

# City of Tulelake Personnel Policy Manual

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# CHAPTER 1: INTRODUCTION

## 1.01 Employment Mission and Philosophy

The City of Tulelake (“City”) strives to provide a productive workplace for its employees and seeks personnel committed to providing exceptional and professional service to its citizens, following the City’s ordinances, rules and regulations, respecting the rights of fellow employees, and creating a workplace free of harassment, discrimination, or other wrongdoing.

## 1.02 Purpose of this Manual

This employee manual is a guide to the employment policies and procedures of the City. The policies and procedures included herein are meant to make you aware of what the City expects from you, and what you can expect from the City. You are responsible for reading and understanding this employee manual. Please retain it for future reference.

It is not possible to anticipate every situation that may arise in the workplace, or to provide information that answers every possible question. In addition, the policies and procedures described in this manual may change. Accordingly, the City has the right to modify, supplement, rescind, or revise any provisions of the manual, as the City deems necessary or appropriate. The policies and procedures shall be amended and exceptions shall only be made by the majority vote of the City Council.

This manual is not intended in any way to create an employment contract. If at any time there should be a conflict between a description in this manual and a memorandum of understanding (MOU), the terms of the MOU will govern. If at any time there should be a conflict between a description in this manual and a City department manual, the terms of this manual will govern.

Your employment with the City is at-will, unless otherwise altered through a collective bargaining agreement, an MOU, or an individual contract that is in writing and signed by the Mayor of the City. You are free to resign at any time. Similarly, the City is free to conclude the employment relationship at any time.

If you have questions concerning this manual, or the policies of the City, please contact your immediate Supervisor. The City wants all employees to understand the City’s policies and procedures. The City constantly strives to improve its policies and procedures and the services that it provides. You are encouraged to bring suggestions for improvement to the attention of your immediate Supervisor.

## 1.03 Definitions

Appointing Powers:

Tulelake City Council

City:	City of Tulelake
Elected Officials:	City Council City Clerk City Treasurer
Department Heads:	Chief of Police Director of Public Works Finance Director
Management:	City Council and Department Heads
Supervisor:	Respective Commissioner over Department Head or Department Head over department employee
Volunteer Positions:	Reserve Police Officers Library Substitute Police Department Volunteers

## **CHAPTER 2: THE EMPLOYMENT RELATIONSHIP**

### **2.01 Hiring, References, and Background Checks**

To ensure that individuals joining the City are qualified and have the potential to be productive and successful, the City will check all applicants' employment, educational and/or personal references. Every offer of employment is contingent on the satisfactory completion of a reference check.

The City may conduct a background investigation into possible wrongful conduct by you. A background report may contain information regarding your character, general reputation, personal characteristics, criminal history and credit history, if appropriate, or mode of living. The City will use this information for employment purposes only. The final report is confidential and the contents will not be released to you.

All applicants who have received an offer of employment will be required to submit to and pass a drug test. Some positions also require a medical exam to be completed and passed in order to determine a candidate is physically capable of fulfilling the requirements of the job.

## 2.02 Probationary Periods

All newly appointed employees, except for police officers, filling a regularly budgeted position shall be a probationary employee until the successful completion of a continuous six (6) month probationary period. Police officers shall be a probationary employee until the successful completion of up to eighteen (18) month probationary period. The purpose of the probationary period is to give the employee the opportunity to demonstrate that he/she is qualified, able, and willing to meet the standards of the City and the position for which they are hired. Time on leave with or without pay is not considered qualifying service for probationary periods. Employees who may be rehired following a break in service may be required to serve a new probationary period whether or not they previously completed a probationary period.

**If, at any time prior to the successful completion of the probationary period, the appropriate Department Head or Supervisor determines that the employee's performance or general suitability for City employment is inadequate the employee shall be terminated.** An employee terminated from probation shall not have any right of appeal under these Rules or any right to grieve their termination under the relevant Memorandum of Understanding, if any. A Supervisor, with the approval of the majority vote of the City Council, has the discretion of extending the probationary period for an additional three (3) months.

Temporary, seasonal, specially funded, part-time (in non-regular positions) and contract employees are not subject to a probationary period since these employees are at will and are subject to termination at the discretion of a majority vote of the City Council.

In the case of a promotion of an employee, the one (1) month following the promotion will be a "promotional probationary period" during which time the employee may be returned to his/her former classification, unless disciplinary charges are filed and the employee is terminated from employment with the City. The employee may also be allowed to return to his/her former classification upon written request, provided an opening in that position exists. Upon the employee's return all rights and benefits will be restored to the employee as if the promotion had not occurred.

## 2.03 Employee Classifications

You will be advised of your employee classification at the time of hire, promotion, or transfer or if any other change in your position with the City occurs. Because all employees are hired for an unspecified duration, assignment to any of these classifications does not guarantee employment for any specific length of time. Regardless of classification, employment is at the mutual consent of you and the City.

The City uses the following employee classifications:



- a. Regular full-time employees are those normally scheduled for 80 hours of work per two week pay period.
- b. Regular part-time employees are those normally scheduled to work a minimum of 40 hours of work per two week pay period. Regular part-time employees are eligible to receive prorated City fringe benefits that may now or in the future be available to full-time employees.
- c. Temporary employees are seasonal, temporary or those normally scheduled to work fewer than 80 hours of work per two week pay period. Temporary employees are not eligible for any City fringe benefits that may now or in the future be available to full-time employees.
- d. Extra Help employees are those normally not scheduled to work on a regular basis. They are available on an as needed basis to fill in for other employees out on leave or in training.
- e. Temporary/Leased Employees are those hired on a temporary or leased basis and who work for a special job and/or period of time. These employees are not eligible for City fringe benefits that may now or may in the future be available to full-time employees.

All employees are classified as exempt and nonexempt according to these definitions:

- a. Nonexempt employees are full- or part-time employees, temporary employees or extra help who are subject to the provisions of federal and state law requiring the payment of daily and weekly overtime.
- b. Exempt employees are employees who are not subject to the provisions of federal and state law requiring the payment of overtime. Questions about your employee classification should be directed to the City Administrative Clerk.

#### **2.04 Independent Contractors and Subcontractors**

An independent contractor is a person hired by the City to perform certain services for the City that are not typically performed by employees, and who can achieve the goals contracted for with little day-to-day supervision. Independent contractors are not City employees, and the City will not withhold income taxes or other required withholdings from monies paid to independent contractors. Such monies will be reported to the Internal Revenue Service on Form 1099, and the independent contractors will be solely responsible for paying all income and other taxes or withholdings owed.

If a person classified as an independent contractor is later reclassified by an action of a court or administrative agency as an employee of the City, he or she shall not be eligible for any retroactive City-sponsored benefits, such as retirement or health benefits.

Employees of independent contractors or subcontractors are not employees of the City and are not entitled to the privileges of employment described herein, including City sponsored benefits.

## **2.05 Volunteers and Temporary/Leased Personnel**

Volunteers of the City are not paid a salary or an hourly wage. They are, however, eligible for reimbursement of approved expenses. Leased employees are not paid directly by the City but rather are paid by the leasing agency that placed them. If a leased employee does not believe that he or she is being properly paid by the leasing agency, or believes he or she is experiencing discrimination, harassment, or retaliation on the part of either the City personnel or any representative or employee of the leasing agency, the leased employee should immediately contact a member of the City's Human Resources Department or his or her manager or supervisor. The City's open-door policy applies to all employees, including volunteers, temporary and leased employees. Volunteers, temporary and leased employees are also subject to and expected to uphold the requirements of this personnel policy manual.

## **2.06 United States Immigration Reform and Control Act**

The U.S. Immigration Reform and Control Act require that all individuals pass a verification procedure, including the completion of an "Employment Verification Form," before they are permitted to work. This verification procedure requires that all new employees provide satisfactory evidence of identity and legal authority to work in the U.S. that complies with the requirements of the immigration law. An employee who has provided right-to-work documentation that has an expiration date must provide updated documentation to the City before that expiration date. If an employee's authorization to work is called into question by the U.S. Social Security Administration or any other government agency, whether state or federal, the employee has 10 business days from the date of being notified that his or her immigration status has been questioned to provide the City and the government agency with any and all information needed to verify identity and authority to work in this country. An employee who is unable or unwilling to provide verifying information and/or documents will be terminated immediately. It is the firm policy of the City to cooperate fully with immigration authorities, including providing information about employee addresses and other contact information or family members that are known to the City.

## **2.07 Employment of Relatives**

In order to minimize the impact on supervision, safety, security or morale, the following apply:

No person shall be assigned, appointed, promoted or demoted to a position in any department in which such person's relative already holds a position when such employment would result in any of the following: (1) a regular and reoccurring Supervisor-subordinate relationship; or (2) both employees having the same immediate Supervisor. For the purpose of this Section, a Supervisor-subordinate relationship shall be defined as one in which one person exercises the right to control, direct, reward or discipline another person by virtue of the duties and responsibilities assigned to his or her position.

For purposes of this Section, "relative" means spouse (as recently expanded by the Supreme Court's repeal of the Defense of Marriage Act (DOMA)) , registered domestic partner, child/step, parent/step, grandparent, grandchild, brother/step, sister/step, aunt, uncle, niece, nephew, parent-in-law, brother-in-law, sister-in-law and legal dependents of the employee.

If a City employee marries another person employed by the City within the same department, both employees shall be allowed to retain their respective positions provided that a Supervisory relationship does not exist at the time of marriage between these two positions. During the period of employment, no supervisor-subordinate relationship shall exist between the two employees.

The City retains the right to exercise disciplinary procedures should one or both relatives create a workplace disruption. Familial disputes or tensions are not permitted to enter into the workplace.

## **CHAPTER 3: GENERAL CITY POLICIES**

### **3.01 Continuity of Policies—Employer's Right to Change or Discontinue**

The policies and procedures in this manual are not intended to be contractual commitments by the City and employees shall not construe them as such. They are intended to represent the internal policies of the City, implemented at the discretion of the City's management and to the benefit of the City's business interests.

The City reserves the right to revoke, change, supplement or make an exception to these guidelines at any time without notice. Such changes shall be effective immediately upon City Council's approval unless otherwise stated. Management will endeavor to provide employees with advance notice of policy changes; however, failure to give advance notice will not nullify any policy's application in the workplace.

No policy is intended as a guarantee of continuity of benefits or a promise of any particular procedure, and no permanent employment or employment for any term is intended or can be implied by statements in this manual.

### **3.02 Management Rights**

The City retains all of its exclusive management rights and authority under state law, as well as the ordinances, rules and regulations of the City, which include but are not limited to:

- a. Determining the mission of the City's constituent departments, commissions and boards.
- b. Establishing standards and levels of services.
- c. Determining the procedures and standards of selection for employment and promotions.
- d. Directing, supervising and evaluating employees and taking disciplinary action.
- e. Determining the methods and means to relieve employees from duty due to lack of work or other lawful reasons.
- f. Maintaining the efficiency of governmental operations.
- g. Determining the methods and means, as well as, the numbers and qualifications of persons by which government operations are to be conducted.
- h. Determining methods of financing.
- i. Determining the style and/or types of City-issued equipment to be used.

### **3.03 Standards of Conduct**

Standards of conduct are intended to allow all City employees to work together with respect for one another's personal and legal rights, so that the city's business can be conducted efficiently and professionally. Ethical behavior is critical to this organization's ability to achieve its mission, goals, and objectives. The community's perception of and confidence in City employees and officials are fundamental to quality government. As public servants, we are accountable for high standards of conduct. The following City standards, while not all-inclusive, are the principal standards in effect at the City. These standards apply equally to all and are for the protection of all employees and our city.

All employees are expected to act in a professional manner at all times, including in all interactions with customers, fellow employees, management, and the general public.

Further, engaging in the following activities may subject you to disciplinary action, up to and including termination of employment:

- a. the possession, sale, or use of knives, explosives, firearms, or other dangerous weapons on City property or at worksites, unless issued by the City or necessary for work purposes
- b. fighting, threatening, or attempting bodily injury to another, including contributing to or encouraging violent behavior, or the threat of violent behavior, on the part of others
- c. consumption of intoxicating beverages, use of controlled substances, or being intoxicated while on duty or while off duty if such consumption or use affects the City or an individual's ability to provide service when on call to provide service (see Drug and Alcohol Policy)
- d. falsification of City records, including but not limited to an employment application, tax records including Social Security numbers, time sheets, and/or production work records
- e. insubordination, including but not limited to, refusal to do assigned work and/or failure to comply with a City policy, rule or regulation
- f. inability or refusal to work in harmony or cooperation with fellow employees so as to cause friction, conflict, or lowering of group morale, including deliberate spreading of false rumors adversely affecting the operation of the City
- g. taking photographs of fellow employees without their permission, especially in locations where they have an expectation of privacy like restrooms and changing rooms
- h. deliberate or willful destruction or vandalism of City equipment, tools, machines, products, supplies, or other City property
- i. sleeping while on duty
- j. leaving your assigned workplace without permission during work hours and/or the use of working time for nonworking purposes
- k. disclosing confidential City information
- l. illegal gambling of any kind on City time or premises

- m. unauthorized use or taking of City property, equipment, or materials or unnecessary waste of City materials, including the use of the City cell phone for nonworking purposes
- n. violation of the City's antidiscrimination, harassment, and/or retaliation policies
- o. violation of the City's safety policy
- p. conviction of a felony or a misdemeanor involving conduct that is considered contrary to community standards of justice, honesty and good morals
- q. discourteous or offensive conduct or language toward the public or another employee
- r. other failure of good behavior, either during or outside of duty hours, that bears a rational relationship to the employee's employment, which is of such a nature that it:
  - 1. Causes discredit to the City;
  - 2. Causes discredit to the employee's employment;
  - 3. Impairs or disrupts the employee's public service;
  - 4. Impairs the employee's fitness to perform the employee's duties required by the position; or
  - 5. Impairs the employee's fitness for efficient service. The failure of good behavior need not be known by the general public.
- s. inefficiency, incompetence or unsatisfactory work performance
- t. inattention to or willful neglect of duty, excessive or repeated tardiness, indolence, carelessness, misuse of or damage to, or negligence in the care and handling of City property
- u. inability to perform assigned duties due to failure to meet or retain job qualifications (including, but not limited to failure to possess required licenses or failure to pass required tests)
- v. abandonment of position or excessive absenteeism
- w. claim of sick leave under false pretenses or other misuse of sick leave
- x. engaging in outside employment not specifically authorized by the Department Head, or engaging in other employment that is incompatible with City employment or detrimental to the efficiency of his/her regular work with the City

- y. absence from duty without leave, or failure to return to work after leave of absence has expired or has been disapproved, revoked or canceled
- z. willful violation of any of the provision of federal law, state law, City ordinances, these Rules, or any rules or regulations which may be prescribed by City management
- aa. acceptance of a personal gift or other form of remuneration in addition to regular compensation, by an employee for the performance of his/her City duties in violation of City policy. Solicitation in an official capacity or as an employee of the City of the public for money, goods, or services not specifically authorized by the City Council is expressly prohibited

In its sole and absolute discretion, the City can demote, transfer, suspend, discharge or otherwise discipline an employee for any violation reasonably believed to have been committed. See section on Disciplinary Action and Procedures.

### **3.04 Confidential Information**

It is the responsibility of all City employees to safeguard sensitive City information. Sensitive City information is defined as that information submitted to and maintained by the City for customer utility account, licensing, taxing, public safety and employment purposes.

Each City Supervisor bears the responsibility for the orientation and training of his or her employees to ensure enforcement of City confidentiality. All such information will be appropriately marked or verbally identified to each employee when reasonably feasible. However, employees should assume that information is confidential and consult their Supervisor for verification.

When such information is transferred from one employee to another, the transferor must do all of the following:

- a. Determine that the transfer is necessary and in the interest of regular City business.
- b. Determine that the transferee has a need to know the information and the necessary clearance.
- c. Ensure that all cover sheets or markings identify the information as confidential and are conspicuous.
- d. Give the information directly to the transferee and verbally identify the confidential information as such. Do not leave it on the transferee's desk unattended.

In connection with employment with the City, employees will be exposed to information and materials that are confidential and of vital importance to the City's credibility with the public. Employees will not at any time disclose or use, either during or

subsequent to their employment, any information, knowledge, or data that they receive or develop during their employment that is considered confidential.

Upon termination of employment with the City, each employee must promptly return any and all documents containing the above information, knowledge, or data, or anything relating thereto, to the City.

### **3.05 Social Media Code of Conduct**

The City understands that employees may engage in external (personal) social media, including personal messaging, feeds, blogs, and social networking websites, on their own time. While the City respects its employees' right to engage in these activities, employees are expected to conduct themselves professionally and with respect for the City in all public communications referencing the City.

To ensure that the City's employees understand the City's expectations regarding external social media use, the following conduct guidelines have been developed and adopted. Employees are expected to follow these guidelines using their very best personal and professional judgment. Employees should understand that flagrant or egregious violation of these guidelines may result in discipline, up to and including termination.

- a. You must know and follow the City's business conduct policies at all times, whether at work or during personal time.
- b. You are personally responsible for the content you publish on blogs, wikis, or any other form of user-generated media. Be mindful that what you publish will be public for a long time—protect your privacy, and don't say anything online that you're not willing to be fully accountable for. Understand that you will be held accountable for any publicly viewable statements you make that damage the City or the City's reputation or that disrupt or damage the City's business relationships.
- c. You must identify yourself—name and, when relevant, role at the City—when you discuss the City or City-related matters. Write in the first person. You must make it clear that you are speaking for yourself and not on behalf of the City.
- d. If you publish content to any website outside of the City that is related to your work for the City or on subjects associated with the City, use a disclaimer such as this: "The postings on this site are my own and don't necessarily represent the City's positions, strategies, or opinions."
- e. Always respect copyright, fair use, and financial disclosure laws.



- f. Never publish or disclose the City's or another's confidential or other proprietary information. Never publish or report on conversations that are meant to be private or internal to the City.
- g. Never cite or reference customers, clients, partners, suppliers, or other City business associates without their express written approval. When you do make a reference, link back to the source where possible.
- h. Always respect your audience. Don't use ethnic slurs, personal insults, or obscenity, and don't engage in any conduct that would not be acceptable in the City's workplace. You should also show proper consideration for others' privacy and for topics that may be considered objectionable or inflammatory, such as politics and religion.
- i. Be aware of your association with the City in online social networks. Ensure your profile and related content are consistent with how you wish to present yourself to colleagues and clients.
- j. Be the first to correct your own mistakes, don't pick fights, and don't alter previous posts without indicating that you have done so.

### **3.06 Non-fraternization Policy**

The City has a business interest in avoiding misunderstandings, complaints of favoritism, possible sexual harassment claims, and the employee morale and dissension problems that can result from certain personal relationships between employees. As such, all employees are strictly prohibited from becoming romantically/sexually involved with any person, either an employee or a contractor, who is a subordinate or over whom they exercise any authority. If employees who are peers, or who do not work in the same department, become romantically/sexually involved, those employees are required to report the relationship to their supervisor and the department commissioner. This non-fraternization policy does not apply to married spouses or registered domestic partners; however, those relationships remain subject to the City's policy regarding the Employment of Relatives (Section 2.7).

All employees should remember that the City maintains a strict policy against unlawful harassment of any kind, including sexual harassment. This policy extends to the relationship between City employees and the customers, suppliers, and vendors who contract with the City. Violation of the City's Non-fraternization Policy will result in discipline, up to and including termination. Conduct between City employees and others who do business with the City is subject to the Improper Economic Relationships and Conflicts of Interest Policies (Section 3.7).

### 3.07 Improper Economic Interests

Employees should not make personal investments which could be expected to create a substantial conflict between their private interests and the public interests. If an employee has a financial interest in a matter coming before them, or before the department in which they are employed, they should disqualify themselves from any participation in the matter.

Employees should not make decisions or participate in decisions affecting projects that may affect (either positively or adversely) their personal property. The City is governed in these matters by state law, which includes, but is not limited to the following examples.

Government Code Section 87100 states the following:

"No public official [which includes many City employees] shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

Government Code Section 87103 further defines "financial interest" as follows:

"An official has a financial interest within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or his or her immediate family, or on:

Any business entity in which the official has a direct or indirect investment worth \$1,000 or more;

Any real property in which the official has a direct or indirect interest worth \$1,000 or more;

Any source of income of at least \$250 received or promised within 12 months prior to the decision;

Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any management position;

Any donor of or any intermediary or agent for a donor of, a gift or gifts aggregating \$250 or more received or promised within 12 months prior to the decision."

Employees should disclose to their Supervisor if it is necessary to participate in a decision that may significantly affect relatives or close personal friends.

### **3.08 Conflicts of Interest**

Employees may engage in outside activities, or have outside business or personal interests, that do not constitute a conflict of interest with their employment with the city. The City requires that these activities or interests do not adversely affect an employee's capacity to perform his or her duties or result in conflicting loyalties. This includes any direct or indirect business, management, or financial interest or activity, whether or not for compensation, in any business or entity that is a competitor, customer, supplier, or vendor of the City.

A. Off-duty conduct: While the City does not seek to interfere with your off-duty conduct, certain types of off-duty conduct may interfere with the City's legitimate business interests. Employees are expected to conduct their personal affairs in a manner that does not adversely affect the City's integrity, reputation, or credibility. Off-duty conduct that adversely affects the City's legitimate business interests or an employee's ability to perform his or her work will not be tolerated and may result in discipline, up to and including termination.

B. Personal conduct: Personal or romantic involvement with a customer, vendor or supplier, or similar business contact may impair an employee's ability to exercise good judgment on the City's behalf. An employee should immediately disclose any relationship of this type to his or her Supervisor. The City will determine if an actual conflict of interest exists. If a conflict is determined to exist, the City will take whatever corrective action it deems to be appropriate under the circumstances.

### **3.09 Outside Employment**

All regular full-time employees are generally understood to be working solely for the City. Any outside employment should be promptly disclosed to management. In most circumstances, outside employment will be approved, but the City retains the right to review and evaluate each situation on an individual basis. Part-time, temporary, on-call, and leased employees may engage in outside employment, subject to the City's Conflicts of Interest Policy.

### **3.10 Political Activities**

The City encourages its employees to accept the personal responsibility of good citizenship, including participation in civic and political activities, in accordance with their interests and abilities.

The City accepts without reservation the basic democratic principle that all employees are free to make their own individual decisions in civic and political matters. No employee's status with the city will be affected, in any way whatsoever, because of participation or

nonparticipation in lawful civic and political activities. Participation in civic and political activities is considered to be a personal matter and, as such, is to be carried on outside of normal working hours (except for time off to vote, which is covered in the city's Time Off to Vote Policy; Section 12.10). California court decisions and State law make it clear that public funds and resources shall not be used to campaign or promote a position, for or against, any ballot measure or candidate for office. Therefore, City employees shall not:

- a. use City resources to support or oppose a candidate for any elective office
- b. use City resources to support or oppose a recall effort against any elected official
- c. use City resources to support or oppose any initiative, referendum or ballot measure
- d. engage in political activities during working hours
- e. engage in political activities on City property
- f. engage in political activities while in City uniforms (including attaching pins to or wearing campaign hats)
- g. display political paraphernalia on any City premises where it can easily be viewed by the public

The use of City resources includes, but is not limited to, City funds, City letterhead and stationary, telephones, copying machines, fax machines, computers, email, or other office equipment, and office supplies and materials, whether before, during or after working hours. Political activities include, but are not limited to, advocacy for or against a candidate, ballot measure or political party, solicitation of political funds or campaign contributions, signing petitions, endorsements or nomination papers. City uniforms include any clothing with a City logo that is routinely worn at work and has been provided by the City.

The Fair Political Practices Commission has indicated it will come down hard on agencies it believes are engaged in efforts to influence voters. Employees may respond to a request for information on a ballot measure as long as the employee provides a "fair representation of the facts". Presenting all sides demonstrates fairness.

In addition, employees are not permitted to harass or otherwise ridicule or mistreat one another based on political party affiliation or political viewpoint.

### **3.11 Gratuities to/from Customer or Supplier Representatives**

City employees must be particularly aware of situations where a conflict may exist between our private interests and official responsibilities. City employees may not give, offer, or promise anything of value to any vendor, contractor, customer or other individual for the

purpose of receiving favorable treatment. Nor shall City personnel solicit or accept anything of value from these individuals which may place an individual or department in a compromising position. The acceptance of personal gifts from those doing business or seeking to do business with the City, even when lawful, may give rise to legitimate concerns about favoritism, depending on the circumstances.

City credit, purchasing power, and facilities shall not be used to purchase material for individual or non-city activities except where it is determined by management to be in the public interest. Goods or services shall not be purchased from an employee or near relative unless there is a specific determination that the goods or services are not available otherwise at equivalent pricing.

City employees should avoid accepting gifts from vendors, contractors or customers. Unless the gift is truly a marketing token (pen, keychain, hat, coffee mug, etc.) given by a vendor in the normal course of business or something meant to be shared among all City employees, employees should decline the gift. If the intention of the gift is unclear simply decline the gift.

Violation of this policy in any form will lead to immediate disciplinary action.

### **3.12 Right to Observe Employees**

In our ongoing effort to achieve the highest level of business efficiency and customer service, as well as employee security, the City reserves the right to observe employees throughout the City's premises, and/or at City worksites, either by way of direct observation or through use of electronic devices. Employees should have no anticipation of privacy in the workplace with the exception of restrooms and changing rooms.

### **3.13 Voice Mail, Email, Electronic and Computer Files, and Usage**

The City maintains voice mail, electronic mail, and text messaging systems to assist in conducting business within the City. The City's computers, telephones, and other electronic devices and the data stored on them are and remain at all times the City's property. All messages created, sent, or received over the Internet, or the City's email, voice mail, or other systems are the property of the City and should be considered non-private communications, even if the information itself is confidential with respect to third parties outside of the City. Employees have no right to privacy as to any information or file transmitted or stored through the City's systems. Although the email, voice mail, and other systems may be accessed by passwords that does not mean that the messages are confidential. Employees must assume that someone other than the intended recipient may read any and all messages. In addition, all passwords must be provided to the City and may not be changed without proper authorization. The City reserves the right to retrieve and read any message or file. Employees should be aware that even when a message is erased or a visit to a website is

closed, it is still possible to re-create the message or locate the website, and messages may be retrieved from third-party service providers. As such, Internet, email, and other electronic messages are considered public communications. All communications, including text and images, may be disclosed by the City to law enforcement or other third parties without prior consent of the sender or receiver. Messages should be limited to the conduct of City business. Email, voice mail, and text messages shall not be used for conducting personal business except for limited instances as similarly allowed for personal phone calls. Messages shall not contain anything that may be reasonably considered offensive or disruptive to anyone. Offensive content includes, but is not limited to, sexual or racial comments, jokes, or images; gender-specific comments; or any comment that would offend someone on the basis of his or her age, gender, sexual orientation, religion, national origin, disability, or any other classification protected by federal, state, or local law. Any use of email, voice mail, or text messages to bully, harass or discriminate is unlawful and strictly prohibited. Violators will be subject to discipline, up to and including termination. Unauthorized review, duplication, dissemination, removal, damage, or alteration of files, passwords, computer systems or programs, email messages, voice mail messages, text messages, or other City property, or improper use of information obtained by unauthorized means, may be grounds for disciplinary action, up to and including termination. In addition, portable media devices, including but not limited to cell phones, smart phones, personal digital assistants (PDAs), MP3 players, iPods, and flash drives, shall be used in strict compliance with this policy and all other City policies. Such devices may not be used for unauthorized download or storage of City data, software, or other information. Upon termination of the employment relationship, the departing employee's authorized access to the City's networks, Internet- and web-based systems, servers, phone systems, and third-party network accounts, such as text or other data, is completely and permanently revoked. Any post-termination access achieved by the employee, whether by deceptive means or because of a delay in de-activating account access or passwords, shall be considered unauthorized trespass and any information or files downloaded shall be considered theft of City property. Due to the prevalence of child pornography and other unlawful obscene material on the Internet, employees who use City computers or devices to view or download explicit pornographic materials of any kind will be subject to immediate termination from employment, without the possibility of rehire.

### **3.14 Software Usage Policy**

To reduce the legal exposure to the City from usage of unlicensed software and reduce the effort required to operate and troubleshoot employee's machines, this policy has been established to restrict the installation of unauthorized software. This policy covers all desktop and laptop computers owned or operated by the City and covers operating systems, third-party software, freeware and shareware applications, and utilities. The following is a list of operating systems and applications authorized for use by the City:

- a. Microsoft Office products

- b. Adobe products
- c. Abila (formally Sage Fund Accounting) Fund Accounting products
- d. ESRI
- e. Parcel Quest
- f. Department of Motor Vehicles programs
- g. In synch products
- h. Department of Justice programs
- i. Streaming Content such as weather bugs, radio or television (these subject to regulation if they interfere with the City's network operations)
- j. Other software approved by management. Employees shall not install unlicensed software on any computer owned by the City.

Due to network security concerns, the following software will not be allowed on any computer unless specifically approved by management:

- a. instant messenger programs or social networking utilities
- b. distributed file sharing utilities (such as torrent programs)
- c. network sniffing or protocol analysis programs
- d. password "cracking/decryption" tools

This list does not contain all of the possible software applications that shall not be installed on City equipment.

If you are uncertain about whether a program is permitted, you must contact your Supervisor before installation. You must also immediately notify your Supervisor of any software programs you find installed on your computer that you know or believe should not be there. Any employee found to have installed prohibited programs or unlicensed software in violation of this policy may be subject to disciplinary action.

### **3.15 Appearance and Courtesy; Uniforms**

Neatness and good taste in your dress; care in personal cleanliness and grooming, interest in your work, and a willing, cooperative attitude toward associates, customers, and visitors are recognized and appreciated business assets. No matter what your position might be, it's important to remember that good manners give a good impression. Being pleasant and courteous to customers, visitors, and your co-workers is an important part of your job.

Employees are expected to come to work each day dressed appropriately for the workplace and the day's tasks. Your appearance represents the City, so dressing for a business casual environment, not as you would to go to a ball game or a night club, is required. While employees may use their discretion in selecting appropriate attire, they should check with their Supervisor if questions arise. Supervisors have the authority to modify their employees' dress to suit the employees' required tasks. Employees who are required to wear uniforms or City branded clothing must ensure that such uniforms and clothing are clean and maintained in good condition. The City of Tulelake will provide an annual uniform allowance of \$959.92, payable over 26 pay periods at \$36.92 per pay period, for the Chief of Police and any employed Police Officers. This amount can be adjusted with City Council approval as needed to account for uniform cost increases.

### **3.16 Advancing Within the City**

The chance to advance is important to each of us. By promoting from within our organization, when current employees are qualified and as justified by our City needs and growth, the City offers as many opportunities for advancement as possible. However, the City retains the right to elect to hire from outside the City for any open position, and employees have no entitlement to promotion. Employees may always apply for any open position, however, and will be evaluated in an unbiased manner along with all other candidates.

### **3.17 Third-Party Property/Reporting Motor Vehicle Accidents**

When performing work at a location not considered City property, employees must take all reasonable steps to protect the customer's property. Any damage to a customer's property must be immediately reported to your Supervisor and Department Head without exception. This includes reporting damage of any severity that results from an accident involving a City vehicle or an employee's personal vehicle, if the damage occurs while the employee is performing work-related duties. In the case of a vehicle accident, the Police Department (or the California Highway Patrol in the case of police officers) should also be notified, so that an officer can investigate, document and produce an unbiased report of the incident.

### **3.18 Small Cities Organized Risk Effort (SCORE) Driving Standards**

#### **A. Employee and Volunteer Minimum eligibility Standards:**

1. Employees and volunteers must possess a valid driver's license to legally operate the class of vehicle(s) they operate in their employment or volunteer activities.
2. Employees and volunteers with two at-fault accidents or moving violations within the last three years shall be considered in a "warning status" and



shall be required to attend a defensive driving class. Department of Motor Vehicle checks will be made quarterly on employees and volunteers in a “warning status”.

**B. Employee and Volunteer Exclusion from Coverage:**

1. Employees and volunteers with three at-fault accidents involving bodily injury or property damage in excess of \$500 within the last three years shall, upon notice, be excluded from SCORE liability coverage and shall not drive City vehicles.
2. Employees and volunteers having any of the following within the last three years shall, upon notice, be excluded from SCORE liability coverage and will not drive any vehicle on City business. Conviction of: 1. Two driving while under the influence (DUI) offenses, one of which occurred within the preceding 12-month period. 2.
3. Hit and Run
4. Homicide or assault arising out of the operation of a vehicle.

**C. New Employees and Volunteers:**

All prospective employees and volunteers for classifications that entail the driving or operation of city vehicles and equipment shall meet the established minimum driving eligibility standards in order to be considered for employment or volunteer activities.

**D. Current Employees and Volunteers:**

Current employees and volunteers failing to meet the above minimum eligibility standards shall be informed in writing that they fail to meet the standards. Any further driving convictions will result in exclusion from coverage.

**E. Employee and Volunteer Use of Private Vehicles on City Business:**

1. Employees and volunteers using their private vehicles on City business must possess a valid California or State of Residence Driver’s License to legally operate the class of vehicle used.
2. Employees and volunteers must meet the minimum driving standards as outlined above.
3. Employees and volunteers must show proof of automobile liability insurance in the amounts required by California Insurance Code 11580.1b or their state of residence insurance code.

### **3.19 Employee Records**

**A. Employee records privacy:**

The City values its employees' privacy. All employee personnel, medical, workers' compensation, and payroll records will be kept private, unless disclosure is authorized in writing by the employee or required by law. Access to private employee records will be limited to City management and confidential employees and agents (such as legal counsel). Although employee privacy is a preeminent concern for the City, employee information may be given to persons outside of the City at certain times. These include:

1. responses to subpoenas, court orders, or orders of administrative agencies
2. in a lawsuit in which you and/or the City are parties
3. to administer employee benefit plans
4. to a healthcare provider

B. Keeping records up to date:

It's important to you that your name, address, and telephone number be kept correct on City records. It is sometimes necessary for your Supervisor or someone else in the City to contact you at home. Also, you may not receive important mail from the City, your health insurance or the Public Employees Retirement System if your address is not on file. Therefore, it is your responsibility to report changes in your name, address, telephone number, and any other matters that affect your tax withholding to the City. Moreover, to ensure that your employer can notify you when necessary, you must provide the City with a physical address where it can reach you (not a post office box) and your phone number.

C. Inspection and copying of records:

The City will provide an employee or former employee with copies of his or her payroll records within 21 days of his or her written request. The contents of an employee's personnel file, except for letters of reference and certain other limited kinds of information, are open for his or her inspection, upon request, at reasonable times. An employee may request and receive from the City a copy of anything in his or her file that has been signed by the employee. An employee shall be entitled to one copy of his or her file without cost. Additional copies made at the request of the employee shall be charged a copy fee equal to the current copy fees charged to the public. Contact City Hall if you wish to review your personnel file or make copies of documents signed by you.

D. Police Officer records:

In accordance with Section 832.7 of the California Penal Code, the disclosure of sworn officer personnel records shall be controlled by the Chief of Police and City Hall in compliance with the above.

### **3.20 Privacy of Employee Personal and Medical Information**

The City will not, and no employee shall, disclose private or personal information, including health or medical information, about any employee of the City to unauthorized personnel or third parties without prior authorization from the affected employee. The Health Insurance Portability and Accountability Act (HIPAA), a federal law, is designed to protect the privacy of an individual's medical information. The City complies with HIPAA. Only authorized personnel may have access to private employee medical information and records. Authorized employees must make every effort to keep such information private and confidential, and inaccessible to others. Non-authorized employees who become aware of private medical information concerning a co-worker, contractor, or other person who does business with the City must not reveal that information to any other person, except to medical professionals or other first responders, as may be necessary in an emergency. Gossiping about or otherwise disclosing the private medical information of others, except in an emergency, may result in discipline, up to and including termination of employment.

### **3.21 Telephone and Cell Phone Use**

It is the intent of the City to provide each department with effective communication devices, within the constraints of available resources. The City recognizes the need for City-owned cellular telephones and pagers and by this policy establishes procedures for their authorization, deployment, and safe use in order to contain costs, ensure departmental accountability and personal responsibility, and prevent improper and unsafe use. This policy also serves to clarify expectations for employees in regards to cellular and land-line telephone use.

#### **A. General Provisions:**

City cellular telephones and pagers are issued for the primary purpose of conducting City business and are not intended to be a substitute for an employee's personal cellular phone or pager. In all cases, the issuance of cellular phones or pagers to employees is a privilege, not a right or an entitlement. The City reserves the right to terminate cellular or pager privileges for any reason. Telephone, cellular phone and pager records and logs are a matter of public record and subject to examination by the public. The City shall not and does not imply, extend, or guarantee any "right to privacy" for voice calls and/or electronic communications placed over City provided phones, including but not limited to call detail records, logs, voicemail messages, data storage, text messages, emails, and address books.

B. Policy:

The use of City assigned and personal cellular phones on the job is restricted due to the distraction and lack of concentration that such use presents to safe work performance. This policy also ensures that cellular and land-line phone use not directly related to City business is limited to non-business time.

C. Vehicle Use:

The first responsibility is to safely operate the vehicle. The use of cellular phones while operating a vehicle is prohibited, except for safety personnel (see below). Any conversation requires that the vehicle be brought to a stop in a safe location off the main road. Conversations, taking notes, dialing, answering, texting or reading displays are prohibited unless the vehicle is so parked.

- a. City drivers may not use their personal cellular phones at any time while operating a City vehicle;
- b. City drivers may not make any outgoing calls on their City cellular phones while operating a City vehicle;
- c. If a City driver must answer an incoming cellular phone call, the driver shall bring the vehicle to a safe stop prior to doing so. Employees who are charged with traffic violations resulting from the use of a cellular phone while driving may be subject to disciplinary action and personal liability resulting from such traffic violations. Public safety employees (police and fire) are exempted from this policy when using cellular phones while operating an authorized emergency vehicle in the course and scope of their duties in compliance with State law.

D. Maintenance/Construction Equipment Use:

The use of any cellular phone (including hands free devices) is not authorized while operating motorized maintenance/construction equipment. This includes snow removal equipment.

E. Work Site:

The use of cellular phones or other wireless devices that may be a distraction to the user, the general public, or to the surrounding workers and/or create an unsafe work environment is prohibited. Such work sites include but are not limited to: reception desks, lobbies, construction sites, road repair, maintenance and construction activity, operating or repairing engines or energized equipment such as motors or energized circuits.

F. Personal Use:

(This includes City and personal cellular, and land-line phones) During paid work time, employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of any City phones. Excessive personal calls during the work day, regardless of the phone used, can interfere with employee productivity and be distracting to others. A reasonable standard the City encourages is to limit personal calls during work time to essential calls that cannot be made at another time or from a different telephone. Examples of essential personal calls are calls to arrange for unscheduled or immediate care of a dependent or a family emergency or to alert others of an unexpected delay due to a change in work or travel schedule. Employees are expected to make non-essential personal calls on non-work time where possible and to ensure that friends and family members are aware of the City's policy.

G. Emergency Use:

The use of cellular phones to call for help or to help others in an emergency is permitted. If responding to or witnessing a serious accident, crime in progress or other serious emergency situation where life or property is in danger, call 911 and stay on the line as long as the dispatcher requires. However, do not place yourself or others in danger while doing so. If operating a vehicle, pull off the road before placing the call while at work or on City business, and is not limited to the following:

- a. Any illegal use or activity
- b. Threats
- c. Slander / libel
- d. Defamation
- e. Obscene, suggestive or offensive messages, communications or websites
- f. Any violation of the City's harassment policy
- g. Political endorsements or activities

H. Accountability:

Department Heads are responsible for telephone, cellular phone and pager bills within their department. They are also responsible for reviewing the length and frequency of calls made, excess minutes used and/or extra charges incurred. Department Heads shall request that employees document the reason for excess

minutes used, extra charges incurred and personal phone calls made. Employees are financially responsible for any and all calls made to or from a City owned telephone or cellular phone while in their possession that are not in conformance with this policy. Any amount required to be reimbursed to the City shall be done so within 30 days of the date of the bill. All telephone reimbursement amounts shall be taken directly off of the phone bill. All cellular phone reimbursement amounts shall be paid at the rate of the actual cost of the excess minutes, plus any toll, roaming or extra charges associated with the calls. These amounts are subject to change based on the current rate plan or other factors as determined by the Finance Director. Any cellular phone or pager issued to an employee shall be returned to the City at the conclusion of their employment. If not returned, the original cost of the equipment shall be deducted from the employee's final paycheck. Any other phone related amounts due from an employee are immediately payable at the time the employee separates from the City and may also be withheld from the employee's final paycheck.

I. Acquisition:

Employees may be issued a City cellular phone or pager if their Department Head is able to demonstrate a valid business purpose by meeting specific criteria described below; if the employee's needs are frequent enough and of the type to justify a cellular phone or pager. However, because of financial or other management considerations, meeting the criteria does not guarantee issuance of equipment. If a radio or pager provides reasonable access to the employee for work-related matters, a cellular phone will not be issued. The following criteria are among those that should be considered:

- a. Management: The employee is in a managerial role and a critical component of their job responsibilities, regardless of location, is contact with staff, citizens, and other agencies.
- b. Work location: The requirements of the job regularly take the employee away from their primary work location, either to serve the public or to complete work assignments, and the Department Head demonstrates a cellular telephone is a critical tool for performing the job. Employees who are regularly assigned to a desk with a land-line telephone and who do not meet the other criteria will ordinarily not be assigned a cellular telephone or pager.
- c. On call: The employee is either regularly on call or regularly expected to respond to City matters during non-business hours.
- d. Other considerations: 1. whether a radio or pager would meet the needs of the organization and the employee as efficiently as and less expensively than a

cellular phone. 2. Assignment of a cellular phone or pager will enhance emergency response, employee safety or work efficiency. 3. Adequacy of the present system of communication, and whether a cellular phone is the most appropriate and economical choice. 4. Whether the cellular phone is a convenience or a necessity for job performance. 5. Whether the employee can share a cellular phone with other employees.

Justification for issuing a cellular phone or pager must be provided in writing to the Department Head. Cellular phones and pagers will only be distributed to employees with a demonstrated need. Department Heads have the responsibility for ensuring that cellular phones and pagers are being used appropriately. Department Heads have the budgetary responsibility for the purchase and monthly expenses associated with cellular phones and pagers. Employees are responsible for maintaining adequate physical protection of both the equipment issued to them by the City and access to the phone and pager service associated with the equipment. Employees shall immediately notify their Department Head or designee, who in turn shall notify the Finance Director or designee, if any City-owned cellular phones or pagers are damaged, lost or stolen. Any equipment purchased by the City is owned by the City and must be returned to the City in good working order when the employee separates from service or when the need for the equipment no longer exists. Failure to abide by the procedures set forth in this policy may result in the loss of use of the equipment and/or disciplinary action.

### **3.22 Kitchen/Break Areas**

The City provides certain designated break areas for its employees' benefit. Employees are responsible for keeping the area clean, including the washing of personal dishes and utensils. All trash should be disposed of in the trash container, and recycling placed in the appropriate bin. An employee's failure to clean up after him- or herself, or to be courteous to co-workers in use of the kitchen/break areas, may be considered in the employee's overall performance evaluation.

### **3.23 Visitors and Security**

Visitors may be brought into City work areas not generally open to the public on a limited basis. A visit from family members or friends is allowed so long as it is of limited duration and does not interrupt the work flow of fellow employees. Customers, clients, or other business associates of the City are allowed in City work areas to meet with staff on business related items. Visitors must adhere to all security procedures that the City may require, including providing picture identification. Visitors are not allowed unaccompanied access to City facilities. Law enforcement, government officials, media or utility service

personnel will be referred immediately to the appropriate supervisor at the location, if available, who will review court orders, subpoenas, or work orders, or otherwise assist the law enforcement, government officials, media or utility service personnel in a manner that provides full cooperation with minimal disruption to City operations. If a supervisor is unavailable, employees may assist law enforcement, government officials, media or utility service personnel and notify their supervisor as soon as possible. Employees should not issue official statements to the media without prior approval from their Department Head.

### **3.24 Employee Safety and Accident Reporting**

The City strives to provide its employees with a safe and healthy workplace environment. To accomplish this goal, both management and employees must diligently undertake efforts to promote safety. The state Division of Occupational Safety and Health, better known as Cal/OSHA, requires strict compliance with regulations by both employers and employees. Failure to follow the City's, as well as Cal/OSHA's, safety rules will result in discipline, up to and including termination. All job-related injuries or illnesses are to be reported to your Supervisor and the City's Workers Compensation Safety Manager immediately, regardless of severity. In the case of serious injury, an employee's reporting obligation will be deferred until medical attention can be received or circumstances reasonably permit a report to be made. You and/or your Supervisor should contact City Hall as soon as possible for the appropriate worker's compensation forms. If a supervisor reasonably knows that an employee has been injured, the Supervisor must provide the forms to the employee and contact City Hall. Failure to report an injury or illness may preclude or delay the payment of any related benefits to the employee. In addition, you can help avoid serious accidents and/or injury to yourself and others by following certain general safety rules while at City offices and/or worksites:

- a. Keep hallways and exits free of debris at all times and never block or obstruct them.
- b. Keep floors clean and dry.
- c. Don't block or obstruct fire extinguishers at any time.
- d. Do not remove and/or replace safety devices and guards before operating any machine or power tool.
- e. Report all unsafe work conditions to a Supervisor or the safety coordinator.
- f. Do not attempt to fix equipment yourself unless authorized to do so; only qualified personnel can perform maintenance or repair of equipment.
- g. Use proper hygiene when leaving or returning to work areas for break and meal periods (e.g. washing hands).



- h. Use proper lifting techniques to avoid over-extension when lifting.
- i. Head protection: Employees exposed to flying or falling objects and/or electrical shock and burns must be safeguarded by means of approved head protection; where there is risk of hair entanglements in moving parts of machinery, combustibles, or toxic contaminants, employees must confine their hair.
- j. Eye and face protection: Employees working in locations where eye hazards are inherent in the work or environment due to flying particles, hazardous substances, or injurious light rays must use employer-provided eye or face protection. Suitable screens or shields isolating the hazardous exposure will safeguard nearby employees.
- k. Hand protection: Gloves may be required for employees whose work exposes hands to hazardous substances, cuts, or burns.
- l. Foot protection: Appropriate foot protection is required for employees who are exposed to foot injuries from hot, corrosive, or poisonous substances; falling objects; or crushing or penetrating actions that may cause injuries. City will provide up to \$100 for steel-toed or comparable work boots to Employees working in areas requiring foot protection.

### **3.25 Personal Mail and Shipping**

From time to time, employees will be permitted to use the City's shipping vendor to arrange for shipping personal goods. Any costs associated with personal shipments will be charged back to the employee and will be promptly reimbursed by the employee to the City. Employees may also occasionally receive personal shipments at the workplace, provided that it does not interfere with or burden City offices or other administrative staff, and as long as the materials received are not inappropriate for the workplace.

### **3.26 Use of City Vehicles**

The City maintains a fleet of vehicles and equipment to provide for essential services and the response necessary to supply such services. The private use of City owned vehicles and equipment is prohibited. It is the City's policy that all vehicles and equipment be used only for City services unless allowed by other provisions of this policy. Vehicle operators shall not allow ridership of non-city employees unless explicitly allowed by the employee's Department Head, in writing, for specific community service assignments or emergency calls. Vehicles assigned by appropriate Department Heads to respond for services on a stand-by or on-call basis are allowed to transport City personnel between their residence and the point of service. This applies to sworn officers of the Police Department who live in the city limits, as assigned by the Chief of Police; and to stand-by personnel in the Public Works

Department, who live within city limits, for snow, water, sewer, and treatment plant after hours service calls, as assigned by the Public Works Director. The City requires that all operators of City vehicles and equipment fully comply with the licensing requirements of the California Department of Motor Vehicles and follow all rules of the California Vehicle Code. The vehicle or equipment operator shall also ensure compliance with safe operating standards and assure proper maintenance of equipment and equipment logs, and report any malfunctions to the City Mechanic. In case of an accident, the operator shall report the incident immediately to the law enforcement agency having jurisdiction at the accident site. The operator must request that a copy of that agency's accident report be sent to the Workers Compensation Safety Manager for review and insurance purposes. The operator of the vehicle or equipment shall also notify their Supervisor as soon as it is safe to do so.

### **3.27 Use of City Supplies, Equipment, Materials and Facilities**

The City prohibits the private use of City supplies, equipment, materials and facilities by the public in general, and by the employees of the City beyond their assigned job requirements or job assignments. There are only two exceptions to this policy. One, upon approval of a Department Head, City supplies, equipment, materials and/or facilities may be provided to other Public Agencies (school districts, park & recreation districts or local governments) who have mutual agreements or in reciprocity. Two, a Department Head shall have the authority to utilize City supplies, equipment, materials and/or facilities when it is determined that the use is in the interest of public health and safety. Violation of this policy shall subject the employee(s) to corrective action, up to and including termination. Criminal prosecution may also be applicable.

### **3.28 City Purchases, Credit Card Policy and Accounts Payable Process**

Each Department Head will use due diligence in pricing items when making a purchase for their department. The Department Head has authorization to purchase items without a purchase order for items up to \$500. All items over \$500 require a purchase order. If there is an established vendor charge account with the City a purchase order should be used and the item billed to the city. If there is not an established vendor charge account the Department Head will request a credit application from the vendor. All online purchases are to be ordered over the telephone with a purchase order and billed to the City and should not be charged to a City credit card unless there is no other alternative way to purchase the item. Some vendors may require payment in advance and a check request can be submitted to City Hall for processing.

Any purchase \$500 or greater must be submitted to City Hall on a purchase order and with an agenda request to be presented at the next City Council meeting for approval. This is per the revised Spending Policy that was passed at the Regular City Council Meeting on March 3, 2008 which states "*the Tulelake City Spending Policy will increase to \$500. This is for all departments. Any and all purchases over this amount need to have prior approval by the City Council. If the purchase is for an emergency or*

*for safety reasons, the Department Head may get approval by the appropriate commissioner.”* Thus in an emergency the Department Commissioner can authorize purchases over \$500 and less than \$1000. Items that are \$1,000 or greater may require three quotes and are to be submitted with the purchase order and the agenda request form to City Hall. All purchases over \$1000 must be an agenda item for City Council approval. All purchases over \$5000 will require three quotes whenever possible.

All City credit cards are to be kept with each Department Head within their office or stored in the safe at City Hall. Each Department Head will follow the credit card policy as it is intended and will show a fiduciary responsibility in limiting its use only for emergency purchases for the department or when traveling for official city business, employee trainings or meetings. Currently, Mastercard credit cards are only issued to police department personnel though the City reserves the right to designate additional employees as appropriate. Credit cards are to be used only as approved by the department head or in an emergency. If an emergency arises then the employee will make diligent efforts to contact the department head prior to using the card. Credit cards should only be used where absolutely necessary and must comply with the previously described purchasing policy. All efforts should be made to use the previously described purchasing policy prior to using the city issued credit card. All credit card receipts will be turned into city hall on a weekly basis.

Appropriate gas related credit cards are available for all employees and may be used as needed in the performance of their duties without prior approval of the department head. If a receipt is generated during the purchase it will be turned into city hall on a weekly basis.

The City will accept credit or debit card payments from customers for utility services and other city services such as building permits, business licenses, copies and faxes, encroachment permits and for other fees or fines. Any payment over \$500 will be assessed a 2.5% additional charge to cover administrative banking fees generated from credit and debit card payments. Any purchase for utilities over \$500 will be exempt from the 2.5% additional charge. City Hall staff will have the fiduciary responsibility of processing credit and debit card payments that are in compliance with the current credit and debit card federal and state laws.

Each Department Head will be responsible for turning in their accounts payable invoices to City Hall weekly. Department Heads will code all invoices indicating what the purchase was for and designate what account should be used to pay the invoice. All accounts payable invoices and reports will be submitted by City Hall staff to the City Council for approval at the regular or special meetings. The accounts payable check runs will be processed twice a month by City Hall staff. All checks must have two authorized signors. City Council Members and the City Treasurer will be designated in the City's regular or special meeting minutes as the authorized check signors.

### **3.29 Negotiating Committees**

From time to time the City may need to form committees for the purpose of negotiating various City business. When a negotiating committee has been appointed by the City Council, the City Hall Administrator, or their appointed staff member, will put together a

packet of material with all relevant information requested by the committee. Information packets are to be sent via e-mail to each committee member, with hard copies available upon request. If a committee member needs more information, the City Hall Administrator will assist in getting all the necessary requested information. Members will hold meetings as necessary. Results of all negotiations will be presented to City Council at a regular or special city council meeting for a vote.

### **3.30 Procedure for Handling Claims against the City of Tulelake or any City Employees**

Citizen complaint forms and Claims against the City of Tulelake are to be retained at City Hall and given out to any person requesting one. The Tulelake Police Department has their own complaint forms which are to be kept at the Police Department and given out by members of the Police Department when a request is made.

At no time are complaints to be made public or discussed in any public setting. The exception may be if the person making the complaint wishes to place their complaint on the agenda in which to discuss it at a City Council meeting in open or closed session, following all Brown Act regulations.

When a complaint is made, it is to be given to the appropriate Department Head and the appropriate appointed Commissioner for that department, via e-mail, within one working day of receiving the complaint. The Department Head and Commissioner will review the complaint, interview any staff members as needed, and make a decision based on all the information presented. If the complaint is against a Department Head, the designated Commissioner will be emailed the complaint and may wish to consult with one other Council Member to help resolve the complaint.

In the chance of a potential disciplinary action taken against a City employee, the proper procedures as stated in Chapter 8.6 of the City Personnel Policy Manual will be followed. The Chief of Police will be responsible for following the correct disciplinary procedures according to Police Department Policy for complaints against Tulelake police officers. If the complaint is against the Police Chief, the designated Commissioner will be emailed the complaint and may wish to consult with one other Council Member to help resolve the complaint.

If the initial finding of the Department Head and Commissioner are unsatisfactory to the complainant, they may request to have their complaint heard by the entire City Council in an open or closed session meeting, staying in compliance with all Brown Act regulations.

## **CHAPTER 4: NONDISCRIMINATION IN EMPLOYMENT**

### **4.01 Equal Employment Opportunity**

The City is an equal opportunity employer. The City also maintains a zero tolerance policy with respect to discrimination in its workplace. No manager or employee of the City will discriminate against an applicant for employment or a fellow employee because of race, creed, color, religion, sex, gender identity, sexual orientation, national origin, ancestry, age, political party affiliation, military or veteran status, genetic characteristic, or any physical or mental disability. This policy applies to all employment practices and personnel actions including advertising, recruitment, testing, screening, hiring, selection for training, upgrading, transfer, demotion, layoff, termination, rates of pay, and other forms of compensation or benefits. Any employee who believes that he or she, or that another person, has been subjected to a discriminatory decision or practice must immediately bring the concern to the attention of a Supervisor, manager, or member of the City Hall Department.

#### **4.02 Recruitment of New Employees**

The City recruits to attract top-caliber individuals to all levels of the organization. Vacant or new authorized/budgeted positions may be filled by either transfer or promotion of existing employees, or by new employees who are recruited or apply. Recruitment may be conducted through advertising, employment agencies, schools, employee referrals, or technical and trade referrals. Department Heads will consider the most appropriate method of recruitment for filling departmental positions. All recruitment will be conducted in an ethical, professional, and nondiscriminatory manner. The City provides equal opportunity to all applicants based on demonstrated ability, experience, and training in accordance with the City's Equal Employment Opportunity Policy (Section 4.1).

#### **4.03 Announcement of New Positions**

Whenever possible, availability of all job openings will be announced within the organization before outside recruitment for any position. However, there may be times when the City wishes to recruit from outside the City, and nothing in this manual should be understood to be a promise of any kind to a certain hiring protocol. All current employees are encouraged to review the requirements for each position and apply for those positions they are interested in and qualified to fill. All applications will be given the same consideration as outlined in the City Recruitment of New Employees Policy and Equal Employment Opportunity Policy (Sections 4.2 and 4.1).

## **CHAPTER 5: ANTIHARASSMENT, RETALIATION, AND BULLYING POLICIES**

### **5.01 Harassment Prohibited**

The City believes in respecting the dignity of every employee and expects every employee to show respect for all of our colleagues, clients, customers, and vendors. Respectful, professional conduct furthers the City's mission, promotes productivity, minimizes

disputes, and enhances its reputation. Accordingly, this policy forbids any unwelcome conduct in the workplace that is based on an individual's age, ancestry, citizenship, color, creed, marital or parental status, national origin, political affiliation, pregnancy, race, religion, sex or gender, perceived sex or gender, sexual orientation, military or veteran status, physical or mental disability, medical condition unrelated to the person's ability to perform the job, or the perception that a person is associated with a person who has or is perceived to have any of these characteristics. In addition, this policy prohibits discrimination and harassment on any other basis protected by federal, state, or local law, ordinance, or regulation. The City is committed to providing a work environment that is free of all forms of harassment, and, therefore, strongly disapproves of and will not tolerate harassment of any person in the workplace. The conduct prohibited by this policy, whether verbal, physical, or visual, includes any unwelcome conduct that adversely affects an individual because of his or her protected status. Among the types of unwelcome conduct prohibited by this policy are epithets, slurs, negative stereotyping, intimidating acts, and circulation or posting of written or graphic materials that show hostility toward individuals because of their protected status. The City prohibits such conduct in the workplace even if the conduct is not sufficiently severe or pervasive to constitute actionable harassment under law. Prohibited harassment may include, but is not limited to, the following specific conduct: a. offensive verbal conduct such as epithets, derogatory jokes or comments, slurs, insulting sounds, unwanted sexual innuendos, advances, or propositions, and/or graphic, suggestive, or obscene comments, letters, notes, or invitations b. offensive visual conduct such as derogatory and/or sexually suggestive images, posters, pictures, photography, cartoons, drawings, or gestures c. offensive or otherwise unwelcome physical conduct such as patting, grabbing, pinching, brushing against another's body, assault, or any other unwanted physical contact or touching as well as blocking normal movement or otherwise interfering with another's work based on any protected basis d. threats or unwelcome pressure to submit to sexual requests and offers of employment benefits in return for sexual favors The above-described conduct constitutes harassment when:

- a. Submission to the conduct is made either an explicit or implicit term or condition of employment;
- b. Submission to or rejection of the conduct is used as the basis for a favorable or adverse employment decision affecting an employee; or
- c. The conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creates an intimidating, hostile, or offensive work environment, even if that employee is not the direct target of the actual conduct. Harassing conduct based on gender often is sexual in nature. However, this policy forbids harassment based on gender even if the offensive conduct is not sexual in nature. In addition, sexual or gender harassment can be committed by a person of either the same or opposite sex. Finally, this policy also forbids

harassment based on a person's perceived gender— meaning that gender that the person elects to adopt.

## **5.02 Retaliation Prohibited**

Employees who feel that they are being discriminated against or harassed for any reason should immediately report such conduct to their immediate Supervisor or to any member of management or the City Hall Department. The City values an atmosphere of open communication for all City employees; employees who report harassment and/or discrimination shall not be retaliated against by City management or any fellow employee. The making of a report of harassment or discrimination shall never, under any circumstances, be considered in any decision regarding hiring, firing, promotion, or any other term or condition of employment. Any employee who takes adverse action or otherwise retaliates against a subordinate or co-worker because that person lodged a harassment or discrimination complaint will be subject to appropriate discipline, up to and including termination.

## **5.03 Bullying Prohibited**

In addition to harassment based on a protected characteristic, the City prohibits acts of bullying. A safe and civil environment is necessary for employees to achieve the high standards we expect. Demonstration of appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment and bullying are expected of all employees. Bullying is repeated, health-harming mistreatment of another employee. Examples of prohibited bullying include, but aren't limited to: screaming; swearing; name calling; stealing; giving dangerous work assignments; using threatening, intimidating, or cruel behaviors; deliberately humiliating a person; denying advancement; and stealing work credit. Generally, bullying:

- a. Is committed by written, verbal, graphic or physical acts (including electronically transmitted acts—e.g., using the Internet, a cell phone, a personal digital assistant (PDA), or a wireless handheld device).
- b. Substantially interferes with work, opportunities, and benefits of one or more employees, sometimes through actual sabotaging of work.
- c. Adversely affects an employee's ability to function at work by placing the employee in reasonable fear of physical harm or by causing emotional distress. Because bystander support can encourage bullying, the City also prohibits both active and passive support for acts of bullying. Employees should either walk away from these acts when they see them or attempt to stop them. In either case, employees should report incidents to a Supervisor, management, or a member of the City's City Hall Department. Reprisal or retaliation against any person who

reports an act of bullying is prohibited. Employees who engage in bullying will be subject to appropriate discipline, up to and including termination.

#### **5.04 Reporting Discrimination, Harassment, Retaliation, and Bullying**

Everyone at the City can help assure that our workplace is free from prohibited discrimination, harassment, and retaliation by avoiding any behavior or conduct that could reasonably be interpreted as prohibited discrimination, harassment, or retaliation. No employee, not even the highest ranking employee in the City, is exempt from the requirements of this policy. In addition, the City will not tolerate elected officials, customers, clients, and/or outside vendors harassing any employee. Such conduct should be immediately reported to your Supervisor or the City Hall Department. This reporting may take place irrespective of the chain of command or the organizational structure. If you find conduct in the workplace to be unwelcome or offensive, you are expected to immediately inform the person engaging in the conduct in a clear and unambiguous manner that the conduct is unwelcome or offensive and that you want the conduct to stop. In addition, even if the person ceases the offensive conduct, you should immediately report the behavior to your Supervisor or the City Hall Department. Every reported complaint of violations of this policy will be investigated thoroughly, timely, and—to the extent possible—confidentially. While the investigation proceeds, the City may put reasonable interim measures in place, including but not limited to, a leave of absence, change of shift, or transfer. The failure or refusal of any employee to cooperate in a City investigation of alleged wrongful conduct may subject the employee to disciplinary action, up to and including termination. Once reports of alleged violations of this policy are thoroughly investigated, the City will take appropriate action. The City may conclude that a violation has occurred. The City also might conclude, depending on the circumstances, either that no violation of policy occurred or that the City shall not conclude whether a violation occurred. If the City determines that this policy has been violated or that other inappropriate conduct has occurred, effective remedial action will be taken appropriate to the totality of the circumstances, including disciplinary action, up to and including termination. The City may discipline an employee for any inappropriate conduct discovered while investigating reports or alleged violations of this policy, even if the conduct does not amount to a violation of the law or even a violation of this policy. If the person who engaged in the unwelcome or offensive conduct is not employed by the City, the City will take whatever corrective action is reasonable and appropriate under the circumstances. Following the conclusion of the City's investigation, a City representative will advise the principal parties concerned of the results of the investigation separately. In addition to notifying the City about harassment, discrimination, or retaliation, employees also may file an administrative complaint with the United States Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH). These agencies will independently investigate and prosecute complaints of discrimination, harassment, or retaliation in employment. The deadline for filing an



administrative complaint with the DFEH is one year from the date of the alleged unlawful conduct. The nearest office of the EEOC or DFEH is listed in the telephone book and on the internet.

## **CHAPTER 6: ACCOMMODATION OF DISABILITIES, PREGNANCY, AND LACTATION**

### **6.01 Accommodation of Disabilities**

The City is committed to making every reasonable effort to accommodate an employee's temporary or permanent disability. Provided that, with reasonable accommodation they can perform their essential job duties, disabled employees will be given every opportunity to continue working in their current position or in another available position. Note, however, that the City will not displace other employees or create new positions to accommodate an employee's disability. If you are or become disabled, whether on a temporary or permanent basis, you must notify your Supervisor or a manager so that the City can engage you and your healthcare provider in an interactive process to determine which accommodations (if any) are reasonable and feasible. The City will request that your treating medical provider verify any and all limitations you may have, and that, with accommodation, you are medically cleared to perform your essential job duties. The City will not inquire into any employee's medical diagnosis, and asks that you instruct your physician to only communicate information necessary to determine that you can perform essential job duties and what accommodations may be both reasonable and possible.

### **6.02 Pregnancy and Lactation Accommodation**

Besides pregnancy disability leave, discussed in the leave section of this manual, the City will make every effort to reasonably accommodate the limitations of pregnant employees who continue to work during pregnancy. Pregnant employees are strongly encouraged to consult their physicians to determine what, if any, workplace accommodations may be necessary during pregnancy and to promptly notify the City of the need for such accommodation. The City is committed to providing pregnant employees with a safe and welcoming workplace environment, free from discrimination based on pregnancy status. In addition, new-mother employees who are lactating are permitted as many breaks as needed to express breast milk during lactation and will be provided with private facilities to do so. Whenever possible, breast milk expression should take place during an employee's normally scheduled break periods.

## **CHAPTER 7: ILLEGAL DRUG/ALCOHOL ABUSE; SMOKING ON CITY PROPERTY**

### **7.01 Tulelake Drug and Alcohol Testing Policy**

## A. Definitions

**Accident/Incident** means any vehicle accident or employee-involved incident that could endanger the employee, other employee, or any other person that may be present. This would also include any accident/incident where property damage occurred or could have occurred or when a State or Local law enforcement authority issues a citation to the covered employee driver for a moving violated arising from the accident/incident.

**Alcohol** mean the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

**Collector**, see independent testing person.

**Covered employee** means all employees of the city, elected officials, and volunteers that work for and represent the city.

**Elected official** is a member of the Tulelake City Council, the City Treasurer or City Clerk.

**Compensated Employee** means any employee of the city.

**Independent Testing Person** is a person or persons designated by the Tulelake City Council to oversee and obtain drug tests. This designated person shall not be subject to drug testing pursuant to the Tulelake Drug and Alcohol Testing Policy.

**Licensed Lab** means a lab licensed by the state in which it operates.

**Negative test result** for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in section H. An alcohol concentration of less than 0.01 BAC is a negative test result.

**Positive tests results** for a drug test mean a verified presence of the identified drug or its metabolite at or above the minimum levels specified in section H. A positive alcohol tests result means a confirmed alcohol concentration of 0.01 BAC or greater.

**Prohibited drug** means marijuana, cocaine, opiates, amphetamines and methamphetamines, phencyclidine, barbiturates, benzodiazepines, methoqualone, alcohol or any other substance as specified in the California Health and Safety Code as illegal, or any non-prescribed medication at levels above the minimum thresholds specified in section H.

**Prohibited substances** mean any prohibited drug and/or alcohol and any prescription medication which impairs physical and/or mental abilities.

**Reasonable suspicions** means a belief based on a specified, articulated observations, concerning the appearance, behavior, speech and/or body odors of the employee and

reasonable inferences drawn from those facts related specifically to job performances, a threat to themselves or the safety of others.

**Safety sensitive position** means a job position which includes duties which have the potential to endanger the employee, other employees of the city, or members of the public.

**Split sample testing** mean that samples which result in a positive field test would be split, with the second sample being sent to a separate licensed lab designated by the employee.

**Substance abuse professional (SAP)** means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistant professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

**Supervisor** means department heads or other persons designated by the City Council as supervisors.

**Validity testing** is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

**Vehicle** means any vehicle, heavy equipment, or other machinery to include, but not limited to, lawnmowers, weed eaters, flush truck, or other related equipment where impaired operation may result in injury or death.

**Verified negative test** means a drug test result reviewed by a licensed lab and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by State of California or section H.

**Verified positive test** means a drug test result reviewed by a licensed lab and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in Section H and California State Law.

**Volunteer** means any person authorized by either a department head or a council member to perform work for the city without financial payment.

## **B. Prohibited Substances**

Prohibited drugs are any illegal controlled substances including, but not limited to, marijuana, amphetamines and methamphetamines, opiates, phencyclidine (PCP), cocaine, barbiturates, benzodiazepines, methaqualone, and alcohol, as well as any drug not approved for medical use by the USDA or the USFDA. Illegal use includes use of or impairment by any illegal drug, misuse of legally prescribed or over the counter drugs, illegally obtained prescription drugs or use of a prescription drug which affects mental and/or physical abilities.

(In the even an employee has a bona fide prescription for medical marijuana; the employee cannot use marijuana within 8 hours of reporting for work or at work.) No employee shall ever have marijuana at work.

The use of any beverage or mixture, including any medication, containing alcohol just before, during or just after performing a safety sensitive function is also prohibited. Employees, whose duties require them to be able to immediately perform safety functions upon being called on duty, may not use alcohol while they are “on call.” The use of any substance, which carries a warning label indicating that mental functioning, motor skills, or judgment may be adversely affected, **MUST** be reported to supervisory personnel prior to performing safety sensitive duties. If the employee is a department head, the department head must report the use of any substance, which carries a warning label indicating that mental functioning, motor skills, or judgment may be adversely affected, to his/her supervisor prior to performing safety sensitive duties. If the supervisor is not available, the employee shall not perform any safety sensitive duties until the employee can report to the supervisor. Failure to report may result in disciplinary action up to and including immediate termination. It is the responsibility of employees to remove themselves from service if they are experiencing any adverse effects from medication.

### **C. PROHIBITED CONDUCT**

The following conduct is prohibited and may result in discipline, up to and including termination.

1. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions while having an alcohol concentration level of 0.01 BAC or greater;
2. Reporting work within four hours of using alcohol;
3. Being on duty or operating a vehicle described in Section an above while possessing alcohol;
4. Using alcohol or prohibited substances while working;
5. Reporting for duty or remaining on duty when the duty requires the performance of safety sensitive functions and when the employee is taking any prohibited substances.
6. Reporting for duty or remaining on duty when the duty requires the performance of safety sensitive functions and the employee tests positive for prohibited substances.
7. Refusing to submit to any alcohol or prohibited substances test required by this policy. Refusing to submit to a required drug/alcohol test will be treated in the same manner as verified positive test result.
8. Adulterating a drug testing specimen or otherwise interfering with a drug test specimen.

## D. CONSENT/REFUSAL TO CONSENT

An employee, who refuses to submit to drug testing as required by the City, is subject to disciplinary action up to and including termination. *A refusal will be considered a verified positive drug test.*

## E. WHAT CONSTITUTES A REFUSAL

A refusal to submit to an alcohol or prohibited substances test required by this policy includes, but is not limited to:

1. Verbal or written refusal to provide an adequate urine sample for a drug test and/or an adequate breath sample for an alcohol test;
2. An inability to provide a urine sample without a valid medical explanation;
3. Not cooperating with the testing process in a way that prevents the completion of the test or alters the results of the test;
4. Failure to provide breath or an inability to provide an adequate amount of breath without a valid medical explanation;
5. Tampering with or attempting to adulterate the urine specimen or collection procedure;
6. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
7. Failing to remain readily available for testing following an accident/incident or for post-accident or post-incident reasonable suspicion testing for the time specified in the rules;
8. Consuming alcohol within the first eight hours after an accident/incident, or before the employee undergoes a post-accident or incident alcohol test, whichever occurs first;
9. Obstructive behavior that prevents the completion of a drug or alcohol test constitutes a refusal;
10. Leaving the scene of an accident without justification;
11. Failure to remain at the testing site until the testing process is complete.

**Direct Observation.** Collection under observation (observed urine stream from donor to collector container, by a person of the same gender who is not a city employee) with no advance notice will occur at the discretion of the ITP or if:

- (a) The laboratory reports to the ITP that specimen is invalid and the ITP reports to the City of Tulelake that there was not an adequate explanation for the results; or

(b) The ITP reports to the City of Tulelake that the original sample was positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed.

(c) City of Tulelake may direct a collection under direct supervision of an employee when the drug test is a return-to-duty test or a follow-up test.

(d) The collector must immediately conduct a collection under direct observation if:

1. The collector observes material brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen; or
2. The temperature on the original specimen was out of range; or
3. The original specimen appeared to have been tampered with.

#### **G. CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES:**

**1. Pre-employment and Return to Work Testing;** All applicants are required to submit to pre-employment/pre-duty drug/alcohol testing. If the tests are canceled for any reason, the applicant must nonetheless take and pass the tests before being eligible for hire.

**Employees who have been on medically-related leave are required to submit to return to work drug/alcohol testing and must pass the tests before returning to work.**

**2. Double Draw Testing:** Covered employees will be subject to alcohols and drug testing. Some employees may be tested more than once in a year, while others may only be tested once, depending on the random selection. The selection procedure will be based on a "draw" system with each covered employee having his name included in the drawing pool. Testing will be spread reasonably throughout the calendar year, and time of day. Covered employees are to immediately proceed to test site when they are notified that they have been selected. The following items regarding the random selection and testing procedure will apply:

(a) The number of drug test conducted annually shall equal or exceed 100% of the average number of employees for which testing is required. Employees may be tested for drugs/alcohol anytime while on duty. Testing will include a dual draw process. Each employee will be included in the initial yearly pool with each name being drawn, (not less than one covered employee per month or more than two covered employees per month), until all covered employees have been drawn for the year period (Jan-Dec).

(b) A second random pool will also be used, (not less than one covered employee per month or more than two covered employees per month). To assure that the process is in fact random, all covered employees, whether or not they have been chosen for testing in the past, will remain in the random pool of covered employees for each subsequent monthly

period. This procedure assures that the possibility of any individual being selected each period is always the same, whether or not the individual was selected in a previous period.

(c) An employee shall submit to alcohol and controlled substances testing when drawn and contacted by the ITP designated by the City of Tulelake.

**3. Reasonable Suspicion:** Covered employees are also required to submit to an alcohol or drug test when his or her supervisor has reasonable suspicions to believe the employee is under the influence of alcohol or controlled substances. The observation must be based on short-term indicators, such as blurry eyes, slurring, or alcohol on the breath. The supervisor may not rely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test. The supervisor witnessing the impairment must document the specific observation upon which the reasonable suspicion is based.

Once a “reasonable suspicions” determination is made, it is the responsibility of the employer/supervisor to transport the employee to the collection site. Under no circumstances shall an employee required to undergo “reasonable suspicion” testing be permitted to drive any vehicle. City of Tulelake personnel shall transport the employee to his/her residence or other appropriate destination after the test.

The “reasonable suspicion alcohol” test will be administered within two hours of observations. If not administered within two hours, the employer must provide written documentation as to the reasons the test was not promptly conducted. No alcohol test may be administered more than eight hours and no drug test more than 32 hours, following the observation leading to reasonable suspicion.

**4. Post-accident/incident testing:** Post accident/incident drug and alcohol testing will be conducted on all employees involved in an accident/incident, as defined in section A. Post-accident/incident alcohol test should be administered within two hours following an accident/incident but no later than eight hours after the following accident. If the alcohol test does not take place within two hours of the accident, the supervisor must document the reasons why the test was not administered. If the alcohol test does not take place within eight hours of the accident, the supervisor will cease attempts to administer the test and maintain records on the reasons or the failure to conduct the testing.

A post-accident drug test shall be conducted within 24 hours following the accident.

Following an accident the employee shall remain available for such testing, or may be deemed to have refused to submit to testing. This rule does not require the delay of necessary medical attention for injured people following an accident, nor prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care. An employee subject to post accident testing may not use alcohol within 8 hours following the accident or before an alcohol test, whichever comes first. In the rare event that employee cannot be accessed for testing during the allotted time, the City can accept test results administered by State or local law enforcement officials, or by health care professionals.

**5. Return to duty/follow up testing:** A covered employee who has been notified by his or her supervisor that he/she has violated any prohibition of this policy must report to the Independent Testing Person and submit to a return to duty test before he/she may be returned to his/her position. The test result must indicate an alcohol concentrate of less than 0.01% or a verified negative result on a controlled substances test. The employee shall pay for the cost of retesting under this section.

## **H. DRUGS FOR WHICH TESTS WILL BE CONDUCTED**

When drug screening (is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the following drugs. A Panel 9 drug screen will be used for all testing. The urine sample will be split in two (2) bottles, a “primary” sample and a “split” sample. If the primary sample yields a positive result, the employee has 72 hours to have the “split” sample tested by a different laboratory of a least equal professional licensed and credentialed status. The results must be interpreted by a physician before being reported to the City of Tulelake. Substances to be tested for are:

- (a) Amphetamines and Methamphetamines
- (b) Cocaine
- (c) Marijuana/Cannabinoids (THC)
- (d) Opiates (narcotics)
- (e) Phencyclidine (PCP)
- (f) Barbiturates
- (g) Benzodiazepines
- (h) Methoqualone
- (g) Alcohol

The threshold levels used to determine when a 9-panel drug screen is positive are established by the Independent Test Person as required by local and state statutes. The procedures are immunoassay (EMIT) screens with gas chromatography/mass spectrometry (GC/MS) confirmation, the industry standard of the Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratories (formerly NIDA).

## **I. PAYMENT FOR TESTING**

The City will pay the cost of the initial test(s). Cost for any follow-up testing or split sample testing shall be borne by the employee who is subject to the follow-up testing or who requested the split sample testing. If the split sample test indicated a negative result, the employee shall be reimbursed for the cost of the split sample test. The employee shall also be responsible for any medical evaluation that may be necessary as a result of the employee not being able to provide an adequate sample. The employee shall pay for the cost of retesting under the return to duty under Section G(5).

## **J. DISCIPLINE FOR INTERFERING WITH THE DRUG AND ALCOHOL TESTING POLICY**



1. Any covered employee who tampers, alters, substitutes, adulterates, destroys, attempts to falsify or falsifies any alcohol or controlled substances sample or specimen, document, report, or memorandum pertaining to a drug or alcohol test shall be subject to discipline up to and including termination.

2. Any covered employee who interferes with or attempts to interfere with the procedures, equipment or personnel in the course of collecting controlled substances, specimens or alcohol testing samples shall be subject to discipline up to and including termination.

3. Any covered employee who engages in conduct prohibited under this policy shall be subject to disciplinary action up to and including termination.

4. Any covered employee who assists another employee in interfering with this policy shall be subject to disciplinary action up to and including termination.

## K. CONFIDENTIALITY

Confidentiality is an essential element of this policy

All records pertaining to drug and alcohol testing of an employee shall be contained in a separate locking confidential file kept at City Hall separate from the employee's other personnel records. The locked confidential file shall be accessible only by the Independent Testing Person. The City Council may appoint an alternate person to keep a second set of keys. *Covered employees are entitled, upon written request, to obtain copies of the record showing the preliminary and lab results pertaining to their drug testing. All test results shall be placed into the separate locking, confidential file at City Hall by the Independent Testing Person within four days of obtaining test results. No copies of test results shall be made and retained away from City Hall.*

Absent the employee's consent, test results may be disclosed only to employee's department head, the City Council and the City Attorney. **Elected officials' results will be disclosed only to the City Council and the City Attorney. The results of any person's drug test whether a covered employee or an elected official is confidential and maintains its confidentiality when reported to the department and/or City Council. ANY PERSON MAY VOLUNTARILY DISCLOSE THE RESULTS OF HIS/HER DRUG TEST. No person may disclose the results of any others person's drug test except as described in this section.**

The City of Tulelake may disclose test results without the employee's consent only when:

1. The information is compelled by law or by judicial or administrative process.
2. The information has been placed at issue by the employee in a formal dispute between the employee and the City of Tulelake.

3. The information is necessary to administer an employee benefit plan; or,
4. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Any positive test result, which is later determined to be invalid, shall be removed from the employee's file and not used for any purpose.

## **L. RECORD KEEPING**

These records will be under the control of the City of Tulelake

1. Results of an employee's alcohol test which indicate an alcohol concentration level of 0.01% or higher; results of an employee's prohibited substance test which is positive; documentation of any employee who refused to submit to a required alcohol/drug test; calibration documentation; employee assessments and referrals by substance abuse professionals. Retention period: 5 years.

2. Records documenting the collection process for the alcohol and prohibited substances test and training of supervisors. Retention period: 2 years.

3. Results of any alcohol test which is less than 0.01%, documentation of any negative or canceled drug test. Retention period: 1 year.

## **M. TRAINING**

Covered employees shall receive training addressing the following:

1. The content of the City of Tulelake's Drug and Alcohol Testing Policy.
2. The types of testing and the procedures to be followed by the City of Tulelake in conducting this testing.
3. The effects and consequences of prohibited drug use or personal health and safety in the work environment of alcohol, signs and symptoms of misuse, and the impact of misuse in the workplace. This shall be for a minimum of 60 minutes.
4. The physical effects of alcohol, signs and symptoms of misuse, and the impact of misuse in the workplace.
5. Resources available for the treatment of drug use and alcohol misuse.

All Department Heads shall receive at least 60 minutes of training from a qualified presenter in making reasonable suspicion determinations related to drug use and at least 60 minutes related to alcohol misuse. The training will address the physical, behavioral speech and

performance indicators of probable drug use and alcohol misuse and the agency procedures for testing an employee suspected of being under the influence or for other violations of this policy.

## **N. PROCEDURE TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL**

### **1. Alcohol testing:**

A screening test will be conducted using a Passive Alcohol Screening device, (PAS). If the result is an alcohol concentration level of less than 0.01%, the test is considered a negative test. If the alcohol concentration level is 0.01% or more, a second confirmation test will be conducted. If the second test is 0.01% or more, it is considered a positive test, then a split urine sample will be obtained and forwarded to the lab.

### **2. Drug testing:**

At the discretion of the ITP, either a saliva based test will be administered or a urine based preliminary drug field screening test will be completed. If the saliva based test is used and returns with a positive result or if the field urine test is positive, then the following tests will be required: (In the event of a positive saliva test the ITP will re-contact the employee to submit to the following verification test(s).

(a) The urine specimen will be split into two bottles as “primary” and “split” specimen. The primary sample will be sent to the lab designated by the City. The split sample, at the employee’s option and at the employee’s expense, will be sent to an alternate lab selected by the ITP.

(b) The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine, or other illegal substances as designated by the City.

(c) If the test is positive for one or more of the drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis.

(d) All drug test results will be reviewed by the Independent Testing Person before they are reported to the employee and then to the City of Tulelake depending upon the results of e.

(e) With a positive drug tests, the ITP will notify the employee of the positive result. The employee at the employee’s option may provide the ITP with copies of prescriptions. The copies of prescriptions will be sent with the primary and split specimens to the labs for evaluation. Any copies of prescriptions must be provided to the ITP within 24 hours of notice of a positive test result.

(f) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, or if the split specimen is not able to be analyzed, or if the

results of the split sample are not adequate scientifically, the test will be canceled and reported to the employer and employee. A canceled test is neither positive nor negative.

## **O. SEVERABILITY**

In the event any provisions of this policy is declared a court of competent jurisdiction to be illegal or otherwise unenforceable that provision shall be null and void but such nullification shall not affect any other provisions of this policy, all of which other provisions shall remain in full force and effect.

### **7.02 Zero Tolerance for Drugs or Alcohol in the Workplace**

This policy is implemented because we believe that the impairment of any City employee due to his or her use of illegal drugs or alcohol abuse is likely to result in the risk of injury to other employees, the impaired employee, or third parties, such as customers or business guests. Moreover, illegal drug abuse adversely affects employee morale and productivity. Finally, we believe that employees with drug and alcohol problems that are severe enough to cause impairment at work are not helped by an employer's tolerance of the impairment. "Impairment" or "being impaired" means that an employee's normal physical or mental abilities or faculties while at work have been detrimentally affected by the use of illegal drugs or alcohol, and such impairment has affected the employee's performance of his or her job duties. An employee who begins work while impaired or who becomes impaired while at work is guilty of a serious violation of City rules and is subject to severe disciplinary action. Severe disciplinary action can include suspension, dismissal, or any other penalty appropriate under the circumstances. Likewise the use, possession, transfer, or sale of any illegal drugs on City premises or in any City storage area or job site is prohibited. Employees who violate this rule are also subject to severe disciplinary action. Employees using drugs or other substances, whether illegal, over-the-counter, or by a prescription, that may influence the employee's ability to perform their job functions should inform their Supervisor as soon as possible. Such employees are responsible for disclosing to their Supervisor the possible side effects of the drug on work performance and the expected duration of its use. Failure to disclose this use to your supervisor shall lead to discipline. When an employee is involved in the use, possession, transfer, or sale of illegal drugs in violation of this policy, the City may notify appropriate law enforcement authorities. Such notice will be given only after the incident has been investigated and reviewed by the employee's Supervisor or City Hall personnel, and the notice has been approved by the City Council. All City employees are required to notify the Department Head, within five (5) days, following any conviction of a criminal drug statute in the workplace. For the purpose of this policy, a conviction includes a finding of guilt, or a plea of nolo contendere, to charges which are violations of Federal or State criminal drug statutes. The City of Tulelake shall report that conviction to any Federal agency requiring such notification pursuant to the Drug Free Workplace Act of 1988.

### **7.03 Prior Treatment Nondiscrimination**

Applicants for initial employment, or for transfer or promotion, who have a past history of substance abuse and who have demonstrated an ability to abstain from the substance, or who can provide medical assurance of acceptable control, may be considered for employment, transfer, or promotion as long as they are otherwise qualified for the position they are seeking. The individual's previous participation in a drug or alcohol treatment program alone will not be considered as a factor in any hiring, transfer, or promotion decision.

### **7.04 City-Sponsored Event Alcohol Policy**

The City has adopted an alcoholic beverage policy in keeping with the concern for and the risks associated with alcohol use. Alcoholic beverages will not be served or used on any City premises at any time. Employees may never bring their own alcohol to City property or events. Social activities held off-premises and paid for on a personal basis are not affected by this policy. If management considers it appropriate, light alcoholic beverages may be served at City-sponsored events held off-premises and for purely social reasons. The consumption of alcohol must be managed in good taste and with good judgment.

### **7.05 Smoking on City Property**

California law prohibits smoking in any enclosed work place, therefore, no smoking will be allowed indoors at any City facility at any time. This includes City owned vehicles and equipment. Smoking is also prohibited within twenty (20) feet of an entrance to or operable window of a public building. Smoking may be allowed only in designated outdoor areas, provided that customers, clients, and business associates don't have to encounter employees who are smoking. This policy is for the health and safety of all City employees and associates. Employees must use only their designated break times to smoke in appropriate areas.

## **CHAPTER 8: PERFORMANCE IMPROVEMENT, MISCONDUCT, AND DISCIPLINARY ACTIONS**

### **8.01 Performance Improvement**

In order to maintain the efficient provision of City services to its constituents it is necessary for management to evaluate, and sometimes correct, the performance of its employees. In some cases correction may take the form of disciplinary action. Each Department Head shall have the right to discipline any employee subject to his/her jurisdiction for any reason which is in violation of policy and procedure. Performance evaluations shall be conducted on a routine basis in order to promote employee development and organizational improvement. The goal setting, performance feedback and

recognition within the evaluation help to ensure an employee understands the City's expectations and requirements. Performance improvement may be suggested whenever City management believes that an employee's performance is less than satisfactory and can be resolved through adequate counseling. Corrective counseling is at the discretion of management. The City desires to protect its investment of time and expense devoted to employee orientation and training whenever that goal is in the City's best interests. The City will determine the course of action best suited to the circumstances and may employ the progressive discipline procedures outlined below where appropriate.

## **8.02 Misconduct**

"Misconduct", which may be the basis for disciplinary action, is defined as a violation of City rules and policies as well as conduct that violates business ethics and/or state and federal law. City employees are expected to conduct themselves in a manner that is a credit to the City. Their actions should reflect their personal good character and should uphold the trust that the citizens have placed in them by their employment. City management shall apply necessary corrective action whenever an employee fails to meet the required standards of conduct as set forth in Section 3.3 Standards of Conduct.

## **8.03 Progressive Discipline**

The City has found that in many instances, corrective counseling through progressive discipline can be an effective way of improving performance and addressing misconduct. The City maintains a general progressive discipline policy for most performance and conduct issues, including verbal warnings, written warnings, suspensions, pay reductions, demotions and terminations. However, the City does not guarantee each employee an exact set of progressive discipline procedures, as some types of misconduct or policy violations may warrant different or accelerated handling. For example, violations of the City's policies regarding harassment, discrimination, or safety may result in immediate removal from the worksite and/or immediate termination. In addition, progressive discipline may be bypassed for violations of the City's standards of conduct involving violence, criminal activity, illegal substances, dishonesty, and conduct toward City customers, vendors, or business associates if that conduct affects the City's reputation, credibility, or ability to conduct its business.

## **8.04 Disciplinary Action**

City employees are expected to conduct themselves in a manner that is a credit to the City. Their actions should reflect personal good character and should uphold the trust that the citizens have placed in them by their employment. City management shall apply necessary corrective action whenever an employee fails to meet the required standards of conduct, suitability or performance. Types of Disciplinary Action: The following are types of actions that may be utilized by City management in disciplining employees. The list is not all inclusive.

A. Reprimands:

a. Oral Reprimand: A formal discussion with an employee about performance or conduct problems. This action preferably is summarized by a memo to the employee outlining the nature of the discussion. An oral reprimand does not threaten an employee's property right to his/her job; therefore it is not subject to the appeal process described below.

b. Written Reprimand: A written document presented to an employee regarding performance or conduct problems. A copy must be provided to the employee with a copy being placed in the employee's personnel file. A written reprimand does not threaten an employee's property right to his/her job; therefore it is not subject to the appeal process described below. An employee may submit a written rebuttal to be placed with the reprimand in the employee's personnel file.

B. Disciplinary Suspension: An involuntary absence without pay for a fixed period of time.

C. Reduction in Pay: The temporary or permanent reduction in pay of an employee.

D. Demotion: Demotion to a lower classification.

E. Termination: Discharge from City service.

### **8.05 Disciplinary Procedures**

Pending investigation and imposition of a disciplinary matter, the Department Head may place an employee on paid administrative leave when urgent circumstances exist that require immediate removal from duty.

A. Informational Meeting: The immediate Supervisor shall notify the employee in writing that it is necessary for the Supervisor and Department Head, or the Mayor in the case of Department Head discipline, to meet with the employee to discuss the proposed disciplinary action. This meeting is to be held for the purpose of ascertaining whether disciplinary action is appropriate.

B. Notice of Proposed Discipline: If, after the initial meeting, the Department Head, or Mayor in the case of Department Head discipline, intends to take disciplinary action against an employee, the employee shall be provided a written statement of the proposed disciplinary action within five (5) working days of the proposed action. If the employee is not available at the job site, the notice shall be mailed by certified letter to the employee's last known address. The notice shall include the following information:

a. The specific charges set forth in separate counts; describing the conduct underlying each count.

- b. A separate recommendation of proposed discipline for each charge and the date it will be effective.
- c. A statement that the employee has been provided all of the materials considered by the Department Head in recommending the proposed discipline.
- d. An opportunity to respond orally or in writing, or both, to the Department Head within five (5) working days of receiving the notice.
- e. A statement that the employee has the right to be represented by a person of their choosing, which may be an agent from his/her employee organization.
- f. A statement that the employee has a right to appeal the Department Head's decision to the Mayor or to the City Council in the case of Department Head discipline.

C. Employee Response: An employee notified of proposed disciplinary action must respond to the charges made within five (5) working days of receiving the disciplinary notice. An employee may respond in writing or request a meeting in order to make an oral response. The purpose of a meeting is to hear the response of the employee to the charges. It is an informal meeting. It is not an evidentiary hearing and the employee is not entitled to present witnesses. During this meeting, the employee may be represented by a person of their choosing, which may be an agent from his/her employee organization. An employee's written response shall be placed in the employee's personnel file.

D. Notice of Disciplinary Action: If the Department Head, or Mayor in the case of Department Head discipline, determines discipline is warranted after reviewing the employee's response he/she shall deliver a written notice to the employee within five (5) working days of such action.

#### **8.06 Procedures for Appeal of Disciplinary Action**

If an employee wishes to formally appeal a notice of disciplinary action, the employee shall submit a written request to the Department Head and Mayor, or to the City Council in the case of Department Head discipline, within five (5) working days of receipt of the notice of disciplinary action. The Department Head and Mayor, or the City Council in the case of Department Head discipline, shall schedule a date for an appeal hearing within ten (10) working days. This hearing provides an opportunity for the employee and a person of their choosing, which may be an agent from his/her employee organization, to present additional evidence or statements prior to the Department Head and Mayor or City Council making a decision. The decision may uphold, modify in whole or in part, or overrule the Department Head's or Mayor's recommendation. The City Council's decision regarding Department Head discipline is considered final. If the employee, not a Department Head, is



not satisfied with the Department Head and Mayor's decision he/she shall have a further right of appeal to the City Council, which shall be submitted as a written notice to the City Clerk within ten (10) working days of receipt of the Department Head and Mayor's decision. The City Council may hold an appeal hearing itself, or may appoint a hearing officer to do so. The City Attorney or designee shall reach agreement on selection of the hearing officer with the employee and the employee's representative prior to making the appointment. The hearing officer shall be a neutral party from outside the organization. The fees and expenses of the hearing officer and court reporter shall be shared equally among the parties. All other expenses shall be borne by the party incurring them and neither party shall be responsible for the expenses of witnesses called by the other except as provided by law. A party requesting a transcript to the hearing shall bear the cost thereof. The hearing officer shall make a recommendation to the City Council to sustain, modify or reverse the disciplinary decision. A copy of the recommendation will be given to the employee. The City Council will issue a final decision within fifteen (15) working days of receiving the recommendation and may, but is not required to, accept the hearing officer's recommendation. In the case of police officers, this procedure does not abrogate or diminish any rights or protections afforded an officer by the Peace Officers Bill of Rights. This procedure does not constitute a waiver of the employee's right to request a review of the City's decision in a court of law pursuant to Code of Civil Procedures Section 1094.5 that is filed within ninety (90) days of the final decision.

## **CHAPTER 9: ENDING THE EMPLOYMENT RELATIONSHIP**

### **9.01 Resignations**

An employee who wants to resign his or her employment, regardless of employee classification, is expected to give as much advance notice as possible. A written letter of resignation, including the reason for the resignation, must be submitted. Two weeks or 10 working days is generally considered to be sufficient notice time for non-management employees. Department Heads are expected to provide at least thirty (30) calendar days notice and are encouraged to provide more time if feasible. The City may require the employee to leave the work place immediately, rather than work during the notice period, if: (1) a conflict of interest exists; (2) the employee refuses to reveal the circumstances or relationship of his or her resignation and future employer; or (3) the City's business needs so require. This is not to be construed as a reflection on the employee's integrity but an action in the best interests of business practice. An employee who fails to appear for normal work assignments for three (3) consecutive days without notifying his/her Supervisor or Department Head is considered to have resigned.

### **9.02 Layoffs, Furloughs**

At times, it may be necessary for the City to reduce the size of its workforce due to internal or external financial factors or as required to best manage the City. The City Council

shall consider and approve layoffs, furloughs or reductions in force based on the recommendations of the Finance Director and/or Department Head. In the event of layoffs, furloughs or reductions in force the Department Head shall notify employees in writing. Employees and their bargaining unit representative, if represented, will be notified at least thirty calendar days (30) prior to the layoff, furlough or reduction in force when ever feasible. If less than fifteen (15) calendar days notice is granted, the employee will receive, instead of notice, severance pay for each day in lieu of notice, with a maximum severance pay of 80 hours. The payment will be based on the employee's straight time rate or salary. In exchange for the severance pay, the employee will be asked to sign a general release of all claims. Whenever a temporary layoff, furlough or reduction in force, for a period of four (4) months or less, is approved by the City Council, fifteen (15) calendar days of notice shall be given to the employees and their bargaining unit representative, if represented. The notice shall contain the ending date (return to work) of such temporary action. If the employee is laid off and given a return-to-work date that is within the current pay period, the employee will maintain benefits for all days worked and be paid according to the normal payroll cycle. If the employee is not given a return-to-work date that is within the current pay period, the employee will be paid out all accrued, unused vacation, holiday and comp time, and the employee will be provided with his or her final pay on the next regularly scheduled payroll date (per California Labor Code 220 (b)). For indefinite time periods, employees of the same class within a department shall be reduced in inverse order of seniority, EXCEPT that upon department head recommendation, the City may retain employees, irrespective of seniority, who possess special certificates or skills, knowledge and abilities necessary to maintain essential services provided by the City.

### **9.03 Terminations**

At times, it may be necessary for the City to unilaterally terminate an employee's employment with the City. Termination may be for performance- or disciplinary-related reasons or due to business necessity and efficiency. Terminated employees will be given a final date of work. If any interim period exists between notice of termination and the employee's last day of work, the employee is expected to assist with the efficient transfer of information and files to the City.

### **9.04 Retirement**

The City provides for retirement of qualified employees by maintaining membership in the Public Employees Retirement System (PERS). The City makes contributions as required by the California Public Employees' Retirement Law and its bargained agreements with represented and unrepresented employees. It is important for employees to notify City Hall of a planned retirement at least ninety (90) calendar days prior to such retirement date. This time is necessary for PERS to receive, process and confirm an employee's retirement information and compensation prior to the actual retirement date.

## **9.05 Final Pay**

Employees who resign, or who are terminated or laid off (without a return-to-work date in the same pay period) will be paid all wages, severance payments (if any), and accrued but unused vacation, holiday or comp time and other earned benefits on the next regularly scheduled payroll date (per California Labor Code 220 (b)) You are instructed to carefully scrutinize your final pay to ensure accuracy. If you feel that your final pay is inaccurate, you must notify the City immediately and provide any documentation or information in your possession to support your contention that the pay is not correct. Any employee who doesn't contest his or her final pay within five days of receiving the pay will be presumed to be in agreement with the final pay amount.

## **9.06 Return of City Property**

Before or concurrent with a departing employee's final day of work, the employee will return to his or her Supervisor, or to City Hall, all City property, including keys, fuel cards, credit cards, computer equipment and other devices and technology, cell phones, files, documents, uniforms, safety clothing, tools, and other equipment in the employee's possession. Any City property not returned may be considered stolen and appropriate action may be taken.

## **9.07 Exit Interviews and References**

Departing employees may be asked to participate in an exit interview with a member of City Hall. The interview's purpose is to elicit your candid feedback; hear your concerns, complaints, suggestions, and/or praise; and to give you a final opportunity to comment on your experience with the City. During the exit interview, the City representative will not argue with you or confront you in any way, and your answers to exit interview questions will be shared with others only for the purpose of internal City evaluation and improvement. Your responses to exit interview questions will in no way affect any reference the City gives to prospective employers. No references will be given concerning any present or past employee of the City except by an authorized member of the City's management or City Hall. Such response will only confirm the dates of employment and position held. If an employee has given written authorization, the City may also provide information on the amount of salary or wages earned by the employee or any other pertinent information as allowed by law.

# **CHAPTER 10: COMPENSATION; HOURS OF WORK**

## **10.01 Compensation**

Wages or salaries paid and any special compensation shall be in accordance with these Rules or the most recent applicable Memoranda of Understanding (M.O.U.) and salary

resolution adopted by the City Council. The City Council, by resolution, shall approve all adjustments to wage or salary ranges and the addition of wage or salary ranges for new occupational groups. This policy shall apply to all staff personnel of the City except for:

- a. Appointed and elected officials
- b. Volunteers
- c. Contract service employees 1. Finance Director 2. City Attorney 3. Other contract service employees approved by the City Council

### **10.02 Step Increases**

In order to recognize the experience and performance of employees who have obtained regular status, the City provides a 10-step salary grade for each position with a 2.5% increase between each step. Step increases are based on a combination of merit and time in service. An employee becomes eligible for a step increase on the first day of the city's fiscal year (i.e. July 1st) only if the employee's anniversary date of hire, reclassification, promotion or last step increase is equal to or greater than six months before the beginning of the fiscal year. An employee must receive a satisfactory performance evaluation and perform one year of active service in the current step to be eligible for a step increase.

A. Delayed Step Increase: A step increase delayed or not granted must be justified by an employee's less than satisfactory performance. Once delayed, the employee shall not be eligible for a step increase until at least three months of service at the current step has lapsed and the employee has demonstrated sufficiently improved performance.

B. Exceptional Merit Increase: An employee whose performance clearly demonstrates excellence far above expectations for the position and time in service may be recommended to receive an exceptional merit increase. The City Council may approve advancement of an employee to a higher step prior to completion of one year of active service from their last increase or to a higher step at the typical review date. The exceptional increase shall not exceed one step above the employee's expected increase.

C. A yearly COLA (Cost of Living Adjustment) for each employee will be considered by City Council at the beginning of each fiscal year. The amount will be partially based on the Consumer Price Index and also whether or not the City is financially sound.

### **10.03 Longevity Pay**

Employees shall also receive a one-step increase in pay at the conclusion of their 10<sup>th</sup> year of service and a one-step increase in pay at the conclusion of their 20<sup>th</sup> year of service. Longevity is calculated from the date of hire to a permanent position and separation from

City employment will cause all prior longevity to be forfeited. Longevity pay does not apply to contract employees, who have a separate professional service contract.

#### **10.04 Acting Assignments**

The City may appoint an employee to act in a higher job classification (out of class) for a period of up to twelve (12) consecutive months, or for a total of twelve (12) months in any two consecutive fiscal years. The compensation for such an acting assignment shall be the rate for the first step of the higher classification or 5%, whichever is higher.

#### **10.05 Standard Workweek and Business Hours**

The City standard workweek begins at 12:01 a.m. on Monday, and ends at 12:00 midnight on Sunday. The standard pay period begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on Sunday, fourteen (14) days later. The standard workday begins at 12:01 a.m. and ends at midnight, 24 hours later. City Hall and administrative personnel work a typical Monday through Friday, eight-hour workday (excluding meal periods for nonexempt employees), generally between the hours of 8 a.m. and 5 p.m. Public Works employees work Monday through Friday, from 7:00 a.m. to 3:30 p.m., with a thirty minute meal break. When snow removal conditions exist, the schedule of Public Works employees may be altered in order to clear snow from City streets at times when traffic is lighter. Police Officers work alternative schedules consisting of 8, 10 and/or 12 hour shifts totaling 80 hours in a 14-day work period. When the nature of the employee's job requires changing or equipment cleaning, an allowance for such changing shall not exceed ten (10) minutes prior to the beginning and end of the shift, nor should cleaning exceed reasonable requirements of time to expeditiously complete the task. The time spent on such activities shall be considered as time worked for pay purposes. The nature of our business sometimes demands workday or workweek hours different than those set forth above. Temporary variations to the schedule for operational necessities will be made or approved by an employee's Supervisor and Department Head. Should such a shift variation begin at times other than those stated above, the shift will still consist of 8, 10 or 12 consecutive hours. Overtime is allowed only with prior approval, as stated in Section 10.13.

#### **10.06 Excessive Tardiness/Absenteeism**

Regular and timely attendance is an essential function of every employee's job. Excessive absenteeism or tardiness will make you subject to discipline, up to and including termination. Absence from work or tardiness affects your income and hurts production. The ability of the City to operate efficiently and meet its schedules depends on your regular attendance. Tardiness of a few minutes does not require calling your Supervisor, but an employee who expects to be delayed more than 10 minutes must inform the Supervisor. If a prolonged absence is anticipated, you should contact your Supervisor or another manager as soon as possible about a possible leave of absence.

### **10.07 Equal Pay**

The City will not pay wages to any employee at a rate less than the City pays employees of the opposite sex for work that is substantially equivalent requiring comparable skills and experience. If you believe you are not receiving equal pay in accordance with this policy, immediately contact your Supervisor or City Hall. Employees who inquire or complain about equal pay issues will not be retaliated against in any way.

### **10.08 Pay Days/Paycheck Accuracy**

Paydays will occur bi-weekly, on alternate Fridays, for the previous pay period. Pay periods run Sunday through Saturday and consist of fourteen (14) days. It is the City's goal to ensure that all employees are properly paid for all of their work. Every employee has a legal responsibility to assure the accuracy of their timesheets before signing and submitting them. It is also every employee's responsibility to examine his or her paycheck and paycheck stub to ensure that he or she has been properly paid for all time worked and that the paycheck and stub are accurate. An employee who believes that he or she is not being properly paid for all time worked must immediately inform their Department Head or City Hall. W-4 forms are available from City Hall if you wish to make changes to your withholdings or other deductions. The City will make all legally required deductions from your pay, in accordance with applicable state and federal law, garnishment orders, and your W-4 form. No other deductions or withholdings will be made unless authorized in writing by you.

### **10.09 Pay Advances/Loans**

It is City policy that no early paychecks or pay advances will be made except in cases of extreme emergency. An emergency is an unusual and unavoidable circumstance not normally under the control of the employee (i.e. a death in the family, legal action not of the employee's design or a major medical situation). Such advances shall be requested in writing and may only be made upon approval of the Department Head and Finance Director. One payroll advance can be approved per year and the advance cannot exceed the amount earned by the employee on the date prior to the written request for advance.

### **10.10 Timekeeping**

Nonexempt employees are required to record their own time in and out to the nearest quarter (.25) of an hour, and all timekeeping should be accurate and precise. Exempt employees are required to fill out a timesheet showing daily hours worked and leave hours taken to the nearest quarter (.25) of an hour. No one, regardless of circumstances, is permitted to record time for anyone else. Time sheets must be accurately and completely filled out and submitted to your Supervisor or to City Hall no later than Monday at 12pm following the end of the pay period. Failure to timely submit your time sheet in accordance with this schedule will result in your paycheck being delayed. If there is a mistake on the time

record, an employee should inform his or her Supervisor and then make and initial the necessary correction. The Supervisor should also approve any correction by initialing the correction on paper. Supervisors or Department Heads are only authorized to change an employee's time record to accurately reflect the employee's actual work hours. If you believe that a Supervisor or Department Head has modified your time record to inaccurately reflect your actual hours worked, you must immediately inform your Supervisor or Department Head of the alleged inaccuracy, in writing. Additionally, no Supervisor or Department Head can permit an employee to work off-the-clock. If your Supervisor or Department Head asks you to work off-the-clock, you must immediately bring this issue to the attention of the Mayor. For the purposes of this policy, off-the-clock work occurs when an employee works for the City but does not accurately record his or her time on the City's approved time sheet. It will be presumed that the City has accurately compensated an employee unless the employee brings a complaint under this policy immediately upon discovering the error.

### **10.11 Rest Periods**

Nonexempt employees will receive a paid break period of 15 consecutive minutes for each four hours worked or major fraction thereof, which as far as practicable shall be taken in the middle of each four-hour period. If an employee's total daily work time is less than 3 ½ hours, no rest period will be authorized. Police employees out in the field shall take their breaks in their assigned areas, subject to call and shall monitor their radios. When Police employees take their breaks away from their vehicles, they shall do so only with the knowledge and clearance of the Dispatch center. Such rest periods shall be considered as time worked for pay purposes. Rest periods shall not be added to meal periods nor taken at the beginning or end of a work period. Travel time for employees, with regard to rest periods, shall be included in the 15 minute allowance.

### **10.12 Meal Periods**

A 60 or 30-minute off-duty, unpaid meal period will be provided during any five-hour work period to all nonexempt City employees. Employees will be relieved from all duties for at least 60 or 30 minutes. These meal periods must be recorded on the employee's time sheet. If an employee works no more than six hours in a workday, he or she may waive the off-duty, unpaid meal period in a written agreement with the City, but in all other cases the meal period must be taken during the appropriate time frame. All Police employees remain on duty subject to call during meal periods. Patrol officers shall request clearance from the Dispatch Center prior to taking a meal period. Meal breaks shall be taken within the City limits unless the officer is on assignment outside of the City. If a nonexempt employee works for a period of more than 10 hours in a workday, the employee will be provided with a second meal period of no less than 30 minutes. If the total hours the employee works are no more than 12 hours, the second off-duty meal period may be waived by mutual written consent of the employee and the City. This does not apply to Police

employees who work alternative work schedules. Rest periods may not be added to meal periods so that an employee can take a longer meal period. The law requires that the City provide meal periods, but the City is not responsible for ensuring employees take them. Employees who choose to work through their meal period without prior supervisor approval are not entitled to overtime or a shortened work day. If, under unusual circumstances necessitated by work requirements, an employee is prohibited from taking a full and continuous 30-minute or 60-minute meal period, an employee must advise his or her Supervisor as soon as possible. The employee shall also note on their timesheet that the meal period was missed; otherwise, it will be presumed the employee took or received the required meal period.

### **10.13 Overtime Pay, Authorization, and Mandatory Overtime**

Overtime shall be approved in advance by either the employee's Supervisor or Department Head and is paid at a rate of 1.5 times the employee's regular hourly rate. Overtime premiums will be paid to all nonexempt employees not on alternative work schedules for all hours worked in excess of eight hours in a day or 40 hours in a 7-day work period. Nonexempt employees on alternative work schedules will be paid overtime premiums for all hours worked in excess of their regularly scheduled shift of 8, 10 or 12 hours in a day or 80 hours in a 14-day work period. Except for all non-salary public works employees, all overtime worked will be paid, but failure of a nonexempt employee to have overtime authorized in advance of working the overtime is a violation of City policy. All hours for sick pay or previously scheduled vacation leave of more than one day shall be counted toward the 40 or 80 hours. However, alterations of schedules shall not constitute overtime, nor require the use of leave time, until 40 or 80 hours of work for regular pay has been completed during the work period. You will be expected to perform overtime work on occasion when scheduled. There may be times when you will be unable to work overtime when asked to do so. In this event, please notify your Supervisor so that other arrangements can be made. Repeated refusal to work overtime is a violation of City policy. For all non-salary public works employees, or if other City departments' employees so requests, compensatory time off (CTO or Comp Time) may be taken, or accumulated, in lieu of overtime pay to the extent permitted by law. When earned, CTO is accumulated at the same rate as regular time but paid out at the same rate as the relevant overtime. Utilization of accumulated CTO shall be requested in the same manner as other leave time. Approval of the request for time off is at the discretion of the Supervisor or Department Head, who will consider the needs of the City as well as the desires of the employee. The City has a maximum CTO accrual of 160 hours. The City will cash out and pay at the employee's overtime rate any hours accrued on either a semi-annual or annual basis, at the discretion of the City Council and cash flow permitting. This policy does not apply to exempt employees.



## **10.14 Benefits**

The City provides all full-time, regular employees with a benefits package as negotiated in the bargaining units' Memoranda of Understanding, if any, and authorized by Resolution. Copies of plan documents and other specific information concerning these benefits are available from City Hall. The City has the right to change insurance companies or to modify or terminate eligibility requirements, benefits, or coverage at any time, except as prohibited by state or federal law or existing agreement. Part-time, temporary, and leased employees as well as independent contractors are not eligible for these benefits unless stipulated by benefit code regulations or authorized by the City Council on a case-by-case basis.

## **10.15 Payroll Deductions**

The following mandatory deductions will be made from every employee's gross wages: federal income tax, Social Security, Medicare, applicable state and local taxes and any other taxes mandated by state or federal law. Every employee must complete and sign a federal withholding allowance certificate, IRS Form W-4, on or before his or her first day on the job. This form must be completed in accordance with federal regulations. The employee may complete a new W-4 at any time when his or her circumstances change. Employees who paid no federal income tax for the preceding year and who expect to pay no income tax for the current year may complete an Exemption from Withholding Certificate, IRS Form W-4E. Employees are expected to comply with the instructions on Form W-4E. Questions regarding the propriety of claimed deductions may be referred to the IRS in certain circumstances. If an employee desires any other voluntary deductions, such as the portion of group health insurance premiums not paid by the City or retirement plan contributions, the request must be authorized in writing prior to any deductions being made. The City retains the right to restrict voluntary deductions to those which can reasonably be accommodated. Every employee will receive an annual Wage and Tax Statement, IRS Form W-2, for the preceding year on or before January 31. Any employee who believes that his or her deductions are incorrect for any pay period, or on Form W-2, should check with the Finance Department immediately.

# **CHAPTER 11: TRAVEL PROCEDURES; BUSINESS EXPENSE REIMBURSEMENT**

## **11.01 Travel Expense Authorization and Reporting**

This policy establishes the general guidelines and procedures to be followed when business travel is required:

- a. When feasible, a City credit card shall be used to pay for registration, lodging, airfare and car rental. If available, a City credit card may be used to pay for parking

expenses and meals. All receipts must be turned in to the Finance Department and all conditions listed below apply.

b. Requests for reimbursement of travel-related expenses are to be detailed on the City expense reimbursement form available from your Supervisor or the Finance Department.

c. Employees, who are authorized to use their personal vehicles on City business, including trips to the airport, will be reimbursed at the standard mileage rate provided by the IRS, assuming that the time and distance involved are reasonable under the circumstances (this excludes driving between the employee's residence and initial work location) and have been approved by your Department Head.

d. All parking expenses and highway tolls incurred as a result of business travel will be reimbursed (this excludes driving between the employee's residence and initial work location).

e. All air travel must be approved in advance by the employee's Department Head and paid for with a City credit card, if available. All employees will travel economy class unless extenuating circumstances require business- or first-class travel. The airline ticket receipt should be turned in to the Finance Department.

f. Employees should request advance approval for use of a rental car at their destination. A copy of the rental car agreement form must accompany the receipt turned in to the Finance Department.

g. Employees should select moderately priced lodging convenient to their destination to minimize time and expense. A detailed receipt from the hotel or motel must accompany the credit card receipt. Pay-per-view movies, drinks or snacks from the mini-bar, phone charges and/or other incidental expenses will not be paid for or reimbursed by the City.

h. Employees must submit itemized credit card receipts for meals to the Finance Department. The City does not pay for or reimburse an employee for alcoholic beverages. Travel reports or reimbursement requests must be approved by the Department Head and submitted to the Finance Department before the last working day of the month in which expenses are incurred.

i. If it is necessary due to financial hardship, the employee may request a travel advance for meals and incidentals, if applicable, by submitting a request to the Department Head for their approval and submission to Finance. All advances will be according to the IRS regulations for applicable advances.

## **11.02 Travel Time Pay**

Employees are not entitled to travel time pay for the regular commute between their homes and the location where they are to first report to work. For nonexempt employees, when required to travel on City business, reasonable travel time will be paid at the nonexempt employee's regular rate of pay, including applicable overtime. Employees are not entitled to payment for time spent sleeping in a hotel, eating meals (unless the meal is business-related), or on personal or sightseeing activities. Compensation for travel time is included in the salary and other benefits paid to exempt employees.

## **11.03 City Business Expense Authorization and Reimbursement**

The City will reimburse all actual and reasonable business-related expenses incurred by employees in performing their job responsibilities. All expenditures must be approved by a Department Head in advance of the purchase. Approved items purchased or charged by the employee are to be itemized on a City expense reimbursement form. Expense reimbursement forms are to be submitted to the Finance Department and supported by evidence of proof of purchase, e.g., receipts. Expense reimbursement forms must be submitted within two weeks of the incurred expense.

# **CHAPTER 12: PAID AND UNPAID TIME OFF; MEDICAL LEAVES; LEAVES OF ABSENCE**

## **12.01 No Discrimination/Retaliation for Taking Permitted Time Off or Leaves**

Employees who take authorized leaves of absence or other time off will not be discriminated against or in any way retaliated against for applying for or taking leave, as permitted by City policy or by law. Employees are authorized to take leave time at the discretion of the City, so the City can insure an adequate work force is in place, however, appropriately requested leave time will not be unreasonably withheld. The City complies with the rules and definitions set forth in the Family Medical Leave Act (FMLA), California Family Rights Act (CFRA) and California Pregnancy Disability Leave (PDL) when authorizing requests for the use of vacation and sick leave. See Sections 12.6 and 12.7.

## **12.02 Vacation Leave Policy**

Vacation benefits shall be used any time the employee is absent from work for personal reasons. Both exempt and nonexempt employees use vacation in quarter hour increments. Employees will accrue vacation benefits on the following basis: 1<sup>st</sup> to 5<sup>th</sup> Year of Service: 80 hours per year; 6<sup>th</sup> to 10<sup>th</sup> Year of Service: 120 hours per year; and greater than 10 Years of Service: 160 hours per year. A maximum of 160 hours per year may be earned. Vacation benefits are accrued proportionately on a per pay period basis. Should an employee not work a full pay period or have enough leave hours to complete the total

number of hours in the pay period, vacation benefits will be prorated based on the number of hours actually worked. Employees may accrue no more than 160 hours of vacation leave at the end of each fiscal year. Employees who have exceeded the cap of 160 hours of vacation benefits at the end of the fiscal year will forfeit all hours over the maximum. Earned vacation benefits "up to the maximum accrual" will not be forfeited for any reason and will carry over from year to year. Upon termination, the employee's accrued but unused vacation benefit hours, not to exceed 160 hours maximum, will be added to the final paycheck using the employee's then-current straight-time hourly rate or exempt salary rate.

### **12.03 Sick Leave Policy**

Paid sick leave benefits shall be used when an employee is absent from work as the result of an illness or health condition. Both exempt and nonexempt employees use sick leave in quarter hour increments. Employees will accrue sick leave benefits on the following basis: 8 hours per month for a total of 96 hours per year. Sick leave benefits are earned proportionately on a per pay period basis. Should an employee not work a full pay period or have enough leave hours to complete the total number of hours in the pay period, sick leave benefits will be prorated based on the number of hours actually worked. There is no maximum amount of sick leave that can be accrued by an employee. All sick leave benefits will be forfeited upon an employee's death, service retirement, separation or termination.

### **12.04 General Vacation and Sick Leave Policy**

New employees begin to earn vacation and sick leave benefits with their first day at work. Should an employee not work a full pay period, vacation and sick leave benefits will be prorated based on the number of hours actually worked. Authorized half-time positions, which work at least 50% of a regular work schedule, vacation and sick leave benefits will be prorated based on the number of hours actually worked. Part-time employees and temporary employees who work less than 50% of a regular work schedule and who have worked for 30 days or more within a year of date of hire are eligible to receive a minimum of 3 days or 24 hours of sick leave per year. This sick leave does not accrue. Every year beginning January 1<sup>st</sup> part-time and temporary employees will start over with 3 days or 24 hours of earned sick leave. Part-time employees and temporary employees do not earn vacation benefits. All vacation and other routine leave days must be scheduled in advance with the employee's Supervisor and Department Head. Employees are responsible for planning ahead for vacation time to be used and working out a complete schedule with their Supervisor. Department Heads are responsible for maintaining a sufficient work force by scheduling vacation time in a manner that assures the functional operation of the City. For absences to be approved as vacation time by the City, the employee must provide at least a 72-hour notice unless management otherwise agrees to permit the time off to be used. It is in the best interest of an employee who is ill or injured not to remain at work. It is the employee's responsibility to notify the Supervisor if he or she feels an illness or injury

warrants going home or to the doctor. Employees are encouraged to make their routine doctor or dentist appointments at times that least impact the work schedule, if possible. If time off is required for such appointments, arrangements should be made in advance with the employee's Supervisor and/or Department Head. If it is not possible to give advance notice of an injury or illness, an employee is expected to notify his or her Supervisor as soon as practicable. An employee is expected to notify his or her Supervisor at the beginning of each workday during any period in which the employee is absent due to illness or injury. Exceptions to this include a serious accidental injury or hospitalization or when it is known in advance that the employee will be absent for a certain period of time. A medical statement from the employee's doctor may be requested by the City when an employee is absent from work for more than three working days. The City also reserves the right to insist an employee utilize existing leave balances before going on a leave of absence without pay.

### **12.05 Paid Holidays**

In addition to Vacation and Sick Leave, the City provides eight (8) hours of paid holiday leave time for each of the following approved holidays:

January: New Year's Day, Martin Luther King Jr. Day

February: President's Day

May: Memorial Day

July: Independence Day

September: Labor Day

October: Columbus Day

November: Veteran's Day, Thanksgiving Day and the Following Day

December: Christmas Eve, and Christmas Day.

Employees who are not required to work on the above listed holidays will receive those days off with pay at their regular rate. Employees required by City management to work on holidays shall be compensated for hours worked at their regular hourly rate of pay in addition to the paid holiday leave time. Compensation for call-outs on holidays will be based on the current call-out policy (Public Works and Police). Police employees are paid holiday according to the Memorandum of Understanding with the Police Officers. Employees must work the scheduled dates preceding and following a holiday to be eligible for holiday pay unless scheduled by management to be on vacation or compensatory time off. An employee shall remain eligible for holiday pay if they are not regularly scheduled on the days preceding and following a holiday or if management determines there is a legitimate reason for being absent. If a designated holiday falls within an employee's vacation period, the holiday is not considered a vacation day. If a holiday falls on a Monday or Friday, which is a regularly scheduled day off for an employee, that employee will still be paid 8 hours of holiday pay. If any of these holidays fall on Saturday, the preceding Friday will be a holiday. If they fall on Sunday, the following Monday will be a holiday. If December 24<sup>th</sup> falls on a

Saturday or Sunday, the preceding Friday shall be designated as the Christmas Eve holiday. When December 24<sup>th</sup> falls on a Friday, the preceding Thursday shall be the holiday. Only regular full-time employees are eligible for full holiday pay. Authorized half-time positions are eligible for holiday pay based on the number of hours scheduled to work on the day the holiday falls on. Part-time employees and temporary employees are not entitled to holiday pay. Employees may take religious holidays not designated as a City holiday by using vacation or compensatory time or without pay. Prior approval in advance must be obtained from the employee's Supervisor.

## **12.06 Family and Medical Leave**

The City provides family and medical leave benefits in accordance with the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). These leave benefits are described below.

A. Eligibility: To be eligible for family/medical leave, you must have worked for the City for at least 12 months and for at least 1,250 hours in the 12 calendar months immediately preceding your leave.

B. Reasons for leave: You may take up to 12 weeks of unpaid job-protected family/medical leave within a 12-month period for any of the following reasons:

- a. The birth of a child and to bond with or provide care for the child.
- b. The placement of a child with you for adoption or foster care and to bond with or care for the new child.
- c. To care for a parent, child, spouse, spouse's parents or domestic partner with a serious health condition.
- d. For your own serious health condition that renders you unable to perform the functions of your position.
- e. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week FMLA leave entitlement to address certain "qualifying exigencies." Qualifying exigencies may include attending certain military events, arranging for alternative child care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. (Leave for this reason is referred to in this policy as "qualifying exigency leave" and is not covered under CFRA leave provisions.)
- f. Eligible employees may take up to 26 weeks of FMLA leave to care for a covered service member during a single 12-month period. A covered service member is a

current member of the Armed Forces, including a member of the National Guard or Reserves, who has incurred a serious injury or illness in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; is in outpatient status; or is on the temporary disability retired list. (Leave for this reason is referred to in this policy as “Military Caregiver Leave” and is not covered under CFRA leave provisions.)

A “serious health condition,” as specified above, is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a healthcare provider for a condition that either prevents the employee from performing the functions of his or her job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a healthcare provider; one visit and a regimen of continuing treatment; incapacity due to pregnancy; or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment. Leave for either of the first two reasons in the bulleted list above must be completed within the 12-month period beginning on the date of birth or placement. In addition, in cases in which the City employs both parents, they may take a maximum combined total of 12 weeks’ leave during any 12-month period for the first two reasons. When the City employs both husband and wife, they may take a maximum combined total of 26 weeks in a single 12-month period for military caregiver leave, or a combination of qualifying exigency leave and military caregiver leave. For only qualifying exigency leave, the husband and wife may take a maximum combined total of 12 weeks.

C. Calculating the 12-month period: the City uses a rolling 12-month period method to calculate the 12-month period during which eligible employees may take 12 weeks of family/medical leave. Military caregiver leave is a one-time FMLA benefit and as such, the 26 weeks are only available during a single 12-month period. Note, however, that an employee may be entitled to more than one period of military caregiver leave if the leave is to care for a different covered service member or to care for the same service member with a subsequent serious injury or illness, but no more than 26 workweeks of leave may be taken within any single 12-month period. The City will begin counting the 12-month period on the first day of leave taken to care for the injured or ill service member. During the 12-month period when military caregiver leave is used, an employee is limited to a combined total of 26 weeks of FMLA leave for any reason.

D. Pregnancy, childbirth, and related conditions: While pregnancy and prenatal care are included in the definition of “serious health condition” under FMLA, they are not

covered under the leave provisions of CFRA. If you take leave for pregnancy disability (up to four months per the California Pregnancy Disability Act (PDA), as certified by your healthcare provider) and are also eligible for family/medical leave, your FMLA- protected family/medical leave will run concurrently with your PDA leave. Once you are no longer disabled by pregnancy/childbirth, you may apply for up to 12 weeks of leave under CFRA to bond with your newborn.

E. Notice of leave: If your need for family/medical leave is foreseeable, you must give the City at least 30 days' prior written notice. If this is not possible, you must give notice as soon as practicable (generally the same day or next business day after the employee learns of the need for leave, depending on the circumstances), and you must comply with the City's usual and customary notice and procedural requirements for requesting leave (such as call-in procedures), absent unusual circumstances. Failure to provide such notice may be grounds for delay of leave. Additionally, if you are planning a medical treatment, you must consult with your Supervisor regarding the dates of such treatment to minimize disruption to the City's operations. For foreseeable leave due to a qualifying exigency, notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable. If your need for family/medical leave is not foreseeable, you must notify the City as soon as practicable under the facts and circumstances of your situation. When providing notice, you must include sufficient information for the City to determine if the leave may qualify for FMLA/CFRA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a healthcare provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA/CFRA leave was previously taken or certified. The City has Request for Family/Medical Leave forms available from City Hall. Use these forms when requesting leave.

F. Certification: the City requires requests for family/medical leave to be supported by a medical or other certification, as described below. You may obtain approved certification forms from City Hall. When you request leave, the City will notify you of the requirement for certification and when it is due (no less than 15 calendar days after you request leave). If you are unable to obtain the certification due to reasons beyond your control, notify City Hall as soon as possible. Failure to provide requested certification in a timely manner may result in delay of your leave until required documentation is provided.

a. Serious Health Condition Certification: A request for family/medical leave because of your own serious medical condition or to care for a family member with a serious health condition must be supported by a medical certification from a healthcare provider. The medical certification must include the following information: 1. The name, address, telephone number, and fax number of the healthcare provider and type of medical



practice/specialization. 2. The approximate date on which the serious health condition commenced and its probable duration. 3. The healthcare provider's statement documenting the need for leave. 4. If you are the patient, a statement from the healthcare provider establishing that you are unable to work at all or perform any one or more of the essential functions of your position due to the serious health condition. 5. If the patient is a covered family member with a serious health condition, confirmation that the family member needs care. The City, at its expense, may require an examination by a second healthcare provider designated by the City if it has a question about the validity of the medical certification you initially provide. If the second healthcare provider's opinion conflicts with the original medical certification, the City, at its expense, may require a third, mutually agreed on, healthcare provider to conduct an examination and provide a final and binding opinion. The City may require updated medical recertification for additional leave, even if taken for the same medical condition. Failure to provide requested certification within 15 days, except where it is not practical under the circumstances, may result in delay of further leave until the certification is provided. b. Qualifying Exigency: If you request qualifying exigency leave, you must provide the City with a copy of the service member's active duty orders or other documentation issued by the military that indicates that the covered service member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered service member's active duty service. You must also provide a certification that includes the following information: 1. A statement or description, signed by you, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested, accompanied by any available documentation that supports the request. 2. The approximate date on which the qualifying exigency commenced or will commence. 3. The beginning and end dates for the absence. 4. If the leave will be taken on an intermittent or reduced schedule basis, an estimate of the frequency and duration of the qualifying exigency. 5. If the qualifying exigency involves meeting with a third party, appropriate contact information for that individual or entity and a brief description of the purpose of the meeting. c. Military Caregiver Leave: Leave requested to care for a covered service member with a serious injury or illness must be supported by a medical certification.

G. Leave is generally unpaid: Family/medical leave is generally unpaid. However, accrued vacation and other personal paid time off (except sick leave) may be substituted for unpaid leave for any type of family/medical leave. In addition, accrued sick leave may be substituted for unpaid leave when the family/medical leave is for your own serious health condition, and you may elect to substitute paid sick leave for the care of a family member, or for military caregiver leave, or for any other situation for which paid sick leave is normally available under City policies and procedures or as required by state or federal law. The term "substitute" means that the paid leave will run concurrently with the unpaid FMLA leave. The use of paid leave for family/medical leaves is, in all circumstances, subject to the terms and conditions contained in the City's usual policies and procedures and restrictions applicable to that type of paid leave. Depending on the circumstances, you may be eligible

for other wage-replacement benefits, including short- or long-term disability insurance payments, workers' compensation benefits, State Disability Insurance benefits, or Paid Family Leave (PFL) benefits. Eligible employees participating in the PFL program may receive up to six weeks of partial wage replacement when taking leave from work to bond with a new child or to care for a seriously ill parent, child, spouse, spouse's parent or domestic partner. You will be required to use up to two weeks of accrued, unused vacation time before receiving PFL benefits, one of which shall run concurrently with the one-week waiting period. Note that neither the substitution of paid leave nor the integration of other wage-replacement benefits for unpaid leave shall extend the maximum family/medical leave period or result in your receiving more than 100 percent of your salary.

H. Medical and other benefits: During an approved family/medical leave, the City will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid family/medical leave, the City will deduct your portion of the health plan premium as a regular payroll deduction. If your leave is unpaid, you must pay your portion of the premium by personal check on the first day of each month. Your healthcare coverage will cease if your premium payment is more than 30 days late. If your payment is more than 15 days late, we will send you a letter to this effect. If we do not receive your payment within 15 days after the date of this letter, your coverage may cease. During family/medical leave, you will accrue benefits, such as sick and vacation days, only when paid leave is substituted for unpaid leave and only if you would otherwise be entitled to continuing accruing benefits. The use of family/medical leave shall not result in the loss of any employment benefit that accrued before the start of an employee's leave.

I. Intermittent and reduced-schedule leave: Leave because of a serious health condition or military caregiver leave may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced-leave schedule (reducing the usual number of hours you work per workweek or workday) if medically necessary. Qualifying exigency leave may also be taken intermittently or on a reduced schedule. Leave for bonding or the care of a new child must be taken in blocks of at least two weeks. If leave is unpaid, the City will reduce your salary based on the amount of time actually worked. In addition, while you are on an intermittent or reduced-schedule leave, the City may temporarily transfer you to an available alternative position that you are qualified for that better accommodate your recurring leave and that has equivalent pay and benefits.

J. Reinstatement: Employees returning from family/medical leave will be restored to the original or an equivalent position (with equivalent pay, benefits, and other employment terms). However, the City reserves the right to deny reinstatement of "key employees" whose salary is among the top 10 percent in the City if it would cause substantial and grievous economic injury to the City's operations. As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform his or her job, the City requires the employee to

obtain and present certification from the employee's healthcare provider that the employee is able to resume work.

K. Employer responsibilities: The City is required to inform employees requesting leave whether they are eligible for family/medical leave. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the notice must provide a reason for the ineligibility. The City must inform employees if leave will be designated as FMLA/CFRA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA/CFRA-protected, the employer must notify the employee.

L. Unlawful acts by employers: It is unlawful for an employer to interfere with, restrain, or deny the exercise of any right provided under FMLA/CFRA, or to discharge or discriminate against a person for opposing any practice made unlawful by FMLA/CFRA or for involvement in any proceeding under or relating to FMLA/CFRA.

M. Enforcement: An employee may file a complaint with the U.S. Department of Labor or the California Department of Fair Employment and Housing, or may bring a private lawsuit against an employer. The FMLA and CFRA do not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

### **12.07 Pregnancy Disability Leave**

Per the California Pregnancy Disability Act (PDA), a pregnant employee will be granted an unpaid leave of absence of up to four months (88 workdays) due to a disability arising from pregnancy or childbirth, provided that she submits a written request for such leave. In addition, the employee must furnish a doctor's written certification stating the leave time is necessary due to pregnancy or childbirth and the length of such leave. Written updates may be requested from time to time thereafter. Failure to provide the above information is grounds for denial of a pregnancy or childbirth leave of absence. Leave may be taken all at once or on an as-needed basis. The City Hall will work with pregnant employees to schedule and manage pregnancy disability leave efficiently. An employee returning from this leave of absence must furnish a doctor's written certification of her fitness to perform the essential functions of her job, with or without reasonable accommodation. Failure to return from a leave of absence by the scheduled time may result in termination. On return from such a leave of absence, the City will use its best efforts to return the employee to her original position or a substantially similar position.

### **12.08 Organ/Bone Marrow Donor Leave**

Any employee undergoing an organ donation procedure or treatment related to organ donation may take up to 30 days of paid leave per calendar year related to the

donation. Up to 10 days of an employee's accrued but unused vacation or compensatory time available at the time the leave is to be taken will be credited against the 30 days of donor leave available for organ donation. Any employee undergoing a bone marrow donation procedure or treatment related to bone marrow donation may take up to five days of paid leave per calendar year related to the donation. Up to two days of an employee's accrued but unused vacation or compensatory time available at the time the leave is to be taken will be credited against the five days of donor leave available for bone marrow donation. Donor leave is provided in addition to other paid leave benefits (including vacation and sick leave benefits) and is not counted as family and medical leave. Donor leave taken will also not affect an employee's seniority/length of service and will not affect eligibility for pay increases or other benefits. Employees who take donor leave will not be retaliated or otherwise discriminated against for doing so. In order to receive this leave of absence, an employee shall provide written verification to the City that the employee is an organ or bone marrow donor and that there is a medical necessity for the leave.

#### **12.09 Military Personnel/Military Spouse Leave**

An employee who enters the U.S. Armed Forces will be granted a military leave in accordance with federal and state laws. The employee must provide advance notice of the need for military leave, unless prevented from doing so by military necessity or if providing notice would be impossible or unreasonable. The City will grant up to a total of five years for an employee's military leave of absence, which includes the cumulative length of all absences from employment due to military service. Approved leave beyond five years of military service may be granted in limited circumstances when required by federal or state laws. Military leave of absence is without pay from the City. On completing military service, the employee will be reinstated with full seniority to his or her former position or a comparable position if application for reemployment is made based on the following periods of uniformed service:

A. National Guard training leave: An employee who is a member of the National Guard or a reserve component of the Armed Forces will, upon furnishing a copy of the official orders or instructions, be granted a military training leave. Training leaves shall not, except in an emergency or in the event of extenuating circumstances, exceed two weeks per year, plus reasonable travel time. The employee may be paid up to 80 hours of regular hourly/salary wage during military training.

B. Military spouses: Under federal law, any employee who works an average of 20 or more hours per week is eligible for military spouse leave. Eligible employees who are the spouse or registered domestic partner of a member of the Armed Forces, National Guard, or Reserves may take up to 10 days of unpaid time off while the military spouse is on leave from active duty during a period of military conflict. An employee desiring to take this leave

must provide the City with written notice of intent to take time off within two business days of the employee's receipt of notice that the military spouse will be on leave.

### **12.10 Time Off to Vote**

Because the City has a continuing interest in encouraging responsible citizenship, you are urged to vote for the candidates of your choice at local, state, and national elections either before or after your regular shift. In extreme cases, if you do not have sufficient time outside of working hours within which to vote, you will be allowed to take up to two hours off without pay for this purpose. Such time off should be taken at the beginning or end of your regular shift, whichever allows for more free time to vote. To receive time off for voting, you must advise your Supervisor that you will need time off at least three days before Election Day, receive your Supervisor's approval, and present a voter's receipt to your Supervisor.

### **12.11 Time Off for Jury Duty**

Any employee required to serve on jury duty may do so. No action will be taken against an employee in any manner for requesting or taking any time off as provided for in this policy. Nonexempt employees will receive their regular rate of pay for hours served on jury duty. An exempt employee's salary will not be reduced for partial weeks of work missed due to service as a juror. The hours served on jury duty must be documented on the employee's timesheet and the City may request proof of service.

### **12.12 Time Off for Court Appearances and Crime Victims**

An employee, including a victim of a crime, may take time off to appear in court as a witness to comply with a subpoena or other order. If you need time off to appear as a witness, you should bring the subpoena or court order to your Supervisor immediately after it is received so that arrangements may be made to accommodate your absence. Time off taken by an employee to appear as a witness is unpaid. If an employee has vacation or compensatory time available this may be substituted for the unpaid leave. An employee who is a victim of a felony, or whose spouse, registered domestic partner, child, stepchild, sibling, step sibling, parent, or step parent is a victim of a felony, may take time off to attend judicial proceedings relating to the crime. If you need such time off, you must give your Supervisor a copy of the notice of the scheduled proceeding. If advance notice is not possible, you must provide a copy of documentation relating to the judicial proceeding within a reasonable period of time after your return to work. Time off on account of this policy is unpaid. Employees can also elect to use paid-time-off benefits for these purposes.

### **12.13 Time Off Related to Domestic Violence or Sexual Assault**

An employee who is a victim of domestic violence or sexual assault may take time off to obtain judicial relief to help ensure the health, safety, or welfare of the employee or his or her child, including obtaining counseling. If you need time off because of domestic violence or sexual assault, you should notify your Supervisor as soon as possible so that arrangements may be made to accommodate your absence. If advance notice is not possible, you must provide appropriate written certification of the reason for your absence upon your return to work. The City will make all reasonable efforts to maintain the confidentiality of any employee requesting time off on account of domestic violence or sexual assault. Time off because of domestic violence or sexual assault is unpaid. Employees can also elect to use paid-time-off benefits for these purposes.

### **12.14 Bereavement Leave**

If a death occurs in your family and the deceased is your mother or father, wife or husband, registered domestic partner, child, sibling, mother-in-law, or father-in-law, grandparent or grandchild, or a step relationship as listed above you may take time off to attend the funeral and/or pre-burial activities. You may use up to five days of sick leave, adjacent to the day of the funeral. An employee is permitted to use no more than 10 sick days for bereavement leave in any 12-month period. If an employee must miss more than five or ten days, an employee may use accrued vacation or compensatory time or may request a leave of absence without pay. The City may request adequate verification.

### **12.15 Catastrophic Leave Policy**

A. Purpose: The Catastrophic Leave Policy is designed to assist employees who require leave time due to a catastrophic illness, injury or condition to themselves or an eligible family member. This policy allows other employees to make donations of leave time to the eligible employee, so they can remain in a paid status for a longer period of time, and reduce the financial impact of the illness, injury or condition.

#### **B. Definitions:**

- a. **Catastrophic Illness, Injury or Condition:** A serious illness, injury or condition, as defined under the Family Medical Leave Act (FMLA), that incapacitates an employee or an eligible family member for a period anticipated to exceed thirty (30) days and is expected to use up all of the employee's accrued leave.
- b. **Eligible Employee:** A full-time, benefited employee having worked for the City for at least six (6) months who has, or is about to, exhaust all available leave balances.
- c. **Leave Balances:** Vacation, sick, and compensatory time.

- d. Catastrophic Leave Transfer Hours: Leave hours will be credited to the recipient employee on an hour for hour basis, and will only be credited as they are needed and for as long as donated hours are available. All leave hours donated will be converted to sick leave and paid at the rate of pay of the receiving employee.
- e. Catastrophic Leave Transfer Request Form: This form must be completed by the employee requesting the catastrophic leave or, if unable, their designee. This form requires Department Head approval.
- f. Catastrophic Leave Transfer Authorization Form: This form must be completed by the donating employee authorizing the catastrophic leave transfer from their accrued leave balance to the eligible employee. This form requires City Hall leave balance verification.
- g. Eligible Family Member: As defined by the Family Medical Leave Act shall include any of the following individuals: 1. Spouse – husband or wife. 2. Son or Daughter – biological, adopted, foster or step child under the age of 18 or, if older than 18, incapable of self-care due to a mental or physical disability. 3. Parent – biological or former legal guardian of the employee. 4. In-laws and step relatives if they are dependents of the employee. 5. Domestic Partner.

C. Procedures:

- a. Employee Requesting Permission to Receive Leave Transfer from Other Employees: An employee who is eligible to receive catastrophic leave donations must submit a Catastrophic Leave Transfer Request Form to their Department Head. This request may be made prior to the employee exhausting all of their leave balances, so that time donated may be utilized immediately upon exhaustion of the employee's leave balances, but not before. Medical verification from the attending physician, including work-related prognosis, must be provided with the Catastrophic Leave Transfer Request Form. The City may also require periodic medical verification of the employee's catastrophic illness, injury or condition to determine continued eligibility for this program. Eligible employees who participate in this program and receive surrendered leave may be subject to the terms and requirements of the FMLA, other laws, leave policies, rules or regulations. This program is to run concurrently with other leave programs, including FMLA. Upon approval of the Department Head, and upon agreement of the eligible employee, publication and distribution of information regarding the eligible employee's situation will be made available to all City employees, so that employees wishing to donate leave time may do so. Total leave hours received by the eligible employee shall normally not exceed 480 hours over a period of 12 weeks; however, if approved by the City Council, the total leave hours received may be up to a maximum of 1,040 hours

over a period of 26 weeks for those caring for a military service member. The recipient employee shall not solicit donations from fellow employees or the catastrophic leave authorization will be revoked.

b. *Employees Wishing to Donate Accrued Leave Balances to Another Qualified Employee:* Employees may transfer their own accrued leave balances to an eligible employee only after the Department Head has approved the recipient's catastrophic leave request. Employee's who wish to donate accrued leave time must complete the Catastrophic Leave Transfer Authorization Form, which can be picked up from City Hall. The form must be returned to City Hall, who will verify the employee has maintained the required minimum leave balances. Donating employees must maintain leave balances of not less than 80 hours of sick leave and 80 hours of vacation, or the equivalent of 160 hours of paid time off. All donations shall be voluntary and at the discretion of the donor employee and once processed are irrevocable. No employee shall be compelled to donate leave. Accrued leave must be donated in whole hours, with a minimum 2 hour donation. All donated leave will be done so anonymously, unless the donating employee wishes to self-identify. Any donations not used shall be returned to the donating employee based on the percentage of their donation in relation to the total hours donated.

D. *Appeal Rights:* If an employee is denied participation in the program by the Department Head, they may appeal this decision in writing to the City Council within 30-days. The City Council's decision will be final.

E. *Employee / Employer Rights:* In no event shall donated time have the affect of altering the employment rights of the City or the recipient employee, nor shall it extend or alter the limitations otherwise applicable to leaves of absence or sick leave. The availability of Catastrophic Leave shall not delay or prevent the City from taking employment actions, including to medically separate or to retire an employee based on disability.

#### **12.16 Leaves of Absence Not Covered Above**

An employee may be granted a leave of absence, with or without pay, for up to 12 weeks when the leave serves the best interests of both the City and the employee. Such leave will only be considered for reasons of extended illness and family care, which do not qualify under FMLA, or education directly related to job effectiveness. Leaves of this type must be requested in writing and submitted to the employee's Department Head. A request for medical leave must also be supported by a medical certification from a healthcare provider. The medical certification must include the same items required under the FMLA. The Department Head must approve the leave request. A leave request in excess of 12 weeks shall be approved by a majority vote of the City Council upon the recommendation of the



Department Head. During all leaves of absence without pay, employees will not accrue benefits, seniority or retirement service credit. If the employee was covered by City provided health insurance or participated in the flexible spending account prior to the effective date of the leave, the employee shall have the opportunity to continue the insurance or flexible spending account at the employee's own expense.

## **CHAPTER 13: ADDITIONAL INSURANCE**

### **13.01 Workers Compensation Insurance**

The City provides workers' compensation insurance coverage at its expense. Workers' comp insurance is intended to provide medical care and pay for lost time resulting from injuries on the job and those illnesses caused by an employee's work. If an employee is injured or becomes ill on the job, the injury or illness must be reported in writing to the Supervisor and the Workers Compensation Safety Manager immediately, no matter how minor, in order for the proper reports to be filled out. Failure to report an injury or illness in a timely way may jeopardize or delay your rights to certain benefits. Worker's compensation forms may be obtained from City Hall once you have notified your Supervisor and the Workers Compensation Safety Manager. Forms must be returned within 24 hours of receipt. To ensure you of quality care in case of work-related injury or illness, the Workers Compensation Safety Manager will direct you to an appropriate healthcare provider for the treatment of any such injury or illness. If you wish to be treated by your own healthcare provider, you must notify the Workers Compensation Safety Manager in writing before any injury or illness occurs. For all work-related injuries or illness, the Workers Compensation Safety Manager and the initial healthcare provider will determine the extent of the injury or illness and the best course of action to treat the injury or illness. For all minor injuries or illness requiring treatment and time-off of less than 3 days will be paid for by the City and a claim will not be filed with the Workers Compensation Insurance carrier. For injuries and illness that are more serious and require time-off and treatment of 3 days or more, worker's compensation benefits will include:

- a. Medical treatment to cure the injury – doctor visits, hospital services, lab tests, x-rays and medicines that are reasonably necessary to treat your injury.
- b. Temporary Disability - tax-free payments to replace lost wages if a doctor requires an employee to be off work for more than three days.
- c. Permanent Disability – payments if your injury results in a permanent handicap.
- d. Rehabilitation Services – should it be medically necessary for recovery. All benefits are set by the California State Legislature. The amount of the payments, and when and how they are paid, are part of state law. Only the state Legislature can change the amounts. An employee will be granted a leave of absence due to disability

arising from a work-related illness or injury, provided that he or she submits a written request for such leave. In addition, the employee must furnish a doctor's written certification stating the leave time is necessary because of a work-related injury or illness and the length of such leave. Written updates may be requested from time to time thereafter. Failure to provide the above information is grounds for denial of an industrial medical leave of absence. An industrial medical leave of absence shall be for a reasonable period of time during which an employee is disabled, but the leave of absence shall not extend beyond the time that the employee's illness or injury is deemed "permanent and stationary" ( a determination made by the employee's treating physician and the City's workers' compensation insurance). An employee returning from this leave of absence must furnish a doctor's written certification of his or her fitness to perform the essential functions of his or her job, with or without reasonable accommodation. In the case of major injuries, the City may require that the employee see a second doctor, which the City will pay for, to insure the employee is physically able and safe to return to their former duties. Failure to return from the leave of absence by the scheduled time may result in termination. Upon the employee's return from such a leave of absence, the City will use its best efforts to return the employee to a position that is the same as or similar to the one previously held. Doctor bills and hospital expenses will be paid directly by the City's insurance administrator. If you are unable to work for more than three days you are entitled to compensation to replace lost wages. The City will continue to pay 100% of normal salary and benefits if the employee uses their paid leave time to cover their absence from work. As the worker's compensation checks are received by the City, the employee's leave time is reimbursed. Since temporary disability payments are only a portion of your regular wages, only a portion of your leave time will be reinstated. Should an employee have no paid leave time, they will be placed on leave of absence without pay and receive the workers' compensation temporary disability payments directly from the City's insurance administrator. If placed on leave of absence without pay status, benefits and leave will not be earned. Temporary disability compensation does not apply to medical visits while you are working; an employee only receives wage compensation if a doctor requires them to be off work for three or more days. It is expected that work related medical appointments for doctor follow- ups, physical therapy or other medical treatments while working be scheduled in a manner that does not greatly impact the work day. Employees are required to use leave time to cover these appointments. The cost of the appointment itself will be covered by the City's worker's compensation insurance, but not the time away from work. Any employee who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation

benefits or payments is guilty of a felony. Workers' compensation fraud is punishable by up to five years in state prison and a fine of up to \$150,000.

### **13.02 Voluntary State Disability Insurance**

Non-occupational disability insurance is provided by state law for every California employee who is covered by the Unemployment Insurance Code and who meets the eligibility requirements. This insurance will compensate you in part for loss of wages you may suffer if you are unable to work because of illness or injury not connected with your work. The law allows bargaining units within cities to choose whether they want to participate in this insurance or not. Currently, all departments and employees of the City participate. At the time of hire, when injured or when requested, the City will give you a brochure entitled "Disability Insurance Provisions," published by the California Employment Development Department, which explains this program. If you have not yet received this brochure, please request one from your Supervisor or from City Hall. No action will be taken against an employee in any manner for requesting or taking any time off as provided for in this employee manual or for testifying in a disability proceeding.

### **13.03 State Unemployment Insurance**

You may be protected against loss of wages if you become unemployed under certain conditions as outlined by the California Unemployment Insurance Code. Eligibility requirements under this code will be explained to you at any office of the state Employment Development Department (EDD). This insurance is completely paid for by your City in the form of unemployment insurance taxes. The EDD will only allow unemployment insurance payments on those claims covered by the code. No action will be taken against an employee in any manner for testifying in an unemployment hearing.

### **13.04 COBRA Coverage for Health Insurance**

Employees who are receiving health insurance coverage provided by the City, and who then leave the City's employment, may be eligible to continue health benefits post-employment at the sole cost to the employee. Within 30 days following termination of your employment, the health plan administrator should provide you with information regarding enrollment in COBRA health benefits as well as other government benefits for which you may be eligible. If you do not receive this notice, promptly contact City Hall or the health plan administrator. Make sure that you always keep your contact information up-to-date with the health plan administrator to ensure that you receive all important notices affecting your health benefits.

## **CHAPTER 14: EMPLOYMENT DISPUTES**

### **14.01 Open-Door Policy**

Our City recognizes that in any employee group, problems, difficulties, and misunderstandings may arise. It is the desire of the City to see that every problem is handled promptly. To this end, the City will endeavor: (1) to enable employees to talk frankly with their Supervisors, or to anyone else in authority, when they have a problem of any kind, with the assurance that it will not be held against them by their Supervisor or anyone else in management, and (2) to provide an open door at all times for employees to discuss with upper management any decision they feel to be unfair. The City is most sincere in encouraging any employee who feels he or she has not been treated properly, or who has a problem of any kind, to make it known to management through this “open-door policy.”

#### **14.02 Grievance Procedure**

A. Definition: A grievance is a formal allegation by an employee, or group of employees, claiming violation, misinterpretation, inequitable application or non-compliance with:

- a. Provisions of the collective bargaining agreement;
- b. City ordinances
- c. These Rules
- d. Any employer-employee relations resolutions
- e. Other terms and conditions of employment Action and decisions regarding disciplinary actions and performance evaluations cannot be grieved hereunder.

B. Who May File a Grievance: A grievance may be filed by an employee on his/her own behalf, jointly by any group of employees, or by a recognized employee association.

#### **C. Basic Rules**

- a. A grievance may be filed without fear of reprisal.
- b. The grievant must specify the relief sought.
- c. The grievant or his/her representative shall be granted reasonable use of City time and facilities in the processing of his/her grievance.
- d. Time limits may be extended by mutual consent, in writing.
- e. Failure by a grievant to file any statements or appeals within the specified time limits, unless extended, constitutes an abandonment of the grievance.
- f. At any step of the grievance procedure from Department Head and above, employees may be represented by an agent of their choosing.

- g. At any stage of the grievance, the employee may withdraw the grievance by giving written notice to the Department Head. If the employee has chosen to be represented by an Agent, said Agent shall also concur, which shall then become a permanent part of City Hall's records.
- h. If the employee considers the answer to his/her grievance to be satisfactory, then the matter will be closed and the resolution documented in the Human Resource Department's records. If the employee subsequently desires to reopen the grievance, he/she must initiate it at the beginning of the grievance procedure.
- i. The filing of a grievance shall in no way interfere with the right of the City to proceed in carrying out its management responsibilities subject to the final determination of the grievance. Grievant(s) shall continue to perform all duties and assignments pending final determination, unless unsafe conditions exist.

D. Procedure: There shall be an earnest effort on the part of both parties to resolve grievances promptly at the lowest Supervisory level consistent with fairness and equity.

- a. Step 1 – Informal Discussion: Within fifteen (15) working days of the occurrence of an act in dispute, or date of discovery of such action, but no more than six (6) months from the act regardless of date of discovery, an employee shall discuss the incident with his/her immediate Supervisor, who shall investigate and attempt to resolve the matter. If the grievance directly involves the immediate Supervisor, the grievant may go directly to the next higher level of supervision who shall process the grievance. The Supervisor shall give the employee an oral reply within five (5) working days after the discussion. If the employee is not satisfied with the response, he/she may proceed to the next step. The preceding requirement is not intended to restrict an employee's right to take any issue regarding discrimination, harassment, whistle-blowing, or any other legally protected right directly to any management level.
- b. Step 2- Department Head Review: If the employee is not satisfied with the response at Step 1, the employee may submit their grievance in writing to the Department Head within five (5) working days after receiving their Supervisor's oral reply. This formal, written grievance should contain a statement fully detailing the facts surrounding the grievance, the provisions of agreements or policies alleged to have been violated and the proposed relief being sought. The employee and Department Head may meet in person to discuss the grievance. The Department Head shall issue a reply in writing within five (5) working days after receipt of the written grievance. If the employee is not satisfied with the response, he/she may proceed to the next step. Except as already provided in Step 1, where a Supervisor is directly involved in the matter of grievance, in the event

there are additional levels of supervision between the employee's immediate Supervisor and the Department Head, this step of the process may be required by the Department Head to be first initiated at an intermediate Supervisor level, but not more than one time.

- c. Step 3- Department Commissioner Review: If the dispute is not resolved at Step 2 the employee may submit an appeal in writing to the Department Commissioner within five (5) working days after receipt of the Department Head's written response or the expiration of the time limit for a decision. The Department Commissioner shall, within ten (10) working days of receipt of the grievance, schedule a meeting with the employee to discuss the matter. After consideration of the grievance, the Department Commissioner shall give his/her written decision to the employee within five (5) working days after the meeting. If the employee is not satisfied with the response or no meeting with the Department Commissioner has taken place within the allotted time, he/she may proceed to the next step.
- d. Step 4 – City Council Review: If the employee is not satisfied with the decision of the Department Commissioner, the employee may file an appeal in writing to the City Council within ten (10) working days from receipt of the Department Commissioner's response or failure to respond. The City Council may, at its discretion, refuse to hear the grievance, in which case it shall present a written response as to its reasons to the grievant within fifteen (15) working days, and the Department Commissioner's decision shall be final. The City Council may choose to accept the grievance, in which case both the Department Commissioner and the grievant or his/her representative may make their presentations to the City Council. The hearing may be in open or closed session as permitted by law and in a manner appropriate to the nature of the grievance. The City Council will deliberate the grievance and, within fifteen (15) working days after hearing the presentations, arrive at a decision that shall be final and binding. In extraordinary circumstances, the City Council, at its sole discretion, may appoint a special panel or engage a hearing officer to hear the grievance and make a recommendation or render a final decision.

# City of Tulelake

## Policy Governing Right, Responsibilities and Benefits of Non-Elected City Employees

This policy manual is updated once a year and is provided in print version upon adoption of the manual and upon each employee's first day of employment. Thereafter, it is the responsibility of the employee to review each update as they occur and become familiar with any changes that are made to the policies.