer, evidence of rehabilitation or mitigating circumstances, or both.

The applicant will have five (5) business days to respond to the notice before the City will make a final decision. If, within the five (5) business days, the applicant notifies the City in writing that the applicant disputes the accuracy of the conviction history report that was the basis for the preliminary decision to rescind the offer and that the applicant is taking specific steps to obtain evidence supporting that assertion, then the applicant shall have five (5) additional business days to respond to the notice.

The City shall consider information submitted by the applicant before making a final decision. The City shall notify the applicant if it denies the application solely or in part because of the applicant's conviction history, and shall include notice of the applicant's right to file a complaint with the Department of Fair Employment and Housing.

This section does not apply to applicants for public safety jobs who are held to higher standard and more stringent guidelines as permitted by law.

4. **Physical and/or Psychological Examinations**
Following a conditional offer of employment, candidates may be subject to passing a drug / alcohol test, and/or a job-related medical and/or psychological examination scheduled by the City.

Probationary Period

1. **Probationary Period Defined**
The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee may be rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights set forth under the disciplinary process. The probationary employee will be notified prior to the expiration of the probationary period that he or she has been rejected from probation.
2. **Length of Probationary Period**
Unless a different period is specified in the conditional offer of employment, MOU or job specification, upon appointment to a new classification (initial, transfer, promotion, or demotion), all employees must serve a probationary period of 2,080 work hours (approximately twelve months of work). Periods of time on paid or unpaid leave or extended off-site training exceeding ten (10) consecutive working days, or twenty (20) cumulative working days during the probationary period, shall automatically extend the probationary period by that number of days the employee is on such leave or training.

The City may establish probationary periods exceeding 2,080 work hours (approximately twelve months of work) in duration for positions involving duties and responsibilities that the City believes warrant an extended probationary period. In such event, the City shall indicate the probationary period in the job announcement, conditional offer of employment or other application-related materials. Further, with respect to existing classifications, the City shall provide advance notice of the probationary period change to the exclusively recognized employee organization.
3. **Extending the Probationary Period**
Provided notice has been given to the employee prior to the scheduled end of a probationary period, the City may extend a probationary period up to three months (520 hours of work). An extension of the probationary period by up to 520 work hours (approximately three months of full time work shall be in addition to those extensions resulting from an employee's absence as described above. No more than two extensions may be granted.

4. **At-Will Employees**
Probationary periods do not apply to "at-will" employment, which can be terminated at any time, with or without cause.
5. **Promotional Probationary Employees**
Promotional probationary employees who are released from their promotional appointment during the probationary period may (with City Manager approval) be appointed to any vacant position in a classification in which the employee is qualified and previously performed satisfactorily for at least one year and successfully completed the initial probationary period.

If a promotional probationary employee who promoted prior to completion of their initial probationary period is released from his or her promotional appointment during the promotional probationary period, the employee may, with City Manager approval, be appointed to a vacant position in a classification in which the employee is qualified and previously performed satisfactorily, subject to successful completion of the initial probationary period.

6. **Public Safety Officers**
Public safety officers covered by the Public Safety Officer's Procedural Bill of Rights Act, Government Code § 3300 *et seq.*, who have not completed their initial probationary period are not entitled to an administrative appeal under Government Code § 3304(b) prior to rejection, if the rejection is for performance reasons. If a probationary officer is rejected from probation because of a specific act of misconduct, however, the officer may be entitled to a hearing pursuant to constitutional due process principles. In such cases, the officer may be entitled to a limited "name-clearing" hearing before the Police Chief prior to a release from probation.

Seeking New Employment

The City encourages individual initiative and does not wish to stand in the way of an employee applying for a position elsewhere. By applying for such a position, an employee in no way impairs job security in Cotati. However, job-hunting activities shall not interfere with an individual's City duties; time off for interviews will be charged against the individual's paid or unpaid leave unless alternative arrangements are made with the respective department head in advance.

IV. PAYROLL PRACTICES, COMPENSATION AND BENEFITS

Workweek & Work Schedules

1. **Full-Time Non-Sworn Employees**
The basic workweek for full time non-sworn employees shall be forty (40) hours per week, in a seven-day designated work week (168 hours in length).

For non-sworn employees working a 5/8 or 4/10, the work week commences at 12:00 a.m. every Sunday a.m., and is a regularly recurring seven (7) day period ending at 11:59 p.m. every Saturday p.m.

For non-sworn employees on a 9/80 work schedule, each employee's designated work week (168 hours in length) shall begin exactly four hours after the start of his/her eight hour shift on the day of the week that corresponds to the employee's alternating regular day off.

For non-sworn employees on a 3/12 work schedule, each employee's designated work week (168 hours in length) shall begin exactly four hours after the start of his/her eight hour shift on the day of the week that corresponds to the employee's alternating regular day off.

2. Full-Time Sworn Employees

The work period for sworn police employees is a regular recurring 28 day period pursuant to the FLSA 7(k) partial overtime exemption (as identified in the applicable MOU). Work schedules for sworn employees are assigned by the Police Chief and/or identified in the applicable MOU.

Hours of Work

The City shall establish and may modify regular working hours for its employees. Employees shall be responsible for reporting to work on time and observing the work schedule established for their department. The City may require employees to work overtime and to perform standby responsibilities as identified in applicable MOU's.

Overtime

The City is committed to observing all of its obligations under the Fair Labor Standards Act ("FLSA"). These rules, as well as all applicable provisions in memoranda of understanding and all City pay practices, shall comport with, and shall be interpreted to ensure the minimum requirements of the FLSA.

The City designates as "FLSA Exempt" those employees who work in professional, executive, or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA.

Employees who are overtime eligible are designated as non-exempt under the FLSA. Except when necessary to address an emergency or special circumstance, employees who *are* entitled to overtime compensation under the law may not work outside of regularly scheduled working hours, or during unpaid meal periods, without the prior authorization of a Department Head. In any event, employees shall report overtime work as soon as possible after the work is performed. Violations of this rule may result in discipline, up to and including termination of employment.

Non-exempt employees shall be eligible for overtime after 40 working hours in a workweek. Sick and other types of paid leave are not working hours.

Meal Periods

Unless otherwise established in an MOU, employees shall receive an unpaid thirty (30) to sixty (60) minute meal period. Meal periods are scheduled by the Department Head. During the meal period, the employee shall be completely relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday unless approved by their Department Head. If the change in meal periods results in a change in departmental operational hours, the change must also be approved by the City Manager.

Rest Periods

Unless otherwise established in an MOU, employees shall have a fifteen (15) minute paid rest period for each half of their shift, as scheduled by the Department Head. The rest period may be interrupted or cancelled if necessary to complete work and shall be compensated time. The rest periods may not be combined or used to shorten the workday (e.g., by taking a break at the beginning or end of the workday) nor should they be used to extend a meal period.

Lactation Break Time

An employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Those desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

The City will make reasonable efforts to accommodate employees by providing an appropriate location to express milk in private. The City will attempt to find a location in close proximity to the employee's work area, and the location will be other than a toilet stall. Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

Salary Administration

1. Timekeeping

All departments shall keep attendance records of employees which shall be reported to the Administrative Services department in the form and on the dates specified by Administrative Services.

2. Salary Ranges

The official compensation plan for the City of Cotati shall provide for a 5-step salary range. The difference between steps within a salary range shall be 5%. The difference between job classifications shall be as determined from time to time by resolution of the City Council of the City of Cotati or upon approval of a MOU.

3. Salary Advancement

An employee shall be eligible for salary advancement, subject to overall satisfactory performance, based on the schedule in the applicable MOU.

Overpayment & Underpayment of Compensation & Benefits Policy

Employees are responsible for monitoring pay, accruals, and benefit contributions and deductions (collectively referred to herein as overpayments or underpayments). Employees are required to notify the City as soon as possible when there is a change in dependent eligibility (e.g., marriage, divorce, death, birth, overage dependent, etc.) as dependent changes may impact contributions or deductions. Employees should contact Administrative Services immediately should a discrepancy regarding contributions or deductions be identified by the employee.

Employees who receive compensation or contribution to benefits that they are not eligible to receive have been overpaid if the City has contributed more than the employee was eligible to receive to a benefit provider. The employee will be responsible for reimbursing the City for the overpayment.

Overpayments to employees can be recovered by the City for a period of two years from the date of knowledge of the overpayment.

Employees who are required to repay the City for an overpayment may make bi-weekly installments for the repayment up to thirty-six months. Employees may also elect to convert accrued but unused vacation, compensatory time off, and/or floating holiday hours to cash to repay the City. Repayment terms will be documented in writing and signed by the employee. Failure to repay the City for overpayments may be grounds for disciplinary action up to and including termination.

Should the City fail to pay an employee properly by underpaying compensation or incorrectly deducting benefit premiums or applying accruals, the employee is entitled to recover underpayments for a period of two years from the date of knowledge and notification to Administrative Services of underpayment.

The City will provide a correction for underpayments in the pay period following approval of the Director of Administrative Services and the City Manager, who are responsible for reviewing the underpayment and verifying payment eligibility to the employee.

Interest will not be charged to the employee for repayment of an overpayment and interest will not be provided to an employee when a payment is made for an underpayment.

Claims of improper payment of overtime under the Fair Labor Standards Act (FLSA) will follow

the statute of limitations under the FLSA.

Claims of improper enrollment or contributions to CalPERS will follow CalPERS regulations.

COBRA

1. Overview of COBRA

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you and other members of your family when group health coverage would otherwise end. For more information about your rights and obligations under any of the benefit plans and under federal law, you should review the Plan's Summary Plan Description or contact the Plan Administrator.

2. COBRA Continuation Coverage

COBRA continuation coverage is a continuation of benefit Plan coverage when it would otherwise end because of a life event. This is also called a "qualifying event." After a qualifying event, COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the benefit Plan is lost because of the qualifying event. Under a benefit Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.

3. Qualifying Events and Length of Coverage

- a. Termination from employment (other than for gross misconduct) - 18 months.
- b. Reduction of hours, which results in loss of eligibility - 18 months.
- b. Death of an employee - 36 months.
- c. Divorce or legal separation - 36 months.
- d. Employee becomes eligible for Medicare - 36 months.
- e. Dependent child reaches age of majority - 36 months.

Employees and dependents who are not covered under any other group insurance plans may continue coverage under Cotati's group plans in which they are enrolled at the time a qualifying event occurs. If continuation coverage is desired, employees and/or dependents must pay the full premiums, plus a 2% administrative fee.

4. Change of Dependent Status

It is the employee's obligation to notify the human resources when any of the following occurs:

- a. Your marriage is dissolved.
- b. You become legally separated from your spouse.
- c. A child stops being an eligible dependent under the plan.
- b. You and/or an eligible dependent become eligible for Medicare or obtain coverage under another health plan.

V. ATTENDANCE

Reporting to Work

Employees are expected to be at work at scheduled times. Schedules will vary by Department and job classification. Although employees usually work an established schedule, a supervisor may adjust an employee's schedule for a particular day or period of time for the benefit of the City or upon an employee's request. Schedule adjustments which affect annual pay or benefit accrual totals, or alter departmental operational hours, must also be approved by the City Manager.

Absences (partial or full-day)

To ensure public accountability and the integrity of public service, all employees are expected to account for their absences from work. Leave time is chargeable in increments of 1/4 (.25) hour. Exempt employees are expected to work at least eighty hours per two week pay period. Schedules for exempt employees may be flexible to accommodate evening meetings, training outside of regular work hours, and participation at City events. Department Directors may approve flexing schedules as long as the total time worked meets or exceeds the eighty hour minimum expectation per pay period, and the work is primarily performed during normal work hours. Exempt employees who work less than eighty hours per pay period are expected to account for their absences from work (partial or full day) pursuant to this policy.

Request for Leave Time

Employees shall provide requests for leave with as much advance notice as possible and in compliance with MOU provisions and department policies. Leave requests are subject to approval by the Department Head (or designee). Requests for leave will be made with consideration to providing customer service, shift coverage, other employee safety, and requesting employee preference.

The City may identify dates where requests for vacation may not be accepted and/or may be denied due to anticipated operational demands or employee safety (blackout dates). The City will make an effort to notify employees at least one month in advance of anticipated blackout dates. Department Heads (or designee) shall approve or reject leave requests within 10 working days of the employee request. Paid leave shall not be approved unless there is sufficient leave accrued to cover the requested time off at the time of request, except in exceptional circumstances and approved by the City Manager. Employees are only eligible for paid leave accrued at the date of

the most recent pay date, and cannot take paid leaves which would create a negative leave balance during the current or future pay periods.

Notification of Unforeseen Late Arrival or Absence

An employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor no later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the department head.

Unauthorized Absence is Prohibited

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. A non-exempt employee who fails to timely notify the supervisor of any absences, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized absence and will not receive compensation for the period of absence.

Excessive Tardiness, Absenteeism and Abuse of Leave

Excessive tardiness occurs when a non-exempt employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period.

Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three days in a three month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.

Abuse of, or misrepresentation of any form of accrued or unpaid leave time may be grounds for discipline, up to and including termination.

VI. LEAVES OF ABSENCE

Eligibility for Leave Benefits

Leave benefits are available to regular and probationary employees as provided by the applicable MOU, salary resolution, or compensation plan. Employees are eligible for leave benefits effective their first day of work. Regular part-time employees, who are scheduled to work at least thirty hours per week, earn leave on a pro-rata basis based on their regularly assigned hours (e.g. 50% or 75%).

Vacation Benefits for Represented Employees

Vacation leave for employees represented by a bargaining unit may be provided to pursuant to a MOU.

Vacation Benefits for Unrepresented Employees

Vacation leave for unrepresented employees is provided pursuant to the adopted compensation plan.

Vacation Leave Cash Out

Each employee will have the option to request a cash-out of any unused accrued vacation and/or leave bank hours. Written notice to the Administrative Services Department is required for all cash-out requests, subject to the provisions of the applicable MOU. There will be no exceptions to this written notice requirement. Compensation for such cash-out of unused accrued leave hours will be based on the employee's existing salary at the time payment is made. Employees must maintain a minimum of eighty (80) hours of vacation, paid leave bank, or combination thereof, following the cash out of leave. .

Vacation Leave Upon Separation of Employment

Upon separation from employment accrued and unused vacation and leave bank hours will be paid to the employee with his/her final paycheck at the employees' base hourly rate of pay.

Sick Leave

Sick Leave is paid leave from work that can be used for the following purposes:

- a. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or;
- b. Diagnosis, care, or treatment of an existing health condition of, or preventative care for any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or
- c. For an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

Sick Leave Accrual & Carryover for Different Categories of Employees

- a. Sick leave accrual for employees represented by a bargaining unit may be provided pursuant to a MOU.
- b. Sick leave accrual for unrepresented employees is provided pursuant to the adopted compensation plan.
- c. A part time employee working less than twenty hours per week or who is seasonal, temporary, or extra help may be eligible for sick leave pursuant to the adopted resolution 2015-28, in accordance with AB1522.

Sick Leave Requests

To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice. If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable. If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by this policy without good reason, may result in the employee being treated as an unauthorized absence.

Certification of Use of Sick Leave

Employees must provide a physician's certification for any sick leave absence that occurs after the employee has used 24 hours, or three days, whichever is greater, that involves the illness of the employee or family member. All employees who use paid 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 within a reasonable time thereafter.

Sick Leave on Separation from Employment

Upon service retirement from City employment, an employee may convert unused accumulated sick leave at the time of retirement to additional service credit as provided for in the City's contract with the Public Employees Retirement System (PERS).

Upon separation from City service for any other reason, the employee will not be entitled to any compensation for unused sick leave.

Sick Leave Reinstatement

If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of 6 days or 48 hours, whichever is greater, will be reinstated. An employee who worked at least 90 days in the initial employment with the City may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with the City must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave.

Leave Bank

As identified in an applicable MOU, a leave bank may be provided in lieu of vacation and sick leave.

Bereavement Leave

In the event a death occurs in an employee's immediate family, the employee shall be granted bereavement leave, with pay, up to a maximum of thirty-six (36 hours), unless otherwise provided by a MOU or salary resolution. For purposes of this provision, "immediate family member" shall be defined as mother, father, daughter, son, brother, sister, father-in-law, mother-in-law, step or foster child, son-in-law, daughter-in-law, brother-in-law, sister-in-law,

grandparent, grandparent in-law, grandchild, aunt, uncle, registered domestic partner or spouse. All bereavement leave shall be approved by the employee's department head. Bereavement leave shall be separate from all other leave and shall not be charged to sick leave bank, leave accruals, or compensatory time.

Jury Duty Leave

Employees requested to serve on jury duty shall notify their immediate supervisor who shall in turn notify the concerned department head. While serving on jury duty, an employee shall receive regular salary from the City and, also, shall remit to the City all per diem compensation received as a result of serving on jury duty. Employees shall not use City vehicles, except those employees with assigned take home vehicles, and shall not be eligible for mileage reimbursement. Jury duty does not constitute work time for purposes of calculating overtime compensation. Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her supervisor. Employees on Jury Duty shall follow all applicable City rules and policies as any other employee on paid work time.

Court or Administrative Proceeding Appearances

1. Regarding City Duties

Any employee who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of his or her job duties, must give his or her supervisor as much advance notice as is possible. The City will determine whether the matter involves an event or transaction in the course of the employee's job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time. Any compensation the employee receives should be remitted to the City.

2. Regarding Employee-Initiated Proceedings

Any employee who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that he or she initiated, is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time.

3. Regarding Crime Victim/Victim Family Member Court Attendance Leave

Any employee, who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the City with a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the City, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court / governing agency that shows that the judicial proceeding occurred when the leave was used. An

employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off.

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

5. **Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief**
Any employee who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his or her child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use *sick leave*, accrued vacation or compensatory time off.

6. **Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning**
Any employee who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the City within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for

physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use sick leave, accrued vacation, or compensatory time off.

Military Leave

Military leave shall be granted in accordance with the provisions of state and federal law. Employees who anticipate taking military leave must submit a written request to the City Manager or his/her designee, with a copy of orders attached, at least two (2) weeks prior to the first day of leave. Employees employed less than one (1) year shall receive a leave of absence without pay. All military leave will be subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and/or the Military and Veterans Code.

Leaves of Absence Without Pay

Employees may be granted a leave of absence without pay for a period of time not to exceed thirty (30) calendar days, upon recommendation of the department head and approval of the City Manager.

Leave without pay is not a privilege which employees may use at their discretion. No such leave shall be granted except upon written request of the employee. Said written request shall set forth the reason for the request and shall be submitted for consideration not less than five working days in advance of the intended leave start date. Approval or disapproval of said request shall be in writing.

Leave without pay may be extended beyond the above stated limit only upon approval of the City Council.

Fringe benefits and accrual of service time shall be terminated when an employee is on a leave without pay. This does not apply to employees on FMLA leave.

Misrepresentation of purpose for requesting leave without pay is cause for disciplinary action up to and including termination. It shall be the general City policy that leaves without pay are to be discouraged. Leave without pay shall be granted only in the event that all accrued leave to which the employee is entitled has been used.

Failure of the employee to return to his/her employment upon the termination of any authorized leave of absence will, except under extraordinary circumstances, constitute the employee's separation from City service.

Paid Administrative Leave

Administrative leave is paid leave ordered by the City that requires an employee to be away from work but available to be contacted by the City on terms and conditions defined by the City at the time of the leave. The employee has no right to appeal if placed on administrative leave.

School-Related Leave

1. **School or Licensed Day Care Activity Leave**
Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed child care facility, shall be allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to: participate in activities of their child's school or licensed child care facility; find, enroll, or reenroll a child in a school or with a licensed child care provider; or to pick up a child due to a child care provider or school emergency.

The employee must provide reasonable advance notice to his/her supervisor of the planned absence. The employee shall use accrued vacation if available and may use compensatory time off. Leave is unpaid if accrued leave is not used. The employee must provide documentation from the school or licensed child care facility as verification that the employee participated in school or child care facility activities on a specific date and at a particular time. If both parents, guardians or grandparents having custody work for the City at the same City work site, only the first parent requesting will be entitled to leave under this provision.

2. **Child Suspension Leave**
Any employee who is the parent or guardian of a child in grades 1 through 12 may take time off to go to the child's school in response to a request from the child's school, if the employee gives advance notice to his or her supervisor. A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel. The employee shall use accrued vacation if available and may use compensatory time off. Leave is unpaid if accrued leave is not used.

Holidays

1. **Recognized Holidays**
All regular and probationary employees shall receive twelve and one half (12 ½) days of paid holiday leave for each year. A holiday is any day or part thereof the City Council designates a day of thanksgiving, mourning, or holiday. If a holiday recognized by the City falls during the time an employee is using accrued leave (paid time off), it shall not be counted as a leave day. City holidays are the dates on which the following events are observed as follows:

- New Year's Day
- Martin Luther King, Jr. Birthday
- Lincoln Birthday
- Washington Birthday
- Good Friday (Half Day)
- Memorial Day
- Independence Day

- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day Following Thanksgiving Day
- Christmas Eve
- Christmas Day

2. Holidays that Fall on a Non-Work Day

In the event any of the holidays listed above fall on a Sunday, the following Monday shall be considered as the holiday. If a scheduled holiday should fall on a Saturday, the proceeding Friday shall be considered as the holiday.

Holidays that fall on an employees' regular day off shall be observed on the work day before or after the regular day off. Scheduling time off for a holiday that falls on the regular day off will be handled by the City Manager with regard to operational effectiveness.

3. Floating Holiday

In addition to the above, employees shall receive one "floating holiday" per year after 1,095 days (3 years) of continuous and satisfactory service. This holiday shall be taken at the employee's discretion, with the consent of the supervisor. A floating holiday will be forfeited if it is not taken during the fiscal year (July 1 through June 30) in which it was earned.

Time Off to Vote

Any employee, if he or she does not have sufficient time outside of working hours to vote, may request up to two hours of paid leave either at the beginning or end of scheduled working hours to enable him or her to vote. The employee must request time off to vote from his or her supervisor at least two days prior to election day, unless the employee is required to work unscheduled hours with less than two days' notice, in which case the employee must provide his or her supervisor with as much notice as possible.

Family and Medical Care Leaves

1. Overview of FMLA/CFRA

In accordance with federal and state law and regulations, the City shall provide family and medical care leave, which is unpaid leave, to eligible employees. Unless otherwise provided by these Rules, "leave" under this Rule refers to leave pursuant to the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). Employees who misuse or abuse FMLA leave may be disciplined up to and including termination. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. Unless otherwise provided by law, the City will run each employee's FLMA and CFRA concurrently.

As a local public agency, the City is a covered employer under the FMLA and CFRA and therefore is required to post the general FMLA/CFRA notices in workplaces. However, because the City employs fewer than 50 employees within a 75-mile radius, City employees are not legally entitled to family and medical care leave under either the FMLA or CFRA. The City provides family medical leave by policy only.

As an employer with 20 or more employees within a 75-mile radius, City employees are entitled to parental leave under Government Code section 12945.6. The City's parental leave provided under the City Family and Medical Care Leave Policy runs concurrently with leave required under Government Code section 12945.6.

2. Definitions

“12-month period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken. Each time an employee takes eligible leave, the remaining leave entitlement is based on the amount of family and medical leave taken during the immediate preceding 12 months.

“Single 12-month period” means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date.

“12 work weeks” means twelve weeks of leave based on the employee's regular schedule. For example, if an employee works 20 hours per work week, he or she would be eligible to take 12 weeks times 20 hours, for a total of 240 hours of family medical leave.

“Child” means a child under the age of 18 years or 18 years or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child. A child is “incapable of self-care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories.

“Parent” means a biological, adopted, foster, or step for an individual who is a legal guardian or stand or stood in loco parentis. This term does not include parents-in-law.

“Spouse” means one or two persons to a marriage, regardless of the gender of the persons, and for purposes of CFRA leave, includes registered domestic partner as defined below.

“Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria

specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.

“Serious health condition” means an illness, injury impairment, or physical or mental condition that involves:

- a. Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
- b. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - i. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three full consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - ii. Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist by a health care provider, by a nurse, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - iii. Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
 - iv. Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.)
- c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse or physician’s assistant under direct supervision of a health care provider;

- ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- d. A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
 - e. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

“Health Care Provider” means:

- a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
- b. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;
- c. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
- d. Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
- e. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
- f. Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

“Covered active duty” means:

- a. In the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or

- b. In the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

“Covered Servicemember” means:

- a. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty; or
- b. A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

“Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either:

- a. A military medical treatment facility as an outpatient; or
- b. A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

“Next of Kin of a Covered Servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

“Serious Injury or Illness”

- a. In the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating; or
- b. In the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the

member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

3. Employees Eligible for Leave

An employee is eligible for leave if the employee:

- a. Has been employed by the City of Cotati for at least 12 months; and
- b. Has worked for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. The Fair Labor Standards Act (FLSA) "hours worked" principles apply in determining whether an employee meets the "at least 1,250 hours" requirement.

4. Reasons for Leave

Leave is only permitted for the following reasons:

- a. The birth of a child or to care for a newborn of an employee;
- b. The placement of a child with an employee in connection with the adoption or foster care of a child;
- c. Leave to care for a child, parent, domestic partner or a spouse who has a serious health condition; or
- d. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.
- e. Leave for a "qualifying exigency" may be taken arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation (under the FMLA only, not the CFRA); or
- f. Leave to care for a spouse, son, daughter, parent, or "next of kin" servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period, under the FMLA only, not the CFRA.

5. Amount of Leave/Total Leave Entitlement

Eligible employees are entitled to a total of 12 work weeks (or 26 weeks to care for a covered servicemember) of leave during any rolling 12-month period. Where FMLA leave qualifies as

both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

6. Minimum Duration of Leave

- a. Serious health condition. Subject to compliance with the medical certification requirements of this Rule, there is no minimum duration for leave associated with a serious health condition of the employee or the employee's child, parent, domestic partner, or spouse. However, the notice and medical certification provisions of this policy must be complied with.
- b. Child bonding. If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

7. Parents Both Employed By The City

In any case in which both parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave).

In any case in which a both parents of a covered servicemember are employed by the City and are entitle to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered servicemember.

Except as noted above, this limitation does not apply to any other type of leave under this policy.

8. Employee Benefits While on Leave

- a. Compensation
Leave under this policy is unpaid.
- b. Accrued Leaves
While on unpaid family medical leave, as with other unpaid leaves of absence from the City, employees do not accrue vacation, sick or other paid leave time.
- c. Health Benefits
While on FMLA/CFRA leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job.

If an employee fails to return to work after his or her leave entitlement is exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (e.g. unpaid wages, vacation pay, etc.) in accordance with applicable law.

d. Other Benefits

Employees will not be covered by any other benefits while on unpaid FMLA/CFRA leave, as with other unpaid leaves of absence from the City, including but not limited to life insurance, short-term or long-term disability insurance, retirement plans, and supplemental benefit plans.

Employees may continue coverage on their own by payroll deductions or direct payments made to these plans, when permitted under the plan. The City shall inform employees whether the premiums should be paid to the carrier or to the City. Coverage by a plan may be cancelled if employees are more than 30 days late in making a premium payment. The City shall provide advance notice before coverage is to cease, advising the employee that he or she will be dropped if his or her premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

9. Substitution of Paid Accrued Leaves

Employees are required to exhaust all paid accrued leaves, including leave bank, vacation, and sick leave, concurrently with FMLA/CFRA leave with three exceptions:

- a. Employees are not required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act;
- b. Employees on Labor Code § 4850 time shall not have such leave designated as FMLA/CFRA leave; and
- c. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

10. City and Employee Rights if an Employee Requests Accrued Leave without Mentioning Either the FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA-qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA-

qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City may require the employee to exhaust accrued leave as described above.

11. Medical Certification

Employees who request leave must provide a medical certification and/or recertification to support the need for leave as described below:

a. Employee's Own Serious Health Condition

If the leave requested is for the employee's own serious health condition, the written certification must include: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position. Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested.

The employee must provide a certification for his or her own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the City will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, human resources may contact the health care provider who provided the certification to clarify and/ or authenticate the certification. "Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The City may not ask for additional information beyond that required on the certification form.

b. Family Member Serious Health Condition

Employees who request leave to care for a child, parent, domestic partner or a spouse who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide

care during a period of treatment or supervision of the child, parent or spouse. The term “warrants the participation of the employee” includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employee must obtain recertification if additional leave is requested.

c. Servicemember Serious Injury or Illness

Employees who request leave to care for a covered servicemember who is a child, spouse, parent, or “next of kin” of the employee must provide written certification from a health care provider regarding the injured servicemember’s serious injury or illness. The City will verify the certification as permitted by the FMLA regulations.

d. Qualifying Exigency

The first time an employee requests leave because of a qualifying exigency, the City may require the employee to provide a copy of the covered military member’s active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in a foreign country, and the dates of the covered military member’s active duty service. A copy of new active duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member. The City will verify the certification as permitted by the FMLA regulations.

12. Time to Provide Certification

When an employee's leave is foreseeable and at least 30 days’ notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to human resources within the time frame requested by human resources (which must allow at least 15 calendar days after the employer’s request), unless it is not practicable under the particular circumstances to do so despite the employee’s diligent, good faith efforts.

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established, human resources may delay the taking of FMLA/CFRA leave until required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

13. Second and Third Medical Opinions

If human resources has reason to doubt the validity of a certification for the employee’s serious health condition, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and employee, but paid for by the

City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

14. Intermittent Leave or Leave On A Reduced Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule for his or her own serious health condition, or to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The City may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule.

15. Employee Notice of Leave

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. Except for qualifying exigency leave, if leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

16. Reinstatement Upon Return from Leave

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

17. Employee's Obligation to Periodically Report On His/Her Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

18. Fitness for Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee

must obtain and present a fitness for duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification shall result in denial of reinstatement.

19. Reinstatement of “Key Employees”

The City may deny reinstatement to a “key” employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City’s intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

20. Required Forms

Employees must fill out the following applicable forms in connection with leave under this policy. All four forms are available from human resources:

- a. Request for Family or Medical Leave Form prepared by the City to be eligible for leave.
NOTE: EMPLOYEES WILL RECEIVE A CITY RESPONSE TO THEIR REQUEST WHICH WILL SET FORTH CERTAIN CONDITIONS OF THE LEAVE;
- b. Medical Certification Form, either for the employee’s own serious health condition or for the serious health condition of a child, parent, spouse or domestic partner.
- c. Authorization for payroll deductions for benefit plan coverage continuation
- d. Fitness for Duty to Return from Leave Form

Leave Because Of Pregnancy, Childbirth, Or Related Medical Condition

1. Eligibility

Any employee who is disabled due to pregnancy, childbirth, or a related medical condition may be entitled to Pregnancy Disability Leave (PDL).

For employees who are also eligible for FLMA/CFRA leave, PDL is not counted as time used for CFRA leave, but does run concurrently with available FMLA leave.

2. Reasons for Leave

Pregnancy Disability Leave is for any period(s) of actual disability caused by pregnancy, childbirth or related medical conditions. PDL does not need to be taken in one continuous period of time but can be taken on an as needed basis. Time off needed for prenatal care, severe morning sickness, doctor ordered bed rest, childbirth, and recovery from childbirth are all covered by PDL.

3. Amount of Leave

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid leave for up to the number of hours she would normally work within four calendar months (one-third of a year or 17 1/3 weeks). For a full-time

employee who works 40 hours per week, “four months” means 693 hours of leave entitlement, based on 40 hour per week times 17 1/3 weeks. An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave.

Employees affected by pregnancy or a related medical condition, may also be eligible to transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties, if this transfer is medically advisable.

4. Compensation and Benefits While on Leave

a. Compensation

Pregnancy disability leaves are without pay. However, the employee must first use sick leave, if any is available. Once sick leave is depleted, the employee may elect to use vacation leave or any other accrued paid time off during the leave.

b. Benefits

An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act.

c. Accrued Leaves

While on unpaid leave, employees do not accrue leave bank, sick, or other paid leave time.

5. Employee Notice of Leave

Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to Human Resources.

6. Medical Certification

The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: 1) the employee is disabled from working by pregnancy, childbirth or a related medical condition; 2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and 3) the estimated duration or end date of the leave.

7. Reinstatement Upon Return From Leave

a. Right to Reinstatement

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the PDL period.

b. **Fitness for Duty Certification**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness for duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification shall result in denial of reinstatement.

Catastrophic Leave

The Catastrophic Leave Program provides salary and benefits continuation for eligible staff employees who have exhausted all paid leave due to their own serious illness or injury, or due to the need to care for an immediate family member who has experienced a catastrophic illness or injury. It is a voluntary program that allows employees to donate a portion of their annual leave into a bank that is available to assist employees who are eligible under the program. Accrued leave including, vacation, floating holiday, leave bank, sick leave, or compensatory time, may be transferred from one or more donating employees to another receiving employee under the following conditions:

- a. The receiving employee is a full time employee and has requested or granted permission to participate in the catastrophic leave donation program.
- b. For medical catastrophic leave, the receiving employee or the receiving employee's child, stepchild, spouse or parent has sustained a life threatening or debilitating illness, injury or condition. The Department Head will require that the condition be confirmed by a doctor's report.
- c. The receiving employee has, or will have, exhausted all paid time off.
- d. For medical catastrophic leave, the receiving employee must be prevented from returning to work for at least 30 days and must have applied for a medical leave of absence. Donating employees must retain at least 80 hours of accrued leave.
- e. Donated time will be converted from the type of leave given to sick leave and credited to the receiving employee's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the receiving employee.
- f. Donations must be a minimum of eight hours and thereafter in whole hour increments.
- g. The total leave credits received by the employee shall normally not exceed three months; however, if approved by the City Manager, the total leave credits received may be up to a maximum of one year.
- h. Donations approved shall be on a form signed by the donating employee and a copy provided to the receiving employee's Department Head. Donations can only be used for Catastrophic Leave purposes, as defined above. Once posted, these donations are irrevocable except in the event of the untimely death of a catastrophic leave recipient or the catastrophic event is resolved. In that event, any excess leave will be returned to donating employees on a last in-first out basis (i.e., excess leave would be returned to the last employee(s) to have donated).

VII. LIGHT OR LIMITED DUTY

Overview

The City may, in accordance with applicable law, assign employees injured or ill from either on-the-job (industrial) or off-the-job (non-industrial) causes to light, limited or modified duty. Such assignments will be temporary (i.e. less than three months). They may involve duties that differ from the normal work duties of the employee including work in a department other than the one where the employee's regular position is assigned. Such light, limited, or modified duty shall terminate when the employee is physically able to perform all his/her normal work duties as described in his/her employment classification. The City reserves the right to modify the employees work schedule during the light / limited duty assignment. Should an employee be unable to return to work due to permanent or reasonably permanent work restrictions that prevent an employee from performing some or all of the essential functions of his/her position, the City will engage in the reasonable accommodation and interactive process.

Reasonable Accommodation

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

1. Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; and
2. Employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider; and
3. Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
4. Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

Supporting Documentation or Certification

1. Reasonable Medical Documentation of Disability
If the disability or the need for reasonable accommodation is not obvious, the City may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, the functional limitations or work restrictions that apply to the employee's ability to perform the essential functions of the job, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the agency will: 1) explain the insufficiency; 2) allow the employee or applicant to supplement the documentation; and 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

2. Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the City will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

3. Certification of Victim Status

An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his or her safety while at work must provide both of the following:

- a. Written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- b. Certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

VIII. FITNESS FOR DUTY EXAMINATIONS

The fitness for duty examination process will be managed by Human Resources.

Applicants

After a conditional offer of employment has been extended to an applicant, the City may require the applicant to submit to a City-paid fitness for duty examination that is job-related; necessary for efficient operations of the agency; and required of all applicants for the job classification. An applicant or employee who is required to pass a medical and/or psychological examination will be notified of his/her right to obtain a second opinion at his/her expense and that he/she may submit such second opinions for consideration.

Current Employee

Human Resources may require an employee to submit to a City-paid fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of his or her job when there is significant evidence that:

- a. The employee's ability to perform one or more essential functions of his or her job has declined; or
- b. Could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties, or is still capable of performing those duties in a manner that does not harm him or herself or others.

Role of Health Care Provider

The City may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request a City-selected health care provider to do so at the City's expense. The City will allow an employee paid time off to attend the exam. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant or employee can perform the essential functions of his/her position and any work restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide the City with non-confidential information regarding whether:

- a. The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
- b. The applicant or employee is fit to perform essential job functions;
- c. Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- d. There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- e. The employee's continued employment poses a threat to the health and safety of him or herself or others.

Should the health care provider exceed the scope of the City's request and provide confidential health information, without valid consent of the applicant or employee, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

Authorization for Use of Medical Information

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

Medical Information from the Employee or Applicant

If an employee or applicant submits medical information to the City from his or her own health care provider, the City will not forward that information on to the health care provider who conducted the examination for the City, without the employee or applicant's written authorization. Upon receipt of the written authorization, the City will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

Interactive Process

Human Resources will initiate the interactive process when:

- a. An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s); or
- b. The City otherwise becomes aware of the need for an accommodation through a third party (e.g. a doctor's note requesting an accommodation), or by observation of the employee's work; or
- c. The City becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation; or
- d. An employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider; or
- e. An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave; or
- f. An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his or her safety at work; or
- g. An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
- h. An employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices.

Interactive Communication

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, Human Resources, or his/her designee, will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his or her designated representative, (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. Human Resources, or his/her designee, will document these communications in writing.

Potential Accommodations for Applicants or Employees with Disabilities

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable the individual to retain his or her current job. The process will generally then move on to possible reasonable accommodations in other vacant jobs, for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others. The City will consider accommodations that the applicant or employee suggests, but has the right to select and implement any reasonable accommodation that it deems effective. The range of potential reasonable accommodations includes, but is not limited to:

- a. Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;
- b. Job restructuring;
- c. Part-time or modified work schedules;
- d. Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;
- e. Preferential consideration to reassignment to a vacant, comparable position;
- f. Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or
- g. Reassignment to a temporary position, if the individual agrees.

Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions

Depending on the facts of each case, the interactive process will attempt to identify and implement a reasonable accommodation that is consistent with the medical certification applicable to the applicant or employee. Whether an accommodation is reasonable is a case-by-case analysis that takes into account several factors, including, but not limited to: the

employee's medical needs; the duration of the needed accommodation; and the employer's legally permissible past and current practices. The range of potential accommodations includes, but is not limited to:

- a. Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
- b. Change in or restructuring of work duties, such as modifying lifting requirements ;
- c. Providing more frequent breaks;
- d. Providing seating;
- e. Time off for medical appointments;
- f. Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. (However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four month pregnancy disability leave entitlement.)

Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking

Depending on the facts of each individual case, the interactive process analysis will review all possible accommodations that would enhance the safety of the employee victim at work. In determining what accommodation is reasonable, the City will consider the exigent circumstance or danger facing the employee. The City will consider the preferences of the employee to be accommodated, but has the right to select and implement any accommodation that it deems effective. The range of potential safety measure accommodations includes, but is not limited to:

- a. Transfer, reassignment, modified schedule;
- b. Change in work telephone number;
- c. Change in location of work station;
- d. Installation of locks;
- e. Assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
- f. The implementation of a safety procedure(s);
- g. Adjustment to job structure, workplace facility, or work requirement; and
- h. Referral to a victim assistance organization.

Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice

Depending on the facts of each case, the interactive process analysis will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement. The City will consider the preference of the employee or applicant, but has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

- a. Job restructuring or job reassignment (but not segregation from other employees or the public);
- b. Modification of work practices, including dress or grooming standards;
- c. Allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked in order to avoid a conflict with his or her religious observances;
- d. Allowing alternatives to union membership or payment of union dues.

Determination following Interactive Process

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

Access to Medical Information Regarding Fitness for Duty

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

IX. SEPARATION FROM EMPLOYMENT

Types of Separation

All separations from position in City employment are designated as one of the following types:

- Probationary Release
- Release of At-will, Temporary, Seasonal, and/or Extra Help Employees
- Resignation
- Retirement
- Job Abandonment
- Non-Disciplinary Separation
- Disciplinary Separation
- Layoff

Probationary Release

Probationary employees serving in their probationary period with the City may be released at any time during the probationary period as recommended by the Department Head, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance. In accordance with CMC 2.32.080, an employee rejected during the probationary period from a position to which he/she has been promoted shall be reinstated to the previous position unless he/she is discharged in the manner provided herein.

Release of At-Will, Temporary, Seasonal, and/or Extra Help Employees

An at-will (full-time or part-time), temporary, seasonal, and/or extra help employee may be separated at any time, without cause, and without right to any appeal or grievance.

Resignation

Employees are free to resign from their employment, but are encouraged to give at least two (2) weeks' notice. A resignation becomes final when the Department Head receives the resignation in writing. Once a resignation has been received, it is final and irrevocable. A resignation can be accepted by the Department Head even if it is submitted less than two weeks prior to the planned resignation date.

Once a resignation becomes effective, it is irrevocable except that the City Manager may in his/her discretion permit a resignation to be rescinded.

Retirement

An employee planning to retire must provide a written notice to the Department Head at least 30 days prior to the effective date of the retirement. A notice of retirement becomes final when the Department Head receives the notice of retirement in writing. Once a notice of retirement has been received, it is final and irrevocable. An employee who provides at least 60 days advance notice of retirement may use a maximum of eighty (80) hours accrued vacation or management time off immediately preceding his/her retirement date.

Job Abandonment

Employees are deemed to have resigned from his/her position when absent from work for three (3) consecutive workdays without prior authorization and without notification during the period of the absence. The City shall give 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 Department Head 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.

Non-Disciplinary Separation

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect. Any for cause employee has the opportunity for a post-separation appeal using the same process as described in the disciplinary appeal procedure.

Disciplinary Separation

A for cause employee may be separated for disciplinary reasons pursuant to the policy and procedures in the Discipline section of these Rules.

Layoffs

Whenever, in the sole judgment of the City Council, it becomes necessary for economic or operational reasons, the City Council may abolish or reduce any position in the competitive service, and the employee holding such position for employment may be laid-off or demoted for non-disciplinary reasons and without the right of appeal.

1. Order of Layoffs

Seniority shall be observed in effecting such reduction in personnel, and the order of layoff shall be in the reverse order of cumulative time served in City service upon the effective date of the layoff. Layoffs shall be made within classes of positions, and no permanent or probationary employee shall be laid-off from his or her position in any department while any emergency, temporary or provisional employee is serving in the same class in that department.

For the purpose of determining order of layoff, total cumulative time shall include time served on military leave of absence. Time off due to unpaid, unauthorized absences or periods of suspension will not be included.

2. Notification of Layoff

Employees to be laid-off shall be given at least fourteen calendar days' prior written notice.

3. Reemployment Lists

The names of permanent employees laid-off, or demoted in lieu of layoff, shall be placed upon reemployment lists for those classes which, in the opinion of the City Manager or his/her designee, require basically the same qualifications, duties and responsibilities of the class from which the layoff or demotion in lieu of layoff was made.

Names of persons laid-off shall be placed upon reemployment lists in order of their seniority in the service immediately prior to their being laid-off; provided, however, said order may be changed if required by the needs of the service. Whether the needs of the service require placement on the reemployment list in an order other than seniority shall be determined by the City Manager or his/her designee and upon the recommendation of the applicable department head.

4. At-Will Employees

This policy does not apply to at-will employees.

Return of City Property

All City property in the employee's possession must be returned prior to separation, including keys, key fobs, identification cards, equipment, credit cards, gas cards, cell phones, pagers, and any other City equipment.

X. CITY-WIDE POLICIES

Code of Conduct/Ethics

Employees of the City are required to discharge the duties and responsibilities of their positions with professional impartiality, regardless of personal considerations, and recognizing that the public interest, as articulated by City policy, is their primary concern. The conduct of employees in their official capacity must be beyond reproach. Their conduct shall be such that when viewed by the reasonable person, it is a credit to the integrity of City government.

To meet this above stated requirement, employees must:

- a. Respect and comply with the rules, ordinances and statutes establishing standards of ethical conduct, both on and off the job.
- b. Refrain from disclosing, promulgating, or validating information concerning City government or other employees and officials which is false, confidential, protected by rights of privacy or common courtesy, or disruptive to the work environment, without official authorization.

- c. Be responsive, efficient, courteous, and impartial in the performance of their job, assuring fair and equal treatment of all persons, claims and transactions coming before them in their official capacities.
- d. Work in full cooperation with other City employees in promoting the public welfare, recognizing that private interest (of an individual employee or anyone associated therewith) must always be subordinate to the public interest.
- e. Make decisions in full compliance with the law and the policies promulgated by the City Council, and subordinate personal views to official policy while acting in an official capacity.
- f. City funds or property may never be used for personal or private use, gain or benefit and employees must be absolutely honest in all dealings, in whatever capacity, with City funds, properties and facilities.
- g. Refrain from modifying or altering City documents, forms, or records in order to misrepresent facts or circumstances. Should a City record need to be modified, any modifications to City records should be noted with the signature and date of the employee making the modification.
- h. Never accept or engage in outside employment or on-duty or off-duty activities that may appear to be, or are incompatible with public duties. Employees of the City should not become involved or affiliated with any company, agency or entity that receives funds from the City, either directly or indirectly, where that association or affiliation may create a conflict of interest, or an appearance of a conflict of interest or impropriety.
- i. Refuse to represent private interests before government agencies in any matter in which the City is a party, or in which the employee's official position with the City is, or may be, a consideration in, or influence the decision of such agency on the matter before it.
- j. Disclose all financial interests which may constitute a conflict of interest with official duties, and disclose the nature and extent of personal interests in any business entity engaging in any transaction with the City to the extent required under the City's conflict of interest resolution and any applicable state and federal law.
- k. Refuse to accept gifts, favors, services or promise of future benefit from any person or entity doing business with the City of Cotati, such as, but not limited to, vendors, contractors, developers, agents, attorneys or others where such gift, favor, service or promise could compromise independence of judgment or action as a public official or employee, and disclose any offer of gift, favor, service or promise to the employee's supervisor.
- l. Not act in any manner, whether or not specifically prohibited by law, rule, practice or procedure, which could be construed by an objective, reasonable person to result in or create the appearance of:

- 1) Using public office for personal gain.
- 2) Giving preferential treatment or partiality to any person or group.
- 3) Willfully impeding governmental responsiveness, efficiency or effectiveness.
- 4) Making a governmental decision outside the established, official City procedures or beyond the authority of the employee.

Because the City is tax-supported and exists to promote the general health and welfare of the community, employees of the City have responsibilities greater than their counterparts in private industry. Cotati City employees are in the “public eye”, and employment with the City carries an obligation of personal integrity and conduct that serves to establish public respect, confidence and trust.

Employees represent the City of Cotati and the quality of City service is judged through their appearance and demeanor. The residents of Cotati have the right to expect that City employees will provide services in an efficient, complete and courteous manner. Employees must be “public relations” conscious and service oriented. It is intended that the rules and procedures which follow will assist employees in maintaining high ethical standards and proper job performance, and in avoiding potential conflicts of interest both in fact and appearance.

Failure of an employee to comply with any of the standards set forth in this policy shall be the basis for disciplinary or other appropriate action.

All employees have the right to expect:

- a. Courteous treatment from fellow City employees and officials.
- b. Equality of treatment under the same policies, rules, and regulations established for all employees.
- c. Opportunity to obtain redress of grievance without jeopardizing their employment.
- d. Participation in a recognized employee organization for the purpose of representation on matters within the scope of representation as well as the right to choose not to participate in any employee organization. Employees in classifications represented by bargaining groups with Agency Shop agreements who choose not to be a part of the union may be required to pay a Fair Share Fee, or pay a sum equal to the Agency Shop fee to a non-religious and non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Service Code.
- e. Equal opportunity for career advancement and organizational mobility to realize their full potential based on qualifications and as positions become available.

The City, as a condition of employment, expects to receive from the employee:

- a. Initiative, ownership and a conscientious effort to perform productive work for the benefit of the community.

- b. Cooperative, positive, honest, responsive and courteous relations with fellow employees, supervisors, and the public.
- c. A continuous effort to strive for greater knowledge and skill on the job in order to maintain performance at a high level.
- d. Compliance with all rules of conduct, policies, practices, procedures, and ordinances established by the City.
- e. Public loyalty to and support of the official policies of the employee's department and the City.
- f. Responsible work habits demonstrated by:
 - i. Being flexible and adaptable to change.
 - ii. Keeping informed on developments and matters affecting job performance.
 - iii. Dependability, promptness, reliable attendance and performing required duties competently.
 - iv. Accepting constructive suggestions and criticism.
 - v. Neat, clean, and appropriate grooming and attire. Prescribed uniforms and safety equipment must be worn where applicable.
- g. The City prides itself on the professional appearance it maintains and the favorable image that employees present as representatives of the City of Cotati. Employees are expected to use their best judgment in determining their appearance and dress, consistent with the City's standards and the positive image and professional appearance it wishes to maintain. Employees should dress conservatively, in good taste and according to the requirements of his or her position.
- h. Responsible expenditure and use of City resources and property by:
 - i. Observing all statutes, regulations and policies governing or regarding the expenditure of City resources and property, including but not limited to Fraud Prevention, Workers' Compensation, Purchasing, Purchasing Card, Accounts Payable, Contract Management, Travel and Expense Reimbursement, and Cash Handling policies.
 - ii. Avoiding waste, including avoiding any needless, careless, extravagant or unnecessary expenditure of City resources and property.
 - iii. Avoiding abuse, including avoiding wrongful use or destruction of City resources and property.

Appearance Standards

1. Basis for Standards

These dress code, tattoo, and body piercing appearance standards are designed to promote the City's legitimate and non-discriminatory goals to promote workplace safety and a professional image that is consistent with the employee's job duties and level of public contact. The regulations contained in this section shall be followed by all employees unless a more specific department policy contains other standards.

2. Dress Code

Employees of the City are required to dress appropriately for the jobs they are performing.

All clothing and footwear must be neat, clean, and in good repair and appropriate for the work environment and functions performed.

Athletic wear, including but not limited to shorts, sweats, stretch pants, and tank tops are not allowed unless part of a required uniform or specifically authorized by the department head.

Open-toed footwear such as sandals and flip flops are not allowed, unless medically necessary as documented by a licensed physician.

Hair must be neat, clean, and well groomed.

Beards, mustaches and sideburns must be maintained in a neat and well-groomed fashion.

Jewelry that does not pierce the skin is acceptable, except in areas where it constitutes a health or safety hazard.

Good personal hygiene is required.

Dress must be professionally appropriate to the work setting, particularly if the employee deals with the public.

Employees may be required to wear uniforms and safety equipment specified by the City. City uniforms shall be clean, presentable, and worn in a professional manner.

Employees shall be mindful of other employees' sensitivity to perfume and other fragrances, and employees shall refrain from wearing fragrances that are offensive or harmful to others.

3. Tattoos

Employees are expected to project a professional appearance while at work and must abide by the standards below. If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

No tattoos are allowed anywhere on the head, face, or neck.

Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang-related.

No fully visible tattoos, or visible portions of tattoos shall, in aggregate, cover more than 10 square inches in area of visible skin, measured at the outside edges of the tattoo.

Any non-conforming tattoos will be covered with clothing while at work, or removed.

4. Piercing

Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing and must abide by the standards below. If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

No objects, articles, jewelry or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth except that reasonably-sized pierced earrings may be worn in each ear lobe.

Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

Gifts and Gratuities

1. Overview

As public employees, we are expected to uphold a high level of ethical standards when it comes to our jobs. This standard is especially important in relationship to gifts and gratuities. Occasionally, employees have received "thank you" gifts from the public or other customers we serve, especially around the holidays. These gifts are usually sent in the spirit of appreciation for work well done or as a public relations gesture. However, regardless of the intent of the giver or the receiver, the public's perception of these gifts should play a part in any City policy relating to gratuities. We must be concerned about both conflict of interest and the appearance of conflict of interest. Our credibility in the community is a major key to our effectiveness.

2. Policy

No official or employee shall accept a fee, compensation, gift, payment of expenses or any other thing of monetary value in any circumstances in which acceptance may result in or create the appearance of any one or more of the following:

- a. Use of public office and/or employment for personal or private gain.
- b. Preferential treatment of any person.
- c. Loss of complete independence or impartiality.
- d. Making a City decision outside official channels.

- e. Reduction of public confidence in the integrity of City government and/or its employees.
- f. Impeding government efficiency or economy.

Gifts received in conflict with this policy shall be returned to the sender.

3. Conflict of Interest Designated Employees

Employees who are designated in the City's conflict of interest code shall follow all guidelines in accordance with applicable state law.

4. Evaluation of Acceptance of Gifts/Gratuity

Employees and their supervisors should use the test of reasonableness in interpreting the gift and gratuity standards set forth below. Where this policy is silent on a particular issue, or when an employee is unclear about how to respond to the receipt of a gift or gratuity, employees should speak to their supervisor.

As a general rule, employees shall not accept any personal gift from an individual, firm, or organization doing business with the City. "Gift" is defined as anything of service, payment, or value and includes any rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to all members of the public. Something is considered to be of value if it would have a market value or cost if purchased at a store or public supplier. The fact that someone is discarding materials does not make it valueless if it has market value. Gifts received by an employee, including anonymous gifts, should be disclosed to the supervisor as soon as possible.

Gifts of food or similar small items that are sent to any employee, a Department as a whole, or to a specific Division within a Department may be accepted based on Department Head discretion. Wherever possible, these gifts should be shared among everyone at the work place and not limited to a specific person. Similarly, gifts of flowers may be accepted and kept in a visible area within the office where they can be enjoyed by other people, including members of the public.

Any gifts received outside of the above policy guidelines shall not exceed \$50 in value. Gifts that exceed \$50 in value shall be returned to the sender.

5. Responsibility for Oversight:

It is the responsibility of each Department Head to ensure that this policy is enforced within their Department.

Outside Employment

1. No Outside Employment Without Prior Approval

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 Department Head prior to undertaking any outside employment as described in this Policy.

2. Authorization and Appeal Process

Written Request: Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to his or her department head. The written request must include: the work hours and/or time required; job title or the nature of the activity; the work location; and the supervisor, manager and name of the employer or activity.

3. Analysis and Decision

The Department Head will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the City. If the Department Head determines such activity is compatible, or would be if any conditions or restrictions applied, he or she will authorize the activity and specify the conditions/ restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.

4. One Year Authorization

An outside employment authorization is valid only up to one year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, he or she must make another request following the process in this Policy.

5. Appeal

If the Department Head denies an employee's outside employment request, the employee may submit a written notice of appeal to the City Manager within 10 days after the date of the denial. The decision on appeal will be put in writing, provided within 10 days after the receipt of the appeal, and will be final.

6. Prohibited Outside Activities

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

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;

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

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

7. Changes in Outside Employment Status

The employee must promptly report in writing to the Department Head 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.

8. Revocation / Suspension of Outside Employment Authorization

Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this Policy.

- a. The employee's work performance declines; or
- b. 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.

9. Use of City-Paid Time and City Equipment Prohibited

Under no circumstances may an employee use any City-paid time or City equipment, vehicles, tools, supplies, machines, or any other item that is City property while an employee is engaged in any outside employment, activity or enterprise.

Employee Recognition

The City will, from time-to-time, recognize employee achievement, loyalty, and longevity. This may include, but need not be limited to, a Service Award Program to honor continuous service to the City of Cotati or superior service to the community.

Public Meeting/The Brown Act

In accordance with the Brown Act (Govt. Code Section 54950 et seq.) and adopted City Council Rules, City employees must take care to ensure that conversations, documents and/or electronic systems are not used to transmit, either all-at-once or serially, City legislative officials' positions on matters of City business to a majority of any City body of elected officials before that body has publicly made a final decision on the subject.

Employee Safety

Safety is everyone's responsibility. All employees must use safe work practices and report any unsafe conditions that may occur. The City also recognizes its responsibility to maintain safe workplaces. The City workplace shall be defined as any location where City business is conducted, including vehicles and parking lots.

All work-related injuries must be reported to the responsible supervisor. If there is any question regarding the appropriate supervisor, the report should be made immediately to the City Manager.

In the case of any work-related injury the employee shall be provided with a workers' compensation claim form within one (1) working day of the injury.

Individual departments may adopt specific safety rules applicable to their operations, subject to review and approval by the City Manager.

Discrimination, Harassment and Retaliation & Complaint Procedure

1. Purpose

The City has a strong commitment to prohibit and prevent 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. The City encourages all covered individuals to report-- as soon as possible-- any conduct that is believed to violate this Policy. Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

2. Covered Individuals and Scope of Policy

The individuals covered by this Policy are: applicants, employees regardless of rank or title, elected or appointed officials, interns, and volunteers. 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.

3. Definitions

a. Protected Classification

This Policy prohibits harassment, discrimination, or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, 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

This Policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: making a request for an accommodation

for a disability; making a request for accommodation for religious beliefs; making a complaint under this Policy; opposing violations of this Policy; or participating in an investigation under this Policy.

c. Discrimination

This Policy prohibits treating individuals differently because of the individual's actual or perceived protected classification, or 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 person's actual or perceived protected classification:

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-oriented stories and jokes.

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.

Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.

Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

4. Guidelines for Identifying Harassment

Harassment includes any conduct which would be unwelcome or unwanted to an individual of the recipient's same protected classification. Use the following guidelines to determine if conduct is unwelcome or unwanted:

It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.

Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.

Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.

Conduct can constitute harassment in violation of this Policy even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames).

5. Retaliation

Retaliation occurs when adverse conduct is taken against an 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, shunning and avoiding an individual who reports harassment or discrimination; or real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

6. Complaint Procedure

A covered individual who believes he or she has been harassed may make a complaint -- verbally or in writing -- to any supervisor, manager, department head, or human resources without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify human resources. Upon receiving notification of a harassment complaint, human resources will complete and/or delegate the following steps. If the person in human resources is accused, or a witness to the events at issue, the City Manager will complete and/or delegate the following steps.

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.

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.

Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.

If conduct in violation of this Policy occurred, take or recommend to the Department Head (or City Manager and/or designee if the Department Head is accused) prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.

Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.

7. Proactive Approach

The City takes a proactive approach to potential Policy violations and will conduct an investigation if its supervisory or management employees become aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

8. 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 or employees can check the posters that are located on City bulletin boards for office locations and telephone numbers.

9. Confidentiality

Every effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An 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.

10. Responsibilities

Each non-manager or non-supervisor is responsible for:

- a. Treating all individuals in the workplace or on worksites with respect and consideration.
- b. Modeling behavior that conforms to this Policy.
- c. Participating in periodic training.
- d. Cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.
- e. Taking no actions to influence any potential witness while the investigation is ongoing.

- f. 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, manager, department head, or human resources.

In addition to the responsibilities listed above, each manager and supervisor is responsible for:

- a. Informing employees of this Policy.
- b. Taking all steps necessary to prevent harassment, discrimination, or retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
- c. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
- d. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
- e. Assisting, advising, or consulting with employees and human resources regarding this Policy and complaint procedure.
- f. Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination of employment.
- g. Implementing appropriate disciplinary and remedial actions.
- h. Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted.
- i. Participating in periodic training and scheduling employees for training.

Drug and Alcohol-Free Workplace

1. Purpose and Scope

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

2. Drug- and Alcohol-Free Awareness Program

The City's employee assistance provider offers counseling and treatment of drug- or Alcohol-related problems. The employee assistance provider has information about: (a) the dangers of drug or alcohol abuse in the workplace; (b) the penalties that may be imposed for drug or alcohol abuse violations; (c) the City's Policy of maintaining a drug- and alcohol free workplace; and (d) any available drug or alcohol counseling, rehabilitation or employee assistance programs.

3. Prohibited Conduct

- a. The manufacture, distribution, sale, dispensation, possession, or use of any controlled substance in either City workplaces or wherever City business is performed.
- b. Being impaired by alcohol or any controlled substance while working or being subject to call in.
- c. An employee's failure to notify his/her department head before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of City equipment.
- d. An employee's failure to notify human resources of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction.
- e. An employee's criminal conviction for a drug violation that occurred in the workplace.

4. Drug and Alcohol Testing

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

5. Pre-Employment Testing for External Applicants for Certain Jobs

Those external applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but are not limited to:

- a. Safety sensitive jobs that have public safety implications, such as operating vehicles, operating heavy trucks to transport hazardous material, law enforcement, and/or operating infrastructure systems that are potentially dangerous to the employee, other employees, or the public; and
- b. Jobs that involve the direct influence over children.

6. Reasonable Suspicion Testing of Employees

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances:

“Reasonable suspicion” to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, an accident involving agency property or equipment, or other evidence of recent drug or alcohol use.

Document and Analysis: In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with human resources. Any reasonable suspicion testing must be pre-approved by the human resources.

Testing Protocol: If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work and human resources has approved, the employee will be relieved from duty, transported to the testing facility and to his or her home after the test. The employee will be placed on paid administrative leave until the test results are received.

Nepotism

1. Policy

The City regulates the employment and placement of relatives, spouses, and domestic partners so as to avoid conflicts of interest and to promote safety, security, supervision, and morale.

2. Definitions

“Relative” means child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, cousin, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.

“Spouse” means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law.

“Supervisory relationship” means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to his or her City appointment.

3. Employment of Relatives

The City will not appoint, promote or transfer a person to a position within the same department, division, or facility in which the person's relative already holds a position, if any of the following would result:

- a. A direct or indirect supervisory relationship between the relatives;
- b. The two employees having job duties which require performance of shared duties on the same or related work assignment;
- c. Both employees having the same supervisor; or
- d. A potential for creating an adverse impact on supervision, safety, security, morale or efficiency.

4. Spouses or Domestic Partners

The City will not appoint, promote, or transfer a person, to the same department, division, or facility in which the person's spouse or registered domestic partner already holds a position, if such employment would result in any of the following:

- a. One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner; or
- b. Potential conflicts of interest or hazards for married persons or those in domestic partnership which are greater than for those who are not married or in domestic partnerships.

5. Marriage or Domestic Partnership after Employment

- a. Transfer: If two City employees who work in the same department later become spouses or domestic partners, the City Manager has discretion to transfer one of the employees to a similar position in another department, if available. Although the wishes of the two employees will be considered, the City Manager retains sole discretion to determine which employee will be transferred based upon City needs for supervision, safety, security or morale. Any such transfer that results in a salary reduction is not disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.
- b. Separation: If continuing employment of both employees, who work in the same department and who later become spouses or domestic partners, cannot be accommodated in a manner the City Manager finds to be consistent with the City's interest in the promotion of supervision, safety, security, or morale, then the City Manager retains sole discretion to separate one employee from City employment. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

1. Overview

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

2. Prohibited Behavior

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

3. “Workplace Violence” Definition

“Workplace violence” is defined as any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

- a. Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
- b. The destruction of, or threat of destruction of, City property or another employee’s property.
- c. Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
- d. Striking, punching, slapping, or assaulting another person.
- e. Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
- f. Harassing or threatening phone calls.
- g. Surveillance.
- h. Stalking.
- i. Possessing a weapon(s) during work hours unless the City issues the weapon(s) for performance of the job. “Weapon” is defined as a firearm, ammunition, explosives, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

4. Incident Reporting Procedures

Employees must immediately report to their supervisor or department head whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department head will immediately report the matter to Human Resources.

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

Human Resources or designee will take appropriate steps to provide security, such as:

- a. Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
- b. Asking any threatening or potentially violent person to leave the site; or
- c. Immediately contacting an appropriate law enforcement agency.

5. Investigation

Human Resources will see that reported violations of this Policy are investigated as necessary.

6. Incident Related Support Services

On a case by case basis, or as needed, the City will offer incident-related counseling services through the City's Employee Assistance Program (EAP), or any other resource or program made available by the City, to employees who are the victims of violence or are subjects of threats of violence or intimidation at the workplace. The City administration will work with public safety, the courts, and other authorities necessary to assure employee safety.

7. Procedures - Imminent or Actual Violent Acts

Employee Responsibilities: An employee who is in immediate apparent danger of a violent act, or another employee who witnesses a violent act or the threat of a violent act shall, whenever possible:

- a. Place him or herself in a safe location.
- b. Call the Police Department at 911 and request the immediate response of a police officer. Be prepared to inform the police dispatcher of the circumstances and exact location where an officer is needed.
- c. Inform a supervisor or manager of the circumstances.
- d. Refer media inquiries to the City Manager's Office.
- e. Cooperate fully in any administrative or criminal investigation which shall be conducted within this policy and the laws.

8. Supervisor/Manager Responsibilities:

- a. Place him or herself in a safe location.
- b. A supervisor or manager who is informed of a violent act or the threat of a violent act shall, whenever possible, ensure the immediate safety of employees and the worksite by calling the Police Department at 792-4611 or 911, and notify the Department Head and City Manager.
- c. If feasible, the supervisor/manager shall have the involved individuals wait in separate rooms or locations until the police take control or remove them from the premises.
- d. In consultation with the City Manager, determine if it is appropriate to obtain a restraining order or other appropriate injunctive and/or other legal and/or equitable relief.
- e. Reassign/relocate personnel or job duties, if required.
- f. Terminate any business relationship.
- g. Any other action deemed by the City to be necessary or required under the circumstances.
- h. Supervisors shall obtain basic information from the employee and provide this to responding police personnel.
- i. Refer media inquiries to the City Manager's Office.

9. Procedures – Future Violence

Employees who have reason to believe he or she, or another City employee, may be victimized by a violent act sometime in the future, at the workplace or as a direct result of City employment, shall inform their supervisor immediately so appropriate action may be taken. The supervisor shall inform his/her Department Head.

Employees who have signed and filed a restraining order, temporary or permanent, against an individual due to a potential act of violence, who would be in violation of the order by coming near them at work, shall immediately supply a copy of the signed order and proof of service to their supervisor, the City Manager and the City of Cotati Police Department.

10. Post-Incident Review

The City Manager's Office, the Police Department, and the affected department may conduct a post-incident review and use the review to evaluate this policy and procedure.

The City may determine what continuing support systems are needed and oversee post-incident activities.

Travel and Expense Reimbursement Policy

1. Purpose

The purpose of this policy is to establish guidelines governing travel and related reimbursable expenses incurred by employees, to provide accountability of related expenditures, and to ensure efficient approval process.

2. Travel & Expenses for Items Approved in City Budget

Expenses incurred by employees when traveling away from the office for the following types of activities to represent the City are reimbursable and authorized when included in the approved City budget and approved in advance by the Department Head (or the City Manager for Department Head expenses), as long as the other requirements of this policy are met:

- a. Communicating with representatives of regional, state and national government on City-adopted policy positions;
- b. Attending educational seminars designed to improve employee's skill and information levels;
- c. Participating in regional, state and national organizations whose activities affect the City's interests;
- d. Recognizing service to the City, and commemorating events of significance to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
- e. Attending City events; Meetings for the purpose of generating economic development, if pre-approved by the City Manager.

3. Specific Travel Expenses Requiring Advance Approval

In addition, the following expenses require prior City Council approval:

- a. Out-of-state travel;
- b. Any travel and stay exceeding 96 hours.

4. Personal Expenses Not Authorized

Examples of personal expenses that the City will not reimburse include, but are not limited to:

- a. The personal portion of any trip;
- b. Political or charitable contributions or events;
- c. Family expenses, including partner's expenses when accompanying employees on city-related business, as well as children or pet-related expenses, unless such expenses are required to accommodate a disability; Except for cultural events that are provided as part of and cannot be segregated from the cost or charge for an expense that is otherwise reimbursable under this policy, entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage, and/or golf related expenses), or other cultural events;
- d. Non-mileage costs for personal automobile expenses, including repairs, traffic
- e. citations, insurance or gasoline; and

- f. Personal losses incurred while on City business. Any questions regarding the propriety of a particular type of expense should be resolved by the Department Head (or the City Manager for a Department Head expense).

5. Cost Control

To conserve City resources and keep expenses within community standards for public employees, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed the guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines. Without advanced written approval by a Department Head, employees are limited to a total of 10 hours behind the wheel while on official travel during each work day. Partial work or training is limited to a total of 12 hours work/driving while on official travel each work day. If more cost effective other modes of travel shall be considered.

a. Transportation

The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Advanced reservations at government and group rates must be used when available.

b. Airfare

Airfare should be limited to coach at the lowest available fare. Multiple airlines should be considered in determining which airline provides for the lowest fare.

c. Automobile

Personal automobile mileage is reimbursed at Internal Revenue Service rates presently in effect (see www.irs.gov). These rates are designed to compensate driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. Employees with a car allowance are not eligible for mileage reimbursement.

d. Car Rental

Rental car expense shall not generally be reimbursed except when other modes of transportation are not cost efficient and rental car use is needed for business use.

e. Taxis/Shuttles

Taxis or shuttle fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

f. Lodging

Lodging expenses will be reimbursed or paid for when travel on City business reasonably requires an overnight stay, as determined by the Department Head, or the City Manager (for Department Head travel).

- i. Conferences/Meetings. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. If the group rate is not available, see next section.
 - ii. Other Lodging. Travelers must request government rates, when available. Lodging rates that are equal to or less than government rates are presumed to be reasonable and hence reimbursable for purposes of this policy.
 - g. Meals
A per diem amount of \$70 will be allowed to cover daily meals with tips. This is the maximum amount allowed and no receipts are required. For the purpose of determining the per diem for partial day travel, this amount shall be prorated to include \$15 for breakfast (travel begins before 6 am), \$20 for lunch (travel begins after 11 am) and \$35 for dinner (travel begins after 5 pm). There will be no reimbursement if meals were provided for as part of the training, seminar, conference, etc.
 - h. Telephone/Fax/Cellular/Internet
Employees shall use City-issued equipment for communication while on City business. In the event that City-issued equipment is not available, communication shall be limited to time-sensitive City business that must be conducted prior to the employees return to the workplace. In this case, employees will be reimbursed for actual telephone, fax, and internet expenses incurred on City business. Bills for communication, documenting the charges sought to be reimbursed, must be submitted along with the appropriate expense report form. Communication bills shall identify which charges were made on City business. Telephone calls placed to an employee's home by that employee shall be considered a City business call, provided that it's reasonable in frequency and duration.
 - i. Airport Parking
Long-term parking must be used for all air travel exceeding 24-hours.
 - j. Other
Baggage handling fees of up to 1 checked bag per person, and gratuities of up to \$10 dollars per trip will be reimbursed. Airline baggage handling fees shall require written documentation for reimbursement.
 - k. Reimbursement by Another Agency
Expenses for which City employee receives reimbursement directly from another agency are not reimbursable by the City.
6. Expense Reports
All cash advance expenditures and expense reimbursement requests must be submitted on an expense report form provided by the City. This form shall include the following advisory:

All expenses reported on this form must comply with the City's policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the City's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability.

Expense reports must document that the expense in question met the requirements of this policy. For example, the City employee should explain whose meals were purchased, what issues were discussed, and how those relate to the City's legislative position and priorities.

Employees must submit their expense reports within 30 days of an expense being incurred, accompanied by receipts documenting each expense. Restaurant detail receipts, in addition to any credit card receipts, are also part of the necessary documentation. Inability to provide such documentation in a timely fashion may result in the expense being borne by the employee.

All expenses are subject to verification that they comply with this policy.

7. Public Disclosure of Expenses

All City expenditures are public records subject to disclosure under the Public Records Act and any other relevant law.

8. Violations of this policy

Violation of this policy may result in disciplinary action up to and including employment termination. Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the City's reporting the expenses as income to state and federal tax authorities, 4) civil penalties, and 5) prosecution for misuse of public resources.

No Smoking Policy

1. Purpose

The City's No Smoking Policy is established in response to the 2006 U.S. Surgeon General's report on the health effects of involuntary smoking and Cotati Municipal Code Chapter (CMC) 9.31. The U.S. Surgeon General's report concluded the following: 1) that involuntary or "secondhand smoke" is a cause of disease, including lung disease and cancer, in healthy non-smokers, especially children; and 2) that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to the hazardous substance in tobacco smoke and that smoke-free environments are the most effective method for reducing exposures.

The purpose of this policy is to create a smoke-free workplace environment in City buildings, at City facilities and in City vehicles, in order to eliminate the health hazard of

secondary exposure to tobacco smoke, and ensure that employees are provided a healthy and safe work environment.

2. Definitions

The term “smoking” shall include the burning and inhalation of any substance that produces a visible or invisible vapor or smoke, including pipes, cigars, cigarettes, or “e-cigarettes” or other devices which convert liquids such as liquefied nicotine into a vapor for purposes of inhaling.

3. Policy

It is the City's policy that buildings, facilities and vehicles owned, operated or leased by the City of Cotati shall be entirely smoke-free at all times, except as permitted under CMC 9.31. This prohibition includes but is not limited to: common work areas, private offices, public and private meeting rooms, restrooms, lunchrooms, courtyards, gathering places, elevators, lobbies, cars, trucks or other City vehicles. "No smoking permitted" signs shall be posted in appropriate areas.

4. Application

This policy applies to all City employees and visitors while they are in buildings or vehicles owned or leased by the City.

5. Enforcement

Managers and supervisors are primarily responsible for reasonable enforcement of this policy, and for the administration of discipline as deemed appropriate. Failure of an employee to comply with the standards set forth in this policy may be the basis for disciplinary action.

Social Media Policy

1. Purpose

Due to the rapid growth of the public’s use of social media, the City of Cotati has a business need to augment traditional communication methods with the use of social media. This Social Media Policy (“Policy”) is intended to guide the proper use of the City of Cotati’s social media accounts and establish policies, protocols and procedures related to the use of social media.

The purpose of this Policy is to:

- a. Establish a limited public forum for First Amendment purposes; and
- b. Promote the City use of social media to enhance community engagement; and
- c. Permit City Employees to properly use official City social media sites as described in this policy to further the business of the City.

The goals of the City of Cotati’s use of social media are:

- a. To increase the public knowledge, trust, and use of City services; and
- b. To promote the value and importance of City services among and between governing officials, civic leaders, and the general public; and

- c. To maintain open, professional, and responsive communication with members of the public and the media.

2. Definitions

“Social media”. Social media shall mean third-party hosted websites or applications for discussion or information sharing, including, but not limited to, web-culture communities and hosted services, such as social-networking sites, photo and video sharing sites, wikis, tagged websites, and blogs. Examples include, but are not limited to, Google Plus and Yahoo Groups, Wikipedia, Twitter, Pinterest, Facebook, Meetup, Multiply, Snap Chat, Instagram, YouTube, Flickr, LinkedIn, My Life and similar, and news media sites with comment sharing capabilities.

“City Employee”. For the purpose of this Policy, City Employee shall mean permanent, probationary, temporary employees (full or part time), officers, elected or appointed officials, volunteers, and City contractors, vendors, and consultants with authorized access to the City’s official social media account(s).

3. Policy Statement

It is the policy of the City of Cotati that City-maintained social media sites are the sole possession of the City and shall be used only for official business purposes.

This Policy applies to all City Employees as defined herein. Social media is used as a tool to communicate and users have the responsibility to use these resources in an efficient, effective, ethical, and lawful manner.

The City Manager must expressly authorize in writing the implementing of any City social media programs or activities. The City Manager will authorize specific City Employees to use of the City’s official social media platforms. Separating City Employees will provide social media account and log-in information to their department head or human resources prior to their separation.

The department head and/or his/her designee shall monitor department-generated content to ensure compliance with this Policy. In addition, City Employees who add content to the City’s social media sites are responsible for complying with all applicable federal, state and municipal laws, policies and regulations. This includes, but is not limited to, adherence to established laws and policies regarding the California Public Records Act, First Amendment privacy laws, records retention policies, City Personnel Rules and information security policies.

Disciplinary action, up to and including termination, will be taken against any City Employee who is found to have violated this Policy.

4. Policy

- a. City Website

The City of Cotati's official website (www.ci.cotati.ca.us and www.cotaticity.org) shall remain the primary and predominant Internet presence. All City of Cotati social media sites should include one or more links that direct users back to the City website.

b. Appropriate Uses of Social Media Sites

The most appropriate uses of social media sites fall into three categories:

1. As channels for disseminating time-sensitive information as quickly as possible, such as news, project and emergency information; and
2. Marketing and promotional channels for increasing the City's ability to broadcast messages to the widest possible audiences; and
3. Community news of general interest.

c. Branding

The design of all City of Cotati social media pages must be approved by the City Manager or his/her designee. The City Manager's Office shall maintain a master list of social media sites. Departments shall not establish individual social media accounts, unless expressly authorized by the City Manager in writing.

The City Seal/logo shall be used on all official social media sites used for this purpose. Any changes or additions to official City of Cotati seals, logos and other branding devices shall be incorporated into official social media sites.

Photos and other images may be posted only when they are the property of the City of Cotati or the owner has provided consent for use.

d. Posting on Social Media Sites

The City Manager and/or designees shall be the only City Employees authorized to post official City information on social media sites. When using the City's official social media sites, City Employees will act in a professional manner by:

1. Being aware that what is written will not only reflect on the writer, but also on the elected officials of City of Cotati and other City Employees.
2. Understanding that comments posted by City Employees in an official capacity on social media sites, whether administered by the City or on other agency and/or individual social media sites, shall include appropriate identifying information and any other pertinent information within the context of the virtual interaction.
3. Not engaging in any of the following:
 - a. Commercial promotion (except as part of a City program)
 - b. Illegal activity, or promotion of illegal activity
 - c. Threats or implied threats or incitement that could result in physical harm or property damage
 - d. Pornography, profanity or obscenity

- e. Copyright violations
- f. Hate speech
- g. Conduct contrary to written City policies or applicable laws
- h. Content that compromises safety/security of the City or the public
- i. Disclosure of confidential information
- j. Discussion of or disclosure of any confidential personnel matter
- k. Defamatory statements or personal attacks
- l. Not providing information related to pending City decisions that would compromise negotiations or decisions or including such information as part of content added to a site.

When in doubt about the appropriateness of content, it is best to refrain. Employees should think of social media in the same manner as writing on a wall in public with the addition of their name and address attached to everything written. There are no truly anonymous postings to social media, nor permanent means to remove content or reverse mistakes.

Understanding that workplace speech (speech made by a public employee in the course of carrying out his or her official duties, rather than as a private citizen) is not fully protected by the First Amendment. City Employees are held individually responsible for understanding whether their speech, workplace or not, is protected by the First Amendment.

Understanding that City Employees are prohibited from engaging in debate in an official capacity on social media sites. Employees who encounter inappropriate situations or abuse in virtual environments in an official capacity should immediately leave the social media site and report the situation to a supervisor.

Bringing misrepresentations regarding the City of Cotati on social media sites to the attention of the supervisor for potential clarification.

5. Public Records/Discovery/Record Retention

Materials, comments and direct messages posted by City Employees on social media sites in an official capacity may be treated as official correspondence and may be subject to disclosure in accordance with the California Public Records Act or discovery in legal cases. Posted materials, comments, and direct messages that are otherwise protected from disclosure or are not public records do not lose such status as a result of disclosure on a social media site.

As technically feasible, materials, comments and direct messages on the City's social media sites shall be retained in accordance with the City's record retention policy.

6. Brown Act Compliance

To ensure compliance with the Brown Act, members of the City Council and City advisory bodies are to refrain from responding to any published postings, or from using the social media sites to respond to, blog, engage in serial meetings, or otherwise discuss,

deliberate, or express opinions on any issue within the subject matter jurisdiction of the body, including the use of a “like”, emoji, or any other method of expressing an opinion.

7. Administration of Social Media Accounts

Prior to establishing any pages on social media sites in an official capacity, employees must (1) receive approval from the City Manager, (2) read this policy and agree to abide by the guidelines and (3) contact the City Manager’s Office regarding the purpose of the social media site, the primary audience, the type of content that will be conveyed on behalf of the City of Cotati, and a time frame for the project.

The City Manager shall work in conjunction with the City Attorney to review each requested social media site’s terms of use prior to creating an official presence on a given social media site. If the City establishes a social media account, the City Manager or designee shall establish the primary administrative account(s) for each social media site.

The City of Cotati reserves the right to remove postings placed on official City social media sites that the City deems, in its sole discretion, to constitute crimes (such as threats of violence), and / or that otherwise violate Federal or State law in accordance with the City’s Social Media Terms of Service, attached hereto as Exhibit A and incorporated herein by reference. The City Manager or designee may amend from time to time the Social Media Terms of Service as deemed necessary to keep up with technology while maintaining the goals of the City’s use of social media. The Social Media Terms of Service will be posted on all official City social media sites, as technically feasible, to establish a limited public forum for First Amendment purposes.

In addition, the City Manager also reserves the right to terminate or suspend any City social media site.

Fraud Prevention, Reporting, and Investigation Policy

1. Purpose

The City of Cotati is committed to protecting its revenue, property, and other assets. The City of Cotati will not tolerate any misuse or misappropriation of City assets. The City of Cotati is committed to the highest possible standard of transparency, honesty, and accountability.

The purpose of the Fraud Prevention, Reporting and Investigation Policy is to provide communication and guidance to employees when misuse or misappropriation of City assets is suspected.

This policy applies to any fraud, or suspected fraud, involving Cotati City Officials, all City employees as well as vendors, consultants, contractors, outside agencies and/or any other parties with a business relationship with the City of Cotati. For purposes of this policy, fraud is defined as misuse or attempt to misuse a City asset for personal gain or purposes unrelated to City business. Examples of fraud include, but are not limited to:

- a. Misappropriation of funds, supplies or other assets;
- b. Impropriety in the handling or reporting of money or financial transactions;
- c. Obtaining City funds or compensation through dishonesty;
- d. Stealing or removing City assets;
- e. Using City equipment, facilities, supplies or funds for purposes unrelated to City business; and/or
- f. Accepting or seeking anything of material value from contractors, vendors or persons providing services/materials or acting in any matter that creates a conflict of interest.

In addition to fraud and suspected fraud, this policy also applies to any employee breach of City-Wide Policies and Standards of Conduct which has a significant financial impact on the City, including but not limited to waste or abuse of City resources. For purposes of this policy, waste is defined as any needless, careless, extravagant or unnecessary expenditure of City resources and property that has a significant financial impact on the City. All prohibited conduct to which this policy applies is referred to in this policy by the abbreviated reference “fraud or waste”.

2. Policy

Employees have a duty to immediately report suspected fraud to their supervisor, department head, human resources, or the City Manager’s Office.

Employees are not required to follow “the chain of command” when reporting potential fraud and should report concerns to any of the abovementioned departments to ensure proper review and investigation are conducted.

Additionally, supervisors and managers are responsible for ensuring procedures and protocols are in place to reduce the potential for fraud in their area of responsibility. Supervisors and managers should review this policy with employees at least annually and demonstrate proactive measures to identify and prevent fraud.

Any investigative activity required will be conducted in an impartial manner, without regard to the suspected wrongdoer’s length of service, position/title, or relationship to the City.

3. Investigation Responsibilities

The City Manager’s Office has the primary responsibility for the investigation of all suspected fraudulent acts or waste as defined in the policy. Investigations related to employee misconduct will be coordinated with the Administrative Services department, unless the employee(s) identified works within the Administrative Services Department. Allegations of fraud or waste involving Administrative Services employees will be coordinated with the City Attorney as needed.

Great care must be taken in the investigation of suspected improprieties or wrongdoings so as to avoid mistaken accusations or alerting suspected individuals that an investigation is underway. Decisions by the City Manager to refer a report to the City's Police

Department or District Attorney for initial investigation will be made in conjunction with the City Attorney.

If the investigation substantiates that fraudulent activities or waste has occurred, the City Manager and City Attorney will be notified. For fraudulent activities by the City Manager a third party hired by the City will investigate.

After third-party investigation, if it is determined that there was fraud or waste by the City Manager the Mayor and City Attorney will be notified in writing. The Mayor and/or City Council are responsible for determining further action on any complaints involving the City Manager.

If the investigation finds no fraudulent or waste activities has occurred, human resources will retain the confidential complaint and investigation documents for a period of up to three (3) years. To the extent possible, the identity of an individual(s) alleging fraud or waste and the identity of an individual alleged to have committed fraud or waste will be kept confidential.

Voicemails containing evidence of fraud or waste will be transcribed by the investigating party. Voicemails will be retained in accordance with the City record retention policy and will then be deleted from the phone system, unless the investigating party or City Attorney requests in writing that a particular voicemail message(s) should be maintained for a longer period of time.

4. Reporting Procedures

Every employee has a duty to report any suspected fraudulent act. You may report fraud to the City Manager, human resources, or any department head or supervisor.

When you report the following information is needed in order to follow-up on your concern:

- a. Names of individuals involved
- b. What happened and why you think it is/was wrong;
- c. When and where the incident happened and if anyone else witnessed or knows it happened
- d. The department impacted and the people involved; and
- e. Any documentation or other evidence you have or know of.

5. Confidentiality

Participants, witnesses, complainants, subjects, and any other individual aware of a pending investigation shall treat all information received confidentially. Investigation results will not be disclosed or discussed with the complainants or anyone other than those who have a legitimate "need" to know. To the fullest extent possible, the identity of individuals involved in an investigation including the identity of an individual alleging fraud or waste and the identity of an individual alleged to have committed fraud or waste will be protected.

6. Disciplinary Actions

Department heads are solely responsible for discipline of employees in consultation with the human resources and the City Manager. Employees who have committed fraud or waste will be subject to disciplinary action up to and including termination of employment; such processes will comply with applicable policies and MOUs.

Disaster Service Worker

1. Purpose

All regular City of Cotati employees are designated by law as “Disaster Service Workers” (“DSW”). In the event of a declaration of emergency, any employee of the City may be assigned to perform activities either within or outside their regular scope of duties for the purpose of promoting the protection of public health and safety or the preservation of life and property.

All City employees performing duties as a DSW shall be considered to be acting within the scope of disaster service duties while assisting any unit of the organization or performing any act contributing to the protection of life or property or mitigating the effects of an emergency.

2. Response

What to do in an Emergency

If you are at work:

During a declared city-wide emergency while at work, report immediately to your department supervisor or a department designated meeting area pursuant to your department’s disaster plan. If your department has not designated a special meeting area for a disaster, go to your Department or City Emergency Operations Center.

If you are at home:

During a declared Cotati city-wide emergency while you are at home, first ensure the safety of yourself and your family, then follow your department’s emergency planning and/or call the City for reporting instructions.

If you are not able to come into work because it is unsafe to do so, you are required to report to the nearest City Hall and offer your assistance as a DSW. As soon as communications permit, employees are to report your location and status to your Cotati supervisor or designee. Once you are able to respond to Cotati, follow proper check-out procedures with the respective government agency (City Hall) you’ve been assisting to be credited for your work hours (NIMS requirement).

3. Identification

Your City identification (ID) badge shall serve as your DSW ID whether you are working within the City of Cotati or with another agency. Your ID must be with you at all times while working as a Disaster Service Worker.

4. Work Related Injuries or Illness

Work related injuries while working as a DSW shall be reported immediately to the employee's supervisor and handled through the City of Cotati's human resources.

5. Liability and Performance

It is incumbent upon each employee working as a DSW to act within the requirements of the City of Cotati's rules and regulations as found in the Personnel Rules.

As DSWs, City of Cotati employees are expected to represent the City of Cotati to the highest ethical and performance standards expected of them while performing the duties of their regular City positions.

Motor Vehicle Safety

1. Policy

The City of Cotati is committed to reducing motor vehicle accidents among our employees. The intent of this program is to provide a process that will help to reduce the likelihood of vehicle accidents. It shall be the policy of the City of Cotati that all City vehicles will be maintained in safe operating condition. All drivers will be required to demonstrate that they have a valid driver's license and a satisfactory driving record prior to employment in a position which may require them to operate a vehicle on City business. In addition, employees who are required to operate a motor vehicle for City business may be required to attend a defensive driver training program. When accidents do occur, they shall be reviewed by the Police Department. The Police shall review all vehicle accidents resulting in damage to City vehicles, other persons' vehicles or property, or injury to members of the public. This policy is not intended to supersede provisions in the respective MOUs.

2. Objectives

The primary objective of this program is to provide for the protection and safety of human life. The secondary objective is the protection of the City's assets, which are exposed daily to accidental loss. The third objective is to avoid discredit to the City, the appointing authority, or the person's employment. The fourth objective is to ensure employees are protected by providing City-owned or personal vehicles that are maintained in safe operating condition.

3. Responsibilities

a. Public Works

Ensure a record of periodic maintenance is available for each commercial vehicle and commercial vehicle combinations.

Purchase vehicles equipped with equipment which meets CAL/OSHA and CHP/DOT standards and is appropriate for specific job requirements.

Provide timely notice to the assigned department of a vehicle's regular or periodic maintenance. In addition, all regular maintenance records shall be maintained for as long as that vehicle is owned and in service by the City.

Revise the Motor Vehicle Safety Program when appropriate.

Prepare suggestions for further accident prevention techniques.

Review effectiveness of the Motor Vehicle Safety Program.

Administer the Defensive Driver Training Program to ensure that employees operating City or personal vehicles on City business have access to training.

Conduct an annual review of the driving records of each commercial vehicle operator as required by 49 CFR, 391.25. In response to vehicular accidents which may occur on the job, appropriate action may be taken.

Administer the DMV Pull Notice Program for Public Employers. In response to vehicle convictions or suspension of driving privileges, notify the affected management for appropriate action.

b. Human Resources – Recruitment and Selection

For each position that may require the operation of a City vehicle or personal vehicle on City business, obtain current DMV record for each prospective new employee, and verify that the license is valid. A review of a new employee's driving record will be conducted as part of a background review. Any offer of employment is contingent upon an employee passing background review at the sole discretion of the City Manager. An appointment of a current employee to a position that may require the operation of a City vehicle or personal vehicle on City business is contingent upon having an acceptable driving record as determined at the sole discretion of City Manager.

c. Employee Responsibilities

The driver is the first line of defense against vehicular accidents. Therefore, all drivers shall:

- i. Obey all ordinances and safety rules including wearing a seatbelt, ensuring all passengers are wearing seatbelts, using airbags (not turning off airbags that have shut-off switches), and following applicable laws and individual department/division rules regarding the use of cellular telephones or other electronic devices during driving operations.

- ii. Report any mechanical difficulty encountered in their daily routine to the appropriate supervisor. A driver's attention to items such as brakes, alignment, oil pressure, and tires, on a daily basis will keep the City's vehicles in top running order and must be documented on the daily vehicle inspection form as may be required.
- iii. Assume a safety conscious attitude, for the employee's own safety and the safety of others.
- iv. Observe common courtesy toward all other drivers and pedestrians and obey all traffic laws and the right-of-way of other drivers.
- v. Drive defensively and always be aware of the surroundings to prevent accidents.
- vi. Inspect vehicles before operation. Report vehicles needing repair to the supervisor and to Public Works. If a vehicle cannot be safely operated before repairs are made, the employee shall not drive the vehicle and must report the vehicle's condition immediately to his or her supervisor and Public Works and be sure the vehicle is "red tagged" so no one else will drive it until repairs are made.
- vii. Submit to any request for proof of driver's license by a supervisor or manager.
- viii. Employees shall not use City vehicles to transport non City employees or animals unless authorized by the department head.

d. Supervisor Responsibilities

Supervisors and managers must take seriously any employee report of unsafe equipment or vehicles. They must ensure that employees are not knowingly allowed to operate any unsafe vehicle.

Supervisors and managers who have a reasonable suspicion to believe that an employee's driver's license may not be valid or in force are obligated to require the employee to provide proof of a valid applicable driver's license. Until such proof of a valid driver's license is provided, the employee shall not be allowed to drive a City vehicle or a personal vehicle on City business. An employee without a valid driver's license shall not be allowed to drive any vehicle into or onto any City owned or operated facility or work site.

Employer Pull Notice Program

1. Purpose of the EPN Program

The Employer Pull Notice (EPN) program was established to provide employers with a means of promoting driver safety through ongoing review of driver records. The State of California requires that employers enroll any driver employed for the operation of any vehicle, of the driver is required to have any of the following;

- a. Class A License
- b. Class B License
- c. Class C License with Hazardous Materials Endorsement
- d. Class C with Special Certificates, issued pursuant to CVC section 12512, 12517, 12519, 12520, an d12523.5 or
- e. Any driver of a passenger vehicle having a seating capacity of not more than 10, persons including the driver, operated for compensation by a charter party carrier of passengers.

2. Enrollment

The City of Cotati requires all employees who drive while performing business for the City to enrolled in the EPN program. Enrollment requires the employee to complete and sign the Authorization for Release of Driver Record Information form.

3. Notification

The Employer Pull Notice program automatically generates a driver record when any of the following actions or activities occurs:

1. Upon enrollment of driver program
2. Annually
3. When a driver has any of the following added to his/her record
 - a. Convictions
 - b. Failure to appear
 - c. Accidents
 - d. Driver license suspensions or revocations
 - e. Any other action taken against the driving privilege

All Employer Pull Notice program notices will be sent to the Police Lieutenant. The Police Lieutenant will review the notices and contact the appropriate Department Head concerning any of the following:

1. Failure to Appear
2. Revocation of License
3. Suspension of License
4. Restriction of License or
5. Any other action taken against the driving privilege.

4. Notice to Employee

The Employee's Department Head or designee will review the facts of the case and meet with the employee to address the presenting issues. Where appropriate, the employee will be provided with a Notice of Proposed Disciplinary Action up to and including termination.

As a remedial step, employees may be required to attend a defensive driving course following at-fault employee accidents while on City business.

5. Completion of EPN

The Department Head or Designee is required to notify the Police Lieutenant when an employee is no longer required to drive as part of their employment. The Police Lieutenant will then remove the employee from the DMV Employer Pull Notice Program.

Workers' Compensation Policy

1. Responsibilities

The Redwood Empire Municipal Insurance Fund (REMIF) is responsible for the administration and coordination of the Workers' Compensation program. REMIF will control all medical services related to illness or injury in conjunction with applicable third parties.

2. Objectives

- a. To provide policies and procedures for application of Workers' Compensation benefits as prescribed by Workers' Compensation laws of the State of California and the memorandum of understanding and/or City resolution covering the classification.
- b. To establish administrative guidelines and procedures for job-related illness and injury reporting and investigation.

3. Definitions

"Job-Related Illness or Injury" - An injury or illness arising out of or occurring in the course and scope of employment or work with the City of Cotati.

4. Policy

Employees of the City of Cotati are covered under the Workers' Compensation laws of the State of California.

REMIF will administer the City's Workers' Compensation program as authorized by the State of California. Legal and administrative consultants may be hired to assist and advise in the conduct of the program.

Benefits prescribed by law include but are not limited to the following:

- a. Medical treatment;
- b. Temporary disability payments; and
- c. Permanent disability payments;

If an employee has exhausted total temporary disability benefits or has reached maximum medical improvement and is still unable to return to work, the City's human resources official may authorize an extension of the employee's medical leave of absence pending disposition of the Interactive Process. During this extended medical leave of absence, the employee may apply sick leave, vacation leave, and compensated time off to avoid unpaid medical leave.

5. Medical Services

During normal working hours, reporting of injuries shall be immediately reported to human resources, using the forms provided by the City.

An employee shall not be returned to his/her present position, nor be placed in a new position until medically approved for duty by a treating physician and approved by human resources, in consultation with the department head.

Where crisis intervention or psychological counseling is required or appropriate, the department will contact human resources immediately for referral purposes.

6. Transporting Injured Employees

If medical treatment is necessary, a supervisor will see that the injured employee is provided prompt transportation for treatment to the appropriate medical facility.

7. Reporting of Injuries

Personal injuries on the job, however slight, must be reported to a supervisor immediately.

After the immediate medical needs of the injured employee have been met, but not later than 24 hours after the injury, the employee shall be given a Workers' Compensation claim form (DWC-1). The employee shall be provided the opportunity to sign the Workers' Compensation claim form indicating he/she has received the report of injury form. The supervisor will sign and date the form verifying the employee received the form within 24 hours of the date of knowledge of the alleged accident.

The supervisor will assist the employee, as necessary, to complete the DWC-1 and First Report of Injury form in order to provide a thorough, comprehensive and legible report. No one shall sign the employee portion of the claim form other than the employee. An employee need not file a claim if he/she prefers not to and no one shall order or direct the employee to sign the form.

The employee has one (1) year from the date of injury to sign and file the claim form if he/she so desires. The "Supervisor's" portion of the report will be completed by a supervisor.

As soon as possible, but within 24 hours, the immediate supervisor shall complete the REMIF First Report of Injury form.

The supervisor investigating the "Job-Related Injury or Illness" is expected to make a complete analysis of the situation and when recommending action for prevention to follow such recommendations to completion. The status of recommendations to prevent a reoccurrence shall be submitted to human resources within three working days following the supervisor's report.

Any employee who witnesses the incident giving rise to the claim of work related illness or injury shall complete a witness statement. Employee witnesses are compelled to provide a statement and may not opt out of doing so. Failure to complete a witness statement and to cooperate in that process may lead to disciplinary action up to and including discharge.

When an employee is off on Temporary Total Disability leave because of a work related injury or illness, the department shall coordinate with human resources to ensure that the employee receives all benefits to which he/she may be entitled.

8. Salary Continuance

Sworn employee's leave rights for on-the-job injuries are defined by Labor Code Section 4850 and in the applicable MOU.

Non-sworn employees who are unable to work due to a work related illness or injury will receive temporary disability payments pursuant to Workers' Compensation law when a doctor's note indicates an inability to work due to injury/illness.

For workers' compensation claims that are delayed and under review, employees who are unable to work must use accrued leave (sick, vacation, etc.) to continue to receive full compensation or if no accrued leave exists, be on leave without pay. Should a claim later be accepted, the City will reinstate leave used due to an accepted workers' comp injury or illness, subject to Workers' Compensation law.

9. Modified Duty, Return to Work, and Accommodation

The City shall endeavor to return a disabled employee to regular duty as soon as possible after a job-related illness or injury.

The City shall endeavor to provide reasonable accommodation to retain and/or place employees who have become disabled by illness or injury into jobs for which they may qualify by previous training or experience.

If it is determined based on medical information, that an injured employee is capable of performing duties other than his/her regular work during the period of recuperation, the employee may be given a modified work assignment.

The department head shall make every effort to place injured employees in modified work assignments within their own department. If unable to do so, employees may be assigned by human resources to modified work assignments within any department of the City. Payroll will be charged to the home department.

Modified work assignments may be available for a specific period of time as determined by human resources in cooperation with the participating department. Modified work assignments shall not conflict with medical work restrictions or place the employee in the position of potentially exacerbating his/her work-related illness or injury. A modified work assignment, if provided, will be evaluated every 30 calendar days and shall not exceed 90 calendar days without the approval of human resources if the employee is anticipated to return to work in the usual and customary assignment within a reasonably short period of time.

Employees performing in modified work assignments will be paid at their regular compensation rate while in the modified assignment.

Upon the determination by the Department Head, that an employee may not or cannot be reasonably accommodated in accordance with State and federal law on a long-term basis, and cannot be returned to his/her regular assignment because of medical limitations and/or work restrictions, he/she may be certified to a job vacancy for which he/she is qualified in which any medical limitations and/or work restrictions may be accommodated on a permanent basis by engaging in the Interactive Process.

The Interactive Process will be facilitated by human resources. If no reassignment can be made, the City shall file for disability retirement on the employee's behalf if he/she so qualifies, or if not, then the employee will be separated from employment.

Injured or disabled employees who are unable to return to their regular duties on a permanent basis must qualify for other job classifications in order to be placed in another job; and if appointed to another job, will be subject to a new probationary period.

If the employee who suffers an industrial illness or injury is appointed to a classification at a lower salary level than his/her previous position, he/she shall be entitled to the pay step nearest to, but no greater than, his/her previous salary.

Use of Privately Owned Vehicles

An employee, when approval is received in advance from the City Manager, may use their personal automobiles for City business and shall be reimbursed at a rate designated by Internal Revenue Service.

The mileage allowance or automobile allowance, as applicable is intended to cover the City's share of the employee's personal auto insurance premium. Therefore, each such employee is expected to maintain an automobile insurance policy with the City named as additional insured.

To receive the mileage allowance or automobile allowance, proof of automobile insurance must be on file in the office of the City Manager with liability limits of no less than:

1. \$100,000 per person Bodily Injury, \$300,000 per accident Bodily Injury, and \$25,000 per accident Property Damage; or
2. \$300,000 Combined (Bodily Injury and Property Damage) single limit

Each such policy shall provide primary coverage in the event of a loss or claim, with the City coverage applying as excess.

Prior to use of privately owned vehicle on City business, proof of insurance and fully executed "Authorization to Use Privately Owned Automobile on City of Cotati Business" shall be filed in the office of the City Manager.

XI. PERFORMANCE MANAGEMENT

Performance Evaluations

1. Purpose
To provide a basis for performance feedback to the employee, provide justification for a step increase or promotion, establish work goals, objectives and expectations, identify training and developmental needs, and provide individual recognition as well as document areas where improvement is needed.
2. Timelines
Supervisors are authorized to evaluate a subordinate's performance as often as the supervisor deems appropriate. Employee performance will be evaluated at least one time each year from the date of hire or promotion.

During the probationary period, performance evaluations should be provided no less than half way through the probationary period and are required prior to completion of the probationary period.

3. Performance Evaluation Process
 - a. Performance goals, expectations and objectives should be jointly established by the supervisor and each newly hired or newly promoted employee soon after appointment or on an annual basis for employees who have completed the probationary period.

- b. Supervisors and employees should meet at least once during the evaluation period to discuss and monitor the employee's performance and progress towards meeting goals and expectations.
- c. A draft of the performance evaluation should be reviewed for general concurrence by the next higher level of management prior to being discussed with the employee.
- d. The performance evaluation meeting is intended to provide direct and open two-way communications between the supervisor(s) and employee and includes a written performance evaluation. The evaluation of an employee's performance is an ongoing process. The employee shall sign the performance evaluation to acknowledge that the employee is aware of its contents and has discussed the evaluation with his or her supervisor.
- e. The employee's signature on the evaluation does not necessarily indicate agreement with its contents. The employee will receive a copy of the evaluation after the meeting with the supervisor(s) and a copy of the evaluation will be placed in the employee's personnel file.
- f. The City's performance evaluation policy includes an opportunity for employees to discuss their concerns with his/her Department Head upon request.
- g. Employees may submit written rebuttals to their performance evaluations, and the rebuttals shall also be maintained in the personnel files attached to the applicable performance evaluation. Employees must submit rebuttals within 30 calendar days, unless otherwise provided for under the law. Performance evaluations are not disciplinary actions and are not subject to appeal via any disciplinary appeal procedure or grievance procedure.

Discipline

1. Discipline Policy
Employees engaging in unacceptable behavior on or off the job or unsatisfactory work performance shall be subject to the provisions of this policy. Disciplinary action should be corrective in nature, progressive where possible, and shall be in compliance with due process rights. This policy shall not alter the employer-employee relationship between the City of Cotati and at-will employees who may be terminated from employment with or without cause.
2. Types of Disciplinary Actions
The City of Cotati may invoke the following types of disciplinary actions:
 - 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 retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below. A counseling memo is not considered "punitive action" under the Public Safety Officers Procedural Bill of Rights Act (Government Code §3300, *et seq.*).

b. Verbal Reprimand

A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.

c. 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 will be retained in the employee's personnel file and documented in the performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below. The employee has the right to have his or her written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to human resources within 14 days after the reprimand is received.

d. Denial of a merit step increase

The City may deny advancement in the salary range (step increase) for unsatisfactory job performance as documented during the performance appraisal process. The denial of a step increase is not subject to the discipline and discipline appeal procedures described below.

e. Suspension Without Pay

The City may suspend an employee from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the suspension is final and documented in the performance evaluation. A suspension without pay is subject to the discipline and discipline appeal procedures described below for regular, for-cause employees. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.

f. Reduction in Pay or Paid Leave

The City may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of three forms:

- 1) a decrease in salary to a lower step within the salary range;

- 2) a decrease in salary paid to an employee for a fixed period of time; or
- 3) loss of accrued paid vacation or management time off (administrative leave), floating holiday, or compensatory time off.

Reductions in pay or leave shall occur prospectively. Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation. A reduction in pay is subject to the discipline and discipline appeal procedures described below for regular, for-cause employees. 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.

g. Demotion

The City may demote an employee from his or her position to a lower position for cause. Documents related to a demotion shall become part of the employee's personnel file when the demotion is final and documented in the performance evaluation. A demotion is subject to the discipline and discipline appeal procedures described below for regular, for-cause employees.

h. Dismissal

The City may dismiss an employee from his or her position for cause. Documents related to the dismissal shall become a part of an employee's personnel file when the dismissal is final. A dismissed employee is entitled to the discipline and discipline appeal procedures described below for regular, for-cause employees.

3. Grounds for Discipline

Disciplinary measures may be taken for any good and sufficient cause. City employees who are employed "at-will," or who are temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals under these policies.

Good cause exists, not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the City, affects the employee's ability to perform his or her duties, causes other employees not to be able to perform their duties, or involves any improper use of their position for personal advantage or the advantage of others. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- a. Providing wrong or misleading information, omissions of facts, or other fraud in securing appointment, promotion or maintaining employment;
- b. Making any false representation or statement, or making any omission of a material fact;

- c. Inefficiency, incompetence, carelessness, or negligence in the performance of duties;
- d. Reckless or unsafe conduct;
- e. Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, Memoranda of Understanding, City policies, City ordinances or resolutions;
- f. Inattention to duty;
- g. Tardiness;
- h. Dishonesty;
- i. Theft;
- j. Unsatisfactory job performance;
- k. Violation of the City's or a department's confidentiality policies or disclosure of confidential City information to any unauthorized person or entity;
- l. Excessive absenteeism and/or tardiness as defined by the employee's department head, and/or these policies;
- m. Use of leave from work in a manner not authorized or provided for under City policy or MOU;
- n. Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on City property, when called in for emergency duty, or any other violations of the City's Drug and Alcohol Free Workplace Policy;
- o. Insubordination; Disobedience to proper authority, refusal, or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor;
- p. Any violation of the City's Nondiscrimination Policy;
- q. Unauthorized soliciting on City property;
- r. Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work;
- s. Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the employee's ability to effectively perform his/her job or brings discredit to the City;
- t. Discourteous or offensive treatment of the public or other employees;
- u. Falsifying or tampering with any City document or record, including work time or financial records;
- v. Misuse or unauthorized use of any City property, including but not limited to: physical property, electronic resources, supplies, tools, equipment, City communication systems, City vehicles or intellectual property;
- w. Damaging any City property, equipment, resource, or vehicle, or the waste of City supplies through negligence or misconduct;
- x. Fighting, assault and/or battery;
- y. Horseplay;
- z. Theft or sabotage of City property;
- aa. Sleeping on the job, except as specifically authorized for 24-hour duty personnel;
- bb. Accepting bribes or kickbacks;
- cc. Mishandling of public funds;

- dd. Engaging in outside employment which conflicts with an employee's responsibilities and/or failure to disclose outside employment;
- ee. Intimidation or interference with the rights of any employee;
- ff. Outside work or any other activity or conduct which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of City service;
- gg. Abusive or intemperate language toward, or in the presence of, others in the workplace;
- hh. Abusive conduct, including malicious verbal, visual, or physical actions, or the gratuitous sabotage or undermining of a person's work performance;
- ii. Working overtime without prior authorization or refusing to work assigned overtime;
- jj. Improper political activity during working hours or while in a City uniform;
- kk. Carrying firearms or other prohibited weapons while on duty when not required by job duties;
- ll. Retaliation against any individual who reports, discloses, divulges, or otherwise brings to the attention of the appropriate authority any facts or information relative to alleged violation of any law, ordinance, City or department Rules or procedures occurring on the job or related thereto;
- mm. Any other conduct determined by the City to be a valid cause for disciplinary action.

4. Authority to Discipline

Any authorized supervisory employee may institute disciplinary action for cause against an employee under his/her control in accordance with the procedures outlined in these rules. All disciplinary actions shall be reviewed by the City Manager or designee prior to being instituted.

5. Discipline Procedures

The following discipline procedures only apply to the City's for-cause regular employees.

All employees other than for-cause employees, namely at-will (including probationary, part-time temporary, seasonal employees, or volunteers in accordance with CMC 2.32.040), may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below.

The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

a. "Skelly" Notice of Intended Disciplinary Action to Employee

A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:

- i. The level of discipline intended to be imposed;
- ii. The specific charges upon which the intended discipline is based;
- iii. A summary of the facts upon which the charges are based;

- iv. A copy of all written materials, reports, or documents upon which the intended discipline is based;
- v. Notice of the employee's right to respond to the department head regarding the charges with 5 calendar days from the date of the notice, either by requesting an informal conference or by providing a written response, or both;
- vi. Notice of the employee's right to have a representative of his/her choice at the Skelly conference, should he/she choose to respond orally; and
- vii. Notice that the failure to respond at the time specified shall constitute a waiver of the right to respond prior to the imposition of discipline.

b. Response by Employee and Skelly Conference

If the employee requests a *Skelly* conference, the department head or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances. The employee shall be entitled to a representative of his/her choice; provided, however, that the inability of a particular representative to attend the meeting shall not be sufficient cause to require a continuance of the meeting. The department head will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.

c. Final Notice of Discipline:

After the Skelly conference and/or timely receipt of the employee's written response, the department head will 1) take no disciplinary action; 2) modify the intended discipline; 3) impose the intended disciplinary action.

In any case, the department head will provide the employee with a notice that contains the following:

- a. The level of discipline, if any, to be imposed and the effective date of the discipline;
 - b. The specific charges upon which the discipline is based;
 - c. A summary of the facts upon which the charges are based;
 - d. A copy of all written materials, reports, or document upon which the discipline is based; and
 - e. A reference to the employees' right to appeal and deadline to appeal.
- d. Delivery of the Final Notice of Discipline
- The final notice of discipline will be sent by mail method that verifies delivery to the last known address of the employee, or delivered to the employee in person. If the notice is not deliverable because the employee has moved without notifying the City or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

6. Discipline Appeal Procedures

The following disciplinary appeal procedures only apply to the City's for-cause employees. All employees other than for-cause employees, namely at-will (including probationary employees), may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below. The following appeal procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

a. Request for Appeal Hearing

An employee must submit a written request for an appeal hearing to the City Manager within seven (7) calendar days from: 1) receipt of the final notice of discipline; or 2) the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee. Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline.

b. Appeal Hearing Officer

The appeal shall be heard by an independent hearing officer to be selected by the City. The costs of the hearing officer shall be borne by the City.

c. Date and Time of the Appeal Hearing

Once the appeal hearing officer has been designated, human resources will set a date for an appeal hearing. The employee shall be notified in writing at least 21 days prior to the hearing of the scheduled date.

d. Prehearing Notice of Witnesses and Evidence

No later than 10 days before the hearing date, each party will provide the other and the appeal hearing officer a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to call any witness or evidence that has not been listed, unless that party can show that the party could not have reasonably anticipated the need for the witness or exhibit.

e. Subpoenas

Upon the request of either party, and upon his or her own motion, the hearing officer will issue subpoenas to compel attendance at the appeal hearing. Each party is responsible for serving his/her/its own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.

f. Continuances

The appeal hearing officer may continue a scheduled hearing only upon good cause shown.

g. Record of the Appeal Hearing

The hearing shall be recorded, either electronically or by a court reporter, at the option of the City. The employee is entitled to a copy of the recording or transcription either through directly procuring it from the third party recording the hearing, or if the City performed the recording, through the City at the actual cost to duplicate the recording.

h. Employee Appearance

The employee must appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by any person he or she may select.

7. Conduct of the Appeal Hearing

a. Sworn Testimony

All witnesses shall be sworn in prior to testifying. The hearing officer or court reporter shall request each witness to raise his or her hand and respond to the following: "Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?"

b. Evidence

Hearings need not be conducted according to technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner that the hearing officer decides is the most conducive to determining the truth. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in civil actions. The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The appeal hearing officer shall determine the relevance, weight and credibility of testimony and evidence.

c. Exclusion of Witnesses

During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing.

d. Burden of Proof

The City has the burden of proof by the preponderance of the evidence.

e. Authority of Hearing Officer

The appeal hearing officer shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Rules/Policies.

f. Professionalism

All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or the appeal hearing officer.

- g. **Presentation of the Case**

The parties will address their remarks, evidence, and objections to the appeal hearing officer. The appeal hearing officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. The appeal hearing officer may limit redundant or irrelevant testimony, or directly question the witness. The hearing will proceed in the following order unless the appeal hearing officer directs otherwise:

 - 1. The City is permitted to make an opening statement;
 - 2. The employee is permitted to make an opening statement;
 - 3. The City will produce its evidence;
 - 4. The employee will produce its evidence;
 - 5. The City, followed by the employee, may present rebuttal evidence;
 - 6. Oral closing arguments of no more than [20] minutes may be permitted at the discretion of the appeal hearing officer. The City argues first, the employee argues second, and if the City reserved a portion of its time for rebuttal, the City may present a rebuttal.
 - h. **Written Briefs**

Either party may request to submit a written brief and/or a draft decision. The appeal hearing officer will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.
 - i. **Appeal Hearing Officer's Recommended Decision**

Within [60] days of the conclusion of the hearing, the appeal hearing officer shall make written findings and a recommended decision as to the discipline to the City Manager.
7. **City Manager Review and Decision**

The City Manager shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The decision of the City Manager is final. There is no process for reconsideration.

8. **Proof of Service of the Written Findings and Decision**

The City will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. It shall be the responsibility of the employee to inform the City of his/her address. A copy of the decision shall also be provided to human resources.

9. Challenge by Writ

Pursuant to Pursuant to Code of Civil Procedure section 1094.6, the parties have 90 days from the date of the proof of service of mailing of the written findings and decision to appeal the City's decision on the appeal to the Superior Court in and for the County of Sonoma.

XII. GRIEVANCES

Definition of a Grievance

A grievance is a claim by a full or part-time permanent employee alleging that the City violated a provision of the employee's Memorandum of Understanding or these City of Cotati Personnel Rules in a manner that has adversely affected the employee. The claim must contain all of the information listed in the "Statement of Grievance" as identified below.

Procedures

1. The employee must initiate an informal conference with the employee's immediate supervisor within fifteen work days of becoming aware of the alleged violation of a Personnel Rule or MOU provision. If the matter cannot be resolved in the informal conference, the employee may initiate the second step of the grievance process.
2. The employee must personally present a written statement of grievance to the employee's immediate supervisor within ten work days of the informal conference with the immediate supervisor. The written grievance must identify the following: the date of the alleged violation; the specific provision(s) of the MOU and/or Personnel Rules violated; a description of all the specific facts of the violation; a list of persons who are witnesses or are involved; describe how the employee was adversely affected; and, describe the desired remedy. The written statement of grievance must be signed by the employee. The immediate supervisor may investigate the grievance and discuss it with the grieving employee. The immediate supervisor must provide a written response within fifteen work days of receiving the written grievance. If the employee is not satisfied with the immediate supervisor's written response, the employee may initiate the third step of the grievance process.
3. The employee must personally present the written grievance and the immediate supervisor's response to the Department Head within ten work days of receiving the immediate supervisor's written response. The Department Head may investigate the grievance and discuss it with the grieving employee. The Department Head must provide a written response within fifteen work days of receiving the written grievance and immediate supervisor's written response. If the employee is not satisfied with the Department Head's written response, the employee may initiate the fourth step of the grievance process. The employee may skip step three if the employee's immediate supervisor is the Department Head.

4. The employee must personally present the written grievance, the immediate supervisor's response and the Department Head's written response to the City Manager or his/her designee within ten work days of receiving the Department Head's written response. The City Manager or his/her designee may investigate the grievance and discuss it with the grieving employee. The City Manager or his/her designee must provide a written response within fifteen work days of receiving the written grievance and the immediate supervisor and Department Head responses. The City Manager's written response is final.

Grievance Procedure Principles

1. The purpose of this grievance procedure is to allow employees and the City to resolve disagreements about the interpretation or application of City Personnel Rules and/or Memoranda of Understanding at the lowest possible level and in the most informal manner possible.
2. Any time limit described in this grievance procedure may be extended by the mutual written consent of the grievant and the City official responsible to respond at a particular step in the grievance process.
3. The City may deny any grievance that does not comply with any portion of this procedure.
4. This procedure is the only grievance procedure available to City employees.
5. The employee or the City official responsible to respond at a particular step may request the assistance of another person, usually an employee association representative, at any level of review. Each party must be notified of any assistance or representation.
6. The employee and the employee's representative may be privileged to use a reasonable amount of work time, as determined by the concerned Department Head, to prepare and confer about the grievance.
7. The parties may consolidate reasonably similar grievances into a single grievance as long as consolidation does not cause an unwarranted invasion of privacy or confidentiality.
8. Any grievance will be treated as confidential information by all parties concerned until after the final decision has been rendered. Although grievances may be subject to Public Records Act requests, the City will endeavor to maintain confidentiality in accordance with legal requirements.
9. An employee may not be subject to retaliation from any person as a result of filing a grievance and/or participating in this grievance procedure

10. An Employee may skip a step in the grievance procedure if the step would require the employee's immediate supervisor to render an opinion on the grievance and the employee feels that the immediate supervisor caused the grievance.

XIII. USE OF AGENCY EQUIPMENT OR RESOURCES

Policy and Applicability

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 is required to adhere to this Policy.

City Equipment or Resources

City equipment or resources is any City-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, 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.

No Expectation of Privacy

The City periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through City networks or electronic resources. City employees must provide the agency with the employee's username or password for any City issued equipment or resource. The existence of passwords or delete functions does not restrict the City's access. As a result, City employees have no expectation of privacy in their use of any City equipment or resources.

The City may provide reports to department heads regarding facility access, computer access, telephone, email, and internet use as needed.

Appropriate Use Only -- No Misuse

Employees may only use City equipment or resources in compliance with City policies. Except as authorized by this Policy, employees are expected to avoid any use or communication which is unrelated to City business, destructive, wasteful, or illegal. The City has discretion to restrict or rescind employee access to City equipment or resources. The following are examples of misuse of City equipment or resources:

- a. Any use that violates applicable law and/or City policies, rules or procedures.
- b. Exposing others to material which is offensive, harassing, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.

- c. Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law.
- d. Communication of confidential City information to unauthorized individuals within or outside of City.
- e. Unauthorized attempts to access or use City data or break into any City or non-City system.
- f. Theft or unauthorized transmission or copying of paper or electronic files or data.
- g. Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication.
- h. Misrepresentation of one's identity for improper or illegal purposes.
- i. Personal commercial or business activities (e.g. "for sale" notices, personal ads, etc.).
- j. Transmitting/accessing obscene material and/or pornography.
- k. E-Commerce.
- l. Online gambling.
- m. Installing or downloading unauthorized software or equipment.
- n. Violating terms of software licensing agreements.
- o. Using City equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- p. Any unauthorized access to City equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to his or her email or other electronic resources; or making City equipment or resources available to others who would otherwise have no authorized access.
- q. Allow any person to rent, borrow, or use any City property, except upon prior written approval of the Department Head.
- r. Using City equipment or resources to speak on the City's behalf without authorization.
- s. Disclose an account password or otherwise make the account available to others not authorized to have access.

- t. No employee shall violate any copyright or license to software or other online information (including, but not limited to, text images, icons, programs, etc.) whether created by the City or any other person or entity.

City Email Address Must be Used for City Business

The City's email system is an official communication tool for City business. The City establishes and assigns official email addresses to each employee as the City deems necessary. Employees must send all City communications that are sent via email to and from his or her official City email address. Employees are prohibited from using their private email address (such as Gmail, yahoo, MSN/Hotmail, etc.) when communicating City business via email. Should an email related to City business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's City email account and responded to accordingly.

Incidental Personal Use of City Communications Equipment Permitted

Employees may use City telephones, cell phones, internet access, and e-mail for incidental personal communications provided that the use:

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

Cell Phone Use While Operating a Vehicle

Employees must comply with hands-free requirements when using a cell phone and operating a vehicle in accordance with State law.

Email Access for Bargaining Units

An employee acting in an official capacity to represent an employee unit, may have limited use of the City email system to issue brief communications to the entire unit in order to schedule meetings and make announcements. There shall be no expectation of privacy related to emails sent using the email system or through the City's server.

XIV. PUBLIC RECORDS

All permanent City records, including those stored on paper and electronic media may be governed by the mandatory public disclosure requirements of the Public Records Act (Government Code section 6250 et seq.), and the limited exceptions thereto. If a draft record is retained, it may become a public record subject to disclosure unless it is subject to an exception under the Public Records Act.

All permanent records, whether stored on paper or electronic media, shall not be destroyed unless prior written authorization is obtained pursuant to Government Code Section 34090 and applicable City Resolution on record retention, which provides the process for the destruction of most public records by the City.

Public Records requests shall be handled in accordance with Government Code section 6250 et seq.

The City reserves the right for any reason to access and disclose all messages and other information sent or received by electronic means or stored on electronic media.

The City has the right to delete or retain any or all messages or other information sent or received by electronic means or stored on electronic media by a City employee who is no longer employed by the City.