

CITY OF WATERFORD

MERIT SYSTEM

RULES & REGULATIONS

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**CITY OF WATERFORD
EMPLOYEE MERIT SYSTEM RULES AND REGULATIONS**

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**CITY OF WATERFORD
EMPLOYEE MERIT SYSTEM RULES AND REGULATIONS**

INTRODUCTORY STATEMENT:

Welcome! As an employee of the City of Waterford, you are an important member of a team effort. We hope that you will find your position with the City rewarding, challenging, and productive.

Because our success depends upon the dedication of our employees, we are highly selective in choosing new members of our team. We look to you and the other employees to contribute to the success of the City.

This employee merit system rules and regulations are intended to explain the terms and conditions of employment of all full- and part-time employees and supervisors. Written employment contracts between the City of Waterford and some individuals may supersede some of the provisions of this handbook.

This handbook summarizes the policies and practices in effect at the time of publication. This handbook supersedes all previously issued handbooks and any policy or benefit statements or memoranda that are inconsistent with the policies described here. Your supervisor or manager will be happy to answer any questions you may have.

RIGHT TO REVISE:

This employee merit system rules and regulations handbook contains the employment policies and practices of the City of Waterford in effect at the time of publication. All previously adopted merit system rules and regulations handbook and any inconsistent policy statements or memoranda are superseded.

The City of Waterford reserves the right to revise, modify, delete, or add to any and all policies, procedures, work rules, or benefits stated in this handbook or in any other document, except for the policy of at-will employment. However, any such changes must be in writing and must be signed by the City Manager.

Any written changes to this handbook will be distributed to all employees so that employees will be aware of the new policies or procedures. No oral statements or representations can in any way alter the provisions of this merit system rules and regulations handbook.

CHAPTER 1: GENERAL

SECTION 101 ADOPTION OF RULES AND REGULATIONS

The following Rules and Regulations have been approved by the City Council by resolution pursuant to the authority granted in 2.40.030 of the Waterford Municipal Code (“WMC”) in order to establish an equitable and uniform procedure for dealing with personnel matters, and to place municipal employment on a merit basis so that the most qualified available people may be brought into and retained in the municipal service.

SECTION 102 ADMINISTRATION OF THE MERIT SYSTEM

The City Manager is the Personnel Officer and shall administer the Merit System in accordance with the provisions of 2.40.030 WMC. Recommendations for removal or appointment to fill positions in the various departments of the City of Waterford (“City”) shall be made to the City Manager by department heads, wherein the power to appoint all officers, heads of departments, and the employees of the city departments, and to remove the same for cause, and the general control and supervision over the same is vested, except in said Ordinance so provided, subject to the ratification of the City Council, and subject to these Rules and Regulations.

SECTION 103 PURPOSE AND POLICY

The objectives of these Rules and Regulations are to facilitate effective and economical services to the public and to provide municipal service. These Rules and Regulations set forth in detail those procedures, which ensure equal treatment for applicants and employees, and define the obligations, rights, privileges, benefits and prohibitions placed upon all employees in the municipal service.

SECTION 104 PERSONNEL POLICY

Employment and promotion by the City shall be based on merit and fitness; free of personal and political considerations, and in no way shall be discriminatory based on race, color, creed, gender, religion, marital status, registered domestic partner status, age, national origin or ancestry, physical or mental disability, medical condition including genetic characteristics, sexual orientation, or any other consideration made unlawful by federal, state, or local laws. It also prohibits unlawful discrimination based on the perception that anyone has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics. All such discrimination is unlawful. Further:

- A. The California Fair Employment Practice Act shall govern all City employment and employment practices.
- B. Tenure of employees covered by these Rules and Regulations shall be subject to good behavior, satisfactory work performance, necessity for the performance of work, and the availability of fund.
- C. The Personnel Officer shall keep a personnel file for each employee of the City, which shall contain all materials and status pertaining to selection, appointment, promotions, and disciplinary actions in relation to their employment with the City. Employees may inspect their individual personnel files at any time upon request to the Personnel Officer.

SECTION 105 EMPLOYMENT CONSTITUTES ACCEPTANCE OF RULES

In accepting employment with the City, each employee agrees to be governed by and to comply with the Merit System Rules and Regulations, administrative rules and procedures established by the City Manager pursuant thereto and rules, regulations and directives of the department in which s/he is employed.

CHAPTER 2: DEFINITIONS

SECTION 201 DEFINITION OF TERMS

The following terms used in these Rules and Regulations are defined as follows:

- A. **CLASSIFICATION PLAN** shall mean a list of titles of the classes of all regular positions in the municipal service and a written specification shall include the class title and general description of the work, a summary statement of duties and responsibilities, and desirable qualifications for appointment, and may include such other pertinent information as the City Manager may deem desirable.

- B. **CONTINUOUS PLAN** shall mean employment on a regular basis which is not interrupted by termination or leaves of absence without pay for a period in excess of one year, other than military leave.

- C. **DISCHARGE** shall mean disciplinary termination of employment.

- D. **DISCIPLINARY PROBATION** shall mean a form of disciplinary action, as distinguished from probation for new employees as set forth in Sec. 1001 et seq, for a specified time not to exceed one year. Persons placed on disciplinary probation may be terminated for failure to meet requirements. Rights, benefits, and privileges shall be reduced in conformance with Sec. 1110.

- E. **DEMOTION** shall mean the movement of an employee from one class to another class having a lower maximum rate of pay.

- F. **EXAMINATION** shall mean the examination for a particular class which is open to all persons meeting the qualifications for the class.

- G. **PROMOTIONAL EXAMINATION** shall mean an examination for a particular class: admission to the examination being limited to regular and probationary employees of the City who meet the qualifications for the class.

- H. **CONTINUOUS EXAMINATIONS** shall mean an open competitive examination which is administered periodically as a result of which names are

placed on an eligible list, in order of final scores, for a period of not more than one year.

- I. **NON-PAY STATUS** shall mean the period in which an employee is not at work and has been granted a leave of absence without pay.
- J. **PAY STATUS** shall mean the period in which an employee is at work, on vacation leave, sick leave, compensation leave as the result of an industrial accident, leave with full pay in lieu of temporary military leave of absence, or on an approved leave of absence with pay.
- K. **PROMOTION** shall mean the movement of an employee from one class to another class having a higher maximum rate of pay.
- L. **SALARY RANGE** shall mean a series of progressive steps between a specific minimum and maximum rate.
- M. **SUSPENSION** shall mean the temporary removal of an employee from pay status for reasons of pending disciplinary action, for disciplinary reasons or for other just cause.
- N. **TERMINATION** shall mean the separation of an employee from municipal service. Termination may be by death, discharge, resignation, reduction-in-force, retirement, work completion, lack of work or funds, or for non-disciplinary reasons as specified in Sec. 404.
- O. **TRANSFER** shall mean the movement of any employee from one job classification to another wherein the same salary range is assigned to both job classifications.

CHAPTER 3: EMPLOYMENT

SECTION 301 CITIZENSHIP

Except as otherwise provided by State Law, employment is open to qualified non-citizens of the United States who are legal residents of the State of California.

SECTION 302 RECRUITMENT

Recruitment for qualified applicants may be a continuing process in order that the City will have available applications of interested, qualified persons for possible employment. Notices of employment opportunities may be placed in newspapers, magazines, announcements or given to reputable agencies offering qualified persons. The City, however, shall not pay any fee or service charge for any applicant who is referred to it by an employment agency.

SECTION 303 APPLICATION

All candidates for employment shall file with the Personnel Office an application on an official City application form.

SECTION 304 SELECTION PROCESS

The selection process may consist of such recognized techniques as achievement tests, aptitude tests, evaluation of personality and background through personal interviews, performance tests, evaluation of work performance, work samples, physical agility tests, review and investigation of personal background and references, fingerprints, medical examinations of any combination thereof, and in no way be discriminatory as outlined in Sec. 104. In the event written examinations are given, a candidate may have the right to inspect his own examination paper. Written examinations are only qualifying in nature.

Selection techniques will be impartial and shall relate to those areas which, in the opinion of the Personnel Officer, will adequately and fairly indicate the relative ability and quality of candidates under consideration to execute the duties and responsibilities of the position to which they seek to be appointed. Upon completion of the selection process, the Personnel Officer will choose the individual who appears most qualified for the position under consideration. The appointment shall not become effective until the selected applicant has signed all papers required by the City, and those papers bear the appropriate signatures confirming the appointment.

SECTION 305 INELIGIBILITY OR DISQUALIFICATION

The Personnel Officer may withdraw anyone from consideration whose appointment will be deemed contrary to the best interest of the City. Reasons for disqualification may include, but shall not be limited to the following:

- A. Lack of any of the requirements established for the examination or position for which s/he applies.
- B. Physical or mental disability such as to render the applicant unfit to perform the duties of the position to which appointment is sought.
- C. Excessive use of intoxicants.
- D. Unlawful use of habit-forming drugs.
- E. Conviction of a felony, or conviction of a misdemeanor involving moral turpitude.
- F. Resignation from any position to avoid dismissal.
- G. Deception of fraud in making the application.
- H. Request by applicant that his/her name be withdrawn from consideration.
- I. Failure to reply within a reasonable time, as specified by the Personnel Office, to communication concerning availability for employment.

- J. Disqualification or unsuitability for employment as specified in any City or pertinent department rules and regulations.

SECTION 306 CATEGORIES OF APPOINTMENT

Employment in the municipal service is divided into the following categories:

- A. **REGULAR:** Regular employees are those who have been appointed to an authorized position in the Employee Compensation Plan, probationary period, and have been related as hereafter provided in Chapter 9 of these Rules and Regulations. The City Manager shall be considered as a regular employee and shall be subject to all of the provisions of these Rules and Regulations except Chapters 11 and 12.
- B. **PROBATIONARY:** Probationary employees are those who, through the regular examining process, have been appointed to an authorized position in the Employee Compensation Plan having a monthly salary but who have not completed the probationary period provided in Chapter 10 of these Rules and Regulations.
- C. **PART-TIME:** Part-time employees are those hired for less than the standard forty hours per week and/or paid on an hourly basis. Unless hourly rates are listed for specific part-time employees by job title in the Employee Compensation Plan, they shall be compensated at an hourly rate equivalent to the applicable salary range and step. Part-time employees may be suspended, demoted, or terminated at any time by the appeal and grievance procedure in Chapters 11 and 12 herein. Any part-time employee who works one thousand (1000) hours or more in one year will be entitled to PERS benefits.

SECTION 307 REAPPOINTMENTS

Reappointments after termination will be considered as new employment.

SECTION 308 CONTINUED EMPLOYMENT

Continued employment of employees with the City shall be subject to good behavior, satisfactory work performance, necessity for the performance of work and the availability of funds.

SECTION 309 REGULAR EMPLOYEES PERFORMANCE REPORTS

A performance report for each regular employee shall be made thirty (30) days prior to the employee's annual anniversary date. The performance reports shall be in a format approved by the Personnel Officer and forwarded to the Personnel Office signed by the employee's Department Head. Each employee's performance report must be discussed with and signed by the evaluated employee.

SECTION 310 TRANSFER

Any employee may be transferred from one department or division to another.

SECTION 311 PROMOTION

Because it is the policy of the City to encourage the advancement of personnel within the organization, promotional examinations for vacancies will be conducted as the needs of the City require. Promotional opportunities (available to City employees) will be posted on bulletin boards selected by the Personnel Office at least five (5) working days before the selection is made.

SECTION 312 DEMOTION

The City Manager or Department Head may demote an employee whose ability to perform his/her required duties falls below acceptable standards; for disciplinary reasons set forth in Sec.1102 ; when the need for the position which an employee fills no longer exists; or when an employee requests such demotion. No employee shall be demoted to a classification for which s/he does not possess the minimum qualifications. When the action is initiated by the Department Head, written notice demotion shall be given to an employee at least five (5) days before the effective date of the demotion. An employee may appeal such action in the manner provided in Sec. 1104, et. seq.

SECTION 313 SUSPENSION

- A. **BY CITY MANAGER** The City Manager may suspend an employee at any time for reasons of pending disciplinary action; for disciplinary reasons set forth in Sec. 1102; or for other just cause, including, but not limited to, inefficiency, incompetence, physical disability or mental incapacity.

- B. **BY DEPARTMENT HEAD.** Department Heads may, for cause as specified in A. above, suspend an employee for not more than three (3) days at any one time with the approval of the City Manager. Written notice of suspension shall be given to the employee at the time the suspension is invoked. An employee may appeal such action in the manner provided in Sec. 1104;, et. seq.

SECTION 314 REINSTATEMENT

The City Manager may reinstate any suspended employee for good cause and may upon such reinstatement compensate, in whole or part, such employee for the time lost.

SECTION 315 REDUCTION IN FORCE

The City, in its discretion, shall determine whether lay-offs are necessary.

CHAPTER 4: TERMINATION OF EMPLOYMENT

SECTION 401 TERMINATION– RESIGNATION

An employee wishing to leave the service of the City in good standing either by resignation or retirement shall give the Department Head concerned at least two (2) weeks notice in writing.

SECTION 402 TERMINATION – ABSENCE WITHOUT LEAVE

Absence without leave for more than three (3) consecutive work days or shifts may be deemed to be a resignation and may result in automatic termination of employment as provided in Sec. 1102 (H).

SECTION 403 TERMINATION – LACK OF WORK OR FUNDS

An employee may be terminated by the Personnel Officer because of changes in duties or organization, abolishment of position, shortage of work or funds, or completion of work. In cases involving regular employees only, notice of such termination will be given to the employee at least two (2) weeks prior to the effective date of termination.

SECTION 404 TERMINATION – NON-DISCIPLINARY ACTION

Part-time and probationary employees may be terminated by the Personnel Officer at any time, with or without notice, for cause or for the convenience of the City. Regular employees terminated by the Personnel Officer for cause or for the convenience of the City shall be given a written statement of the reasons for such termination and may appeal such action in the manner provided in Sec. 1104 et. seq. and shall include, but not to be limited to, inefficiency, incompetence, physical disability or mental incapacity.

SECTION 405 TERMINATION – DISCIPLINARY ACTION

An employee may be terminated at any time a disciplinary action is taken as provided in Chapter 11 of these Rules and Regulations.

SECTION 406 RETIREMENT – APPLICABLE REGULATIONS

Retirement from the municipal service shall be subject to the terms and conditions of the City's Employment Retirement System.

SECTION 407 CONTINUATION OF EMPLOYEE BENEFITS

- A. When an employee or covered dependent has a "qualifying event," the City will notify those eligible for continuation coverage of their COBRA rights within forty-four (44) days after the date of the event.
- B. The City will notify employees, when they are covered under the City's health plan, and their dependent's right to continuation of health coverage under federal law.
- C. The employee is responsible to pay all premiums on all post-termination health coverage. The City is authorized to charge the employee the cost of the plan plus a two percent (2%) administrative charge.
- D. The City, consistent with COBRA upon the occurrence of one of the following, will provide each employee the opportunity for eighteen (18) months of continuation coverage for them and their covered dependents subject to the requirements set forth above: (1) termination (except for

gross misconduct); (2) reduction of hours such that coverage is terminated.

CHAPTER 5: COMPENSATION PLAN

SECTION 501 EMPLOYEE COMPENSATION PLAN

An Employee Compensation Plan shall be established to provide salary schedule, salary rates, salary changes and steps. Said Plan shall be revised annually and adopted with the budget. Each classification plan shall be assigned a salary range or a rate established in the Compensation Plan. All persons employed by the City shall be compensated in accordance with the Compensation Plan currently in effect unless otherwise amended by the City Council. This review is to consider internal relationships, private and public pay scales for comparable jobs and other appropriate factors.

SECTION 502 ADMINISTRATION & REVIEW OF EMPLOYEE COMPENSATION PLAN

The Personnel Officer shall administer the Employee Compensation Plan for all employees, which shall be ratified by the City Council. To the extent the City has a negotiated, valid, binding Memorandum of Understanding (“MOU”) which provides more specificity regarding compensation, the terms and conditions of that MOU will apply. In case the salary range for a class is changed by the City Council, all employees whose position is allocated to this class shall be adjusted to the corresponding step in the new range (example, Step “C” old Range, Step “C” New Range).

SECTION 503 APPLICATION OF SALARY RANGES AND RATES

- A. **APPOINTMENT** All initial appointments to classes assigned a pay range in the City Compensation Plan shall be at the first step of the salary range, provided that the City Manager may make an appointment at a position at an appropriate higher salary step when in his/her opinion it is difficult to obtain qualified personnel at the starting salary or when it appears that the education or experience of a proposed employee is substantially superior to that required of the class and justifies a beginning salary in excess of the first step.
- B. **PROMOTION** Any employee receiving a promotion shall start on the first step of the salary range of the class to which the employee is promoted, and eligible for merit increases as elsewhere provided, unless the employee’s present salary level is equal to or exceeds the first step of the class to which the employee is promoted. In that event, the employee shall be assigned to the step in the salary range to which the employee is promoted, that is the equivalent of at least a 5% increase in salary. When the promotion includes the assigned responsibility of supervision over other employees, the salary level shall be increased by assigning the promoted employee to a higher step within the salary range to allow this annual salary to be above the salary of those s/he supervises.

- C. **TRANSFER** A transfer may affect an employee's salary level.

SECTION 504 ADVANCED WITHIN SALARY RANGE

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

- A. **AUTOMATIC** Advancement to steps "B" and "C" in a salary range shall be automatic and effective on the first day of the payroll period following the completion of the time requirements, and satisfactory performance evaluation.

- B. **MERIT** Advancement to steps "D" and "E" in a salary range shall be granted for continued improvement and efficient and effective service by the employee in performance of the employee's duties. Such merit advancements shall be made only upon recommendation of the Department Head concerned, and with the approval of the Personnel Officer. Nothing herein prohibits the granting of a merit salary advancement prior to the normal time intervals established in the Employee Compensation Plan. All merit salary advancements shall be effective on the first day of the payroll period immediately following the date the advancement was approved. Salary adjustments resulting from an employee's promotion or demotion shall become effective on the first day of the payroll coinciding with or following the employee's promotion or demotion.

- C. **TIME REQUIREMENTS** For purpose of determining time requirements as specified in the Employee Compensation Plan, time will commence on the first day of the payroll period coinciding with or following entrance into a classification or on to a salary step.

SECTION 505 SPECIAL PENALTY DECREASES

The salary of any employee may be decreased at any time to a lower salary step within the salary range by the City Manager upon the recommendation from the Department Head that the quantity, quality, or manner of performance of services do not justify the salary being received.

SECTION 506 TIME INTERVALS FOR SUBSEQUENT SALARY INCREASES

In the event an employee's job is reclassified to a lower paying classification or the employee's salary is reduced because of inability to meet the standards for a current salary step, the same time in intervals for subsequent salary increases as indicated in the employee Compensation Plan shall apply unless special review considerations are established at the time of the salary decreases.

SECTION 507 STANDARD WORK PERIODS

The standard workday for employees shall be eight (8) hours and the standard workweek shall be forty (40) hours to be worked within five (5) consecutive days. The workday for part-time employees shall be established and directed by the Department Head. To the extent the City has a negotiated, valid, binding MOU which provides more specificity regarding standard work periods, the terms and conditions of that MOU will apply.

SECTION 508 EXCEPTIONS TO STANDARD WORK PERIODS

The City Manager is hereby authorized to designate other work periods and working hours for employees when, in his/her opinion, the best interest of the City may be served by such adjustment of the standard work periods and hours shall be consistent with the provisions of Section 1810 et seq. of the Labor Code.

SECTION 509 FLEXIBLE/ALTERNATIVE SCHEDULES

Employees on flexible/alternative schedules shall continue to accrue time on the standard eight (8) hour work day. Once established, the work schedules shall remain in place for a minimum of six (6) months before they can be changed unless a change is necessary due to health, safety or emergency reasons.

SECTION 510 ATTENDANCE

In every case in which a regular employee is not present for duty, his/her absence shall be reported by the Department Head to the Personnel Officer on an approved form. Since part-time employees are not entitled to leave, only actual time worked will be reported.

SECTION 511 PAY PERIODS

Effective January 1, 2015 the pay periods for all employees shall be bi-weekly,. When the regular payday coincides with a holiday, paychecks will be issued on the workday immediately preceding such holiday. Except for employees being terminated, salaries will be paid on regular payday only, unless early payment is approved by the City Manager. Employees leaving the municipal service will receive their final paycheck within 72 hours or on their last day of employment if more than 72 hours notice was given and upon written clearance of the department concerned that said employee has returned all City owned tools, clothing, keys and equipment. The method of distributing payroll checks shall be established by the City Manager.

SECTION 512 COMPUTATION OF SALARY

Salary rates for all authorized City positions are set forth in the Employee Compensation Plan. In the conversion table included in that Plan, hourly rates are based on 2080 hours per year.

SECTION 513 OVERTIME POLICY; DEFINITION

It is the policy of the City that overtime work is to be kept to the minimum consistent with protection of life, property, and the efficient operation of the Departments and activities of the City and the overtime work be compensated for by time off, or paid as may be determined by each appointing authority and the employee. For the purposes of these Rules and Regulations, "overtime" shall mean:

- A. In the case of public safety employees, if the City maintains a Police Department, other than those bona fide executive, administrative or professional capacity and exempt from the overtime pay requirements of the Federal Fair Labor Standards Act, all work in excess of the national average of employees engaged in such activities, as determined by the Secretary of Labor.
- B. In the case of general employees, other than those employed in a bona fide executive, administrative, or professional capacity and exempt from the overtime pay requirements of the Federal Fair Labor Standards Act, all work in excess of forty (40) hours in one work week or in excess of eight (8) hours in a work day.

SECTION 514 OVERTIME COMPENSATION

Overtime work will be compensated for at the rate of time and a half for compensatory time off, at the discretion of the Department Head and with the approval of the City Manager. If the City has Public Safety employees, Public Safety employees shall receive straight time pay or compensatory time off for all hours of court time in excess of forty (40) hours of work per workweek. For each such court appearance, a minimum of two (2) hours compensation shall accrue except when the scheduled court appearance either extends into, or in the case of a court appearance occurring during scheduled duty hours and extends beyond the employees regular duty hours. In such case, court appearance compensation shall accrue per the actual time spent in court in excess of the regularly scheduled duty hours. All overtime provisions shall be consistent with the Federal Fair Labor Standards Act.

Court appearances pay earned in a particular work week must be paid on the regular payday for the period in which the workweek ends; provided, however, that if the correct amount of court pay cannot be determined until sometime after the regular pay period, such compensation shall be paid as soon thereafter, as reasonably practicable, but in no event beyond the next payday after such computation can be made.

SECTION 515 OVERTIME COMPUTATION

Employees who are called to work overtime from their day off or other off duty hours, except for disciplinary purposes, shall be compensated for a minimum of two (2) hours work.

SECTION 516 EXECUTIVE LEAVE

Management Employees classified as regular full time employees of the City (Salaried Exempt Employees) shall not be eligible for overtime pay. In lieu of overtime, 40 hours shall be deposited into the Executive Leave account for each Salaried Exempt Management Employee in the first full pay period of each fiscal year and utilized prior to the end of the fiscal year it was deposited. No accumulation or cash out of Executive Leave is allowed.

SECTION 517 STANDBY COMPENSATION

Compensation for regularly established emergency standby service shall be in the amount set forth in either the Employee Compensation Plan or MOU, if there is a valid, applicable MOU, or consistent with state law requirements.

SECTION 518 DEDUCTIONS

Deductions from employee’s pay shall be made in accordance with prevailing laws, contract and administrative rules and procedures established by the City Manager.

SECTION 519 PAID HOLIDAYS

A. **REGULAR HOLIDAYS FOR PAY PURPOSES** The following holidays are recognized as municipal holidays for pay purposes and all regular and probationary employees shall have these days off except as otherwise provided:

1. January 1 – New Year’s Day
2. Martin Luther King Jr. in January
3. Third Monday in February – Washington’s Birthday
4. Memorial Day in May
5. July 4 – Independence Day
6. First Monday in September – Labor Day
7. November 11 – Veteran’s Day
8. Fourth Thursday in November – Thanksgiving Day
9. Fourth Friday in November – Day after Thanksgiving
10. December 24 – Christmas Eve Day
11. December 25 – Christmas Day
12. Personal Day – One day selected by the employee upon approval of the employee’s Department Head and the City Manager.
13. Every day appointed by the President of the United States or Governor of the State of California for public holiday, Thanksgiving, or Holiday.

When a holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day named. When a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day named.

SECTION 520 COMPENSATION FOR WORK FOR PAID HOLIDAYS

Regular and probationary employees assigned to work on holidays shall receive compensating time off as recommended by the Department Head subject to the approval of the City Manager.

SECTION 521 COMPENSATION DURING ATTENDANCE AT TRAINING COURSES DURING VACATION, HOLIDAYS, AND DAYS OFF

City employees should feel free to attend training courses available during their vacation, holidays, or days off if they so desire. However, compensation for attendance at training courses held during days off (weekends), vacations, or holidays will be authorized only

where employees have been directed by their Department Head to attend such, on the following basis:

- A. **HOLIDAYS:** Employees directed to attend training courses on a holiday will be compensated as provided in Sec. 518.
- B. **VACATIONS:** Employees directed to attend training courses held on their day(s) off will have their work schedule adjusted to reflect day(s) off in compensation.
- C. **REGULAR WORK SCHEDULE:** Time in training during regular work schedules is paid at the established salary rate.

SECTION 522 TUITION REIMBURSEMENT

Regular City employees may be eligible to receive tuition reimbursement for educational purposes which tend to improve their ability to accomplish their City jobs, subject to approval of the City Manager.

SECTION 523 COMPENSATION FOR USE OF PRIVATE VEHICLE WITH CITY BUSINESS

City employees may receive compensation for use of their personal vehicle in City business, at the standard mileage rate as established by the Internal Revenue Service.

SECTION 524 HEALTH AND WELFARE AND DEFERRED COMPENSATION PLAN, EMPLOYEE ASSISTANCE PROGRAM AND PENSION PLAN

The City currently offers a health and welfare and deferred compensation plan, employee assistance program and pension plan and will continue to do so as long as the City's budget allows.

The employer shall pay the same percentage of employer and employee's costs of participation in the California Public Employee's Retirement System for employee that employer pays for the employees of its Organized Bargaining Unit for all eligible full time employees of the City of Waterford.

The employer shall pay the same percentage and provide the same coverage for major medical, vision and dental insurance for Employee, spouse and eligible dependents under the plan that employer pays and provides for the employees of its Organized Bargaining Unit to all eligible full time employees of the City of Waterford.

CHAPTER 6: SICK LEAVE

SECTION 601 STATEMENT OF POLICY

Sick leave shall not be considered as a privilege which an employee may use at his/her own discretion, but shall be granted only upon the recommendation of the Department Head. The use of sick leave shall be allowed for the diagnosis, care, or treatment of an

existing health condition of, or preventative care for, an employee, an employee's family member (included parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandchild or grandparent); or for an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in Labor Code section 230 (c) and Labor Code section 230.1 (a).

SECTION 602 ELIGIBILITY

Regular and probationary full-time as well as part-time and temporary employees working on or after July 1, 2015 for 30 or more days within a year are entitled to paid sick leave. Part-time and temporary employees that work 30 or more days in the fiscal year will receive 24 hours of sick leave on July 1st of each year with no accrual or carryover.

In order to receive compensation while absent on sick leave, the employee shall notify his/her Department Head at the beginning of the workday s/he is absent. The employee may be required at any time, by his/her Department Head, to file a physician's certificate or a personal affidavit stating the cause of the absence and attesting to the employee's ability to resume work. However, when an employee is absent due to illness or injury for three workdays or longer, a physician's certificate or a personal affidavit shall be required.

SECTION 603 ACCRUAL

Sick leave for regular and probationary full-time employees shall be accrued monthly, beginning with the first month of employment, provided the employee has been in pay status for no less than 50% of the first month or any month thereafter. Sick leave shall be accrued at the rate of eight (8) hours per month for all City employees.

SECTION 604 DEDUCTION

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

- A. **ALL EMPLOYEES** All City employees shall be charged sick leave at the rate of eight (8) hours of sick leave for each full day absent. Unless exceptions are approved by the City Manager, absence less than a full day will be charged sick leave at the rate of one (1) hour sick leave for each hour absent.

- B. **WHEN ILLNESS OCCURS ON A HOLIDAY** Any employee scheduled to work on a holiday who reports off sick will be charged sick leave at the appropriate rate authorized under subdivision A of Sec. 604, and the holiday will be accrued.

SECTION 605 ACCUMULATIONS

Sick leave may be accumulated to a total of four hundred (400) hours of sick leave. All accumulated sick leave over four hundred (400) hours will be paid at the rate of fifty percent (50%) to the employee annually.

Effective with the first payroll in December of each year, regular full time employees continuously employed as such for the previous twelve (12) months who have utilized three (3) days or less of the annual sick leave allocation shall be eligible to “cash out” twenty-five percent (25%) of the remaining days allocated for the year ending November 30th upon a written request by the employee. The days “cashed out” will be deducted from the employee’s accrued sick leave balance. This option is not available to employees who do not have at least fifteen (15) days of accrued sick leave on the books as of November 30 of the relevant year.

Example - This example is set forth herein for purposes of understanding the policy:

A regular full-time employee for the previous twelve (12) months, on November 30, 2011 has fifteen (15) days of accrued sick leave. Employee utilized one (1) day of sick leave for the year which started December 1, 2010 and ended November 30, 2011. The employee, consistent with the City’s sick leave policy, would have earned twelve (12) days of sick leave in this time frame. The employee would have available eleven (11) days of the twelve (12) days earned. Upon the written request by the employee, the employee would be paid a cash payment for five and one-half (5.5) days with the first payroll in December, 2011.

The five and one-half (5.5) days would forthwith be deducted from the accrued sick leave balance of the employee, leaving an accrued sick leave balance of nine and one-half (9.5) days ($15 - 5.5 = 9.5$) as of December, 2011. The program must be exercised in the time frame outlined in this policy. There is no carry over or accrual of this benefit. The City will not take action without a timely filed written request by the employee.

SECTION 606 BEREAVEMENT LEAVE

Up to three (3) bereavement leave days may be granted to a regular employee by his/her Department Head in the event of a death in the employee’s family. For the purpose of this section only, the employee’s family shall mean the spouse, parent, child, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandparents (including in-law), grandchildren, or a close relative residing in the household of the employee. Requests for bereavement leave in excess of three (3) days for this purpose shall be subject to approval of the City Manager.

SECTION 607 WORKERS COMPENSATION: POLICE DEPARTMENT

If the City has a Police Department, the following shall apply:

- A. An employee of the Police Department who is absent from work by reason of an injury or illness covered by Workers Compensation shall be allowed up to one (1) year leave of absence, as required by the condition, with the City supplying the difference between the amount granted pursuant to such Workers Compensation and the employee’s regular rate of pay.
- B. Whenever such disability of an employee continues for a period of beyond one (1) year, the leave of absence may continue until the expiration of accrued

sick leave and vacation, and paid days in lieu of holidays, calculated to the nearest one-half (½) day, with compensation at the employee's regular rate of pay.

- C. When it appears the employee cannot return to work by the expiration of such allowances, disability retirement shall be requested by the City to become effective at the expiration of these allowances unless the employee applies for or consents to retirement as of an earlier date, at which time s/he may be compensated for his/her accrued benefits at his/her regular rate of pay.
- D. Any employee who depletes accumulated sick leave, holidays, and vacation days to maintain pay status while absent from work by reason of injury or illness covered by Workers Compensation, shall be removed from pay status and be covered under the provisions of Sec. 609.

SECTION 608 WORKERS COMPENSATION: ALL OTHER CITY EMPLOYEES

This Section of the Rules and Regulations does not apply to Police personnel. Any employee absent from work by reason of any injury or illness covered by Workers Compensation shall continue in pay status under the following provisions:

- A. The difference between the amount granted pursuant to such Workers Compensation and employee's regular rate of pay shall be deducted from the employee's accumulated sick leave, and when authorized by the employee, vacation days.
- B. Such an employee shall continue in pay status and receive regular rate of pay until his/her accumulated sick leave and vacation days have been depleted to the nearest one-half (1/2) day.
- C. During the time an employee's in pay status while absent from work by reason of injury of illness covered by Workers Compensation, shall continue to accrue sick leave and vacation benefits as though s/he were not on leave of absence. Credit for holidays shall not be allowed.
- D. Any employee who depletes accumulated sick leave, holidays, and vacation days to maintain pay status while absent from work by reason of injury or illness covered by Workers Compensation, shall be removed from pay status and be covered under provisions of Sec. 609.

SECTION 609 DEPLETION OF SICK LEAVE BENEFITS

Upon depletion of accumulated sick leave for an injury or illness and upon the recommendation of the employee's Department Head, an employee may be placed on medical leave of absence without pay for a period of not to exceed sixty (60) days. If the employee is unable to return to work at the end of this period, further medical leave must be requested which will be subject to approval of the City Manager. If further leave is

granted, the employee must notify the City of intent to return to work every thirty (30) days.

SECTION 610 FORFEITURE UPON TERMINATION

Employees leaving the municipal service shall forfeit all accumulated sick leave.

SECTION 611 DONATED SICK LEAVE

Any employee may elect to donate a portion of their accrued sick leave hours under the following conditions:

- A. Employee must have a minimum of two hundred (200) hours accrued sick leave.
- B. Employee may donate a maximum of 25% of their accrued hours.
- C. Employee shall sign a waiver to indicate his/her donation.
- D. With approval of Department Head and City Manager.

SECTION 612 REQUEST FOR DONATED SICK LEAVE

Employees who need donated sick leave as a result of a serious illness or injury occurring to themselves, will be eligible to receive donated sick leave subject to the following criteria:

- A. Employee shall submit a request in writing.
- B. Employee shall have utilized all of his/her vacation, compensation time, and accrued sick leave.
- C. Employee shall have been absent from work for ten (10) or more working days as a result of a qualifying injury and illness.
- D. With approval of the City Manager.

CHAPTER 7: FAMILY MEDICAL LEAVE

SECTION 701 ELIGIBLE EMPLOYEES

State and federal family and medical leave laws provide up to 12 workweeks of unpaid family/medical leave within a 12-month period, under the following conditions:

- A. The employee has more than 12 months of service. If the leave is for FMLA only, the 12 months of service must have accumulated within the previous seven years. There is no such cap under the California Family Rights Act (“CFRA”);
- B. The employee has worked at least 1,250 hours during the previous 12-month period before the need for leave.

SECTION 702 LEAVE REQUIREMENTS

An eligible employee shall be entitled to a total of twelve (12) work weeks of leave during a twelve (12) month period for one or more of the following:

- A. The birth of the employee's child, or placement of a child with the employee for adoption or foster care (FMLA/CFRA);
- B. To care for the employee's spouse, child, or parent who has a serious health condition (FMLA/CFRA);
- C. To care for the employee's registered domestic partner (CFRA only);
- D. For a serious health condition that makes the employee unable to perform his or her job (FMLA/CFRA);
- E. For any "qualifying exigency" (defined by federal regulation) because the employee is the spouse, son, daughter, or parent of an individual on covered active duty (or has been notified of an impending call or order to active duty) in the Armed Forces (FMLA only); or
- F. An employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the service member (FMLA/CFRA for 12 weeks if the care provider is eligible for both, followed by 14 weeks of (FMLA only), or 26 weeks of FMLA only if leave is not CFRA covered leave).

Calculating the 12-month Period

For purposes of calculating the 12-month period during which 12 weeks of leave may be taken, the City uses a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

Under most circumstances, leave under federal and state law will run at the same time and the eligible employee will be entitled to a total of 12 weeks of family and medical leave in the designated 12-month period.

For a qualifying exigency or leave to care for a covered servicemember, the 12-month period begins on the first day of the leave, regardless of how the 12-month period is calculated for other leaves. Leave to care for a covered servicemember is for a maximum of 26 workweeks during a 12-month period.

Pregnancy, Childbirth or Related Conditions

However, leave because of the employee's disability for pregnancy, childbirth or related medical condition is not counted as time used under California law (the California Family Rights Act). Time off because of pregnancy disability, childbirth or related medical condition does count as family and medical leave under federal law (the Family and Medical Leave Act). Employees who take time off for pregnancy disability and who are eligible for family and medical leave will also be placed on family and medical leave that runs at the same time as their pregnancy disability leave. Once the pregnant employee is

no longer disabled, or once the employee has exhausted PDL and has given birth she may apply for leave under the California Family Rights Act, for purposes of baby bonding.

Any leave taken for the birth, adoption, or foster care placement of a child does not have to be taken in one continuous period of time. California Family Rights Act leave taken for the birth or placement of a child will be granted in minimum amounts of two weeks. However, the City will grant a request for a California Family Rights Act leave (for birth/placement of a child) of less than two weeks' duration on any two occasions. Any leave taken must be concluded within one year of the birth or placement of the child with the employee.

Leave for Employee's Own Health Condition

The following procedures shall apply when an employee requests family leave:

Please contact your Department Head or the Personnel Officer as soon as you realize the need for family/medical leave.

If the leave is based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member, the employee must notify the City at least 30 days before leave is to begin. The employee must consult with his or her supervisor regarding scheduling of any planned medical treatment or supervision in order to minimize disruption to the operations of the City. Any such scheduling is subject to the approval of the health care provider of the employee or the health care provider of the employee's child, parent, or spouse.

If the employee cannot provide 30 days' notice, the City must be informed as soon as is practical.

If the Family and Medical Leave Act/California Family Rights Act request is made because of the employee's own serious health condition, the City may require, at its expense, a second opinion from a health care provider that the City chooses. The health care provider designated to give a second opinion will not be one who is employed on a regular basis by the City.

If the second opinion differs from the first opinion, the City may require, at its expense, the employee to obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee. The opinion of the third health care provider shall be considered final and binding on the City and the employee.

The City requires the employee to provide certification within 15 days of any request for family and medical leave under state and federal law, unless it is not practicable to do so. The City may require recertification from the health care provider if additional leave is required. (For example, if an employee requires two weeks of family and medical leave, but following the two weeks needs intermittent leave, a new medical certification will be requested and required.) If the employee does not provide medical certification in a timely manner to substantiate the need for family and medical leave, the City may delay approval of the leave, or continuation thereof, until certification is received. If certification is never received, the leave may not be considered family and medical leave.

Leave to Care for a Family Member

If the leave is needed to care for a sick child, spouse, or parent, the employee must provide a certification from the health care provider stating:

- * Date of commencement of the serious health condition;
- * Probable duration of the condition;
- * Estimated amount of time for care by the health care provider; and
- * Confirmation that the serious health condition warrants the participation of the employee.

When both parents are employed by the City, and request simultaneous leave for the birth or placement for adoption or foster care of a child, the City will not grant more than a total of 12 workweeks family/medical leave for this reason.

If an employee cites his/her own serious health condition as a reason for leave, the employee must provide a certification from the health care provider stating:

- * Date of commencement of the serious health condition;
- * Probable duration of the condition; and
- * Inability of the employee to work at all or perform any one or more of the essential functions of his/her position because of the serious health condition.

The City will require certification by the employee's health care provider that the employee is fit to return to his or her job.

Failure to provide certification by the health care provider of the employee's fitness to return to work will result in denial of reinstatement for the employee until the certificate is obtained.

Leave Related to Military Service

A leave taken due to a "qualifying exigency" related to military service must be supported by a certification of its necessity. A leave taken due to the need to care for a service member shall be supported by a certification by the service member's health care provider.

Health and Benefit Plans

An employee taking family medical leave will be allowed to continue participating in any health and welfare benefit plans in which he/she was enrolled before the first day of the leave (for a maximum of 12 workweeks, or 26 workweeks if the leave is to care for a covered service member) at the level and under the conditions of coverage as if the employee had continued in employment for the duration of such leave. The City will continue to make the same premium contribution as if the employee had continued working. The continued participation in health benefits begins on the date leave first begins under Family and Medical Leave Act (e.g., for pregnancy disability leaves, qualifying exigency leave, or to care for a covered service member) or under the Family and Medical Leave Act/California Family Rights Act (e.g., for one's own serious health

condition or that of one's spouse, parent or child; or baby bonding) or under the California Family Rights Act (caring for one's registered domestic partner). In some instances, the City may recover from an employee premiums paid to maintain health coverage if the employee fails to return to work following family/medical leave.

Employees on family/medical leave who are not eligible for continued paid coverage may continue their group health insurance coverage through the City in conjunction with the federal COBRA guidelines by making monthly payments to the City for the amount of the applicable premium. Monthly payment premiums are due to the City at the same time the deduction would have been withheld from your payroll check. Employees should contact their supervisor for further information.

Substitution of Paid Leave

Generally, FMLA/CFRA leave is unpaid. You will be required to substitute paid leave in the following circumstances:

Any available paid time off may be used to supplement any portion of leave that is unpaid by state disability insurance, other disability leave plans or workers' compensation benefits.

Reinstatement

Under most circumstances, upon return from family/medical leave, an employee will be reinstated to his or her original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. For example, if an employee on family/medical leave would have been laid off had he or she not gone on leave, or if the employee's job is eliminated during the leave and no equivalent or comparable job is available, then the employee would not be entitled to reinstatement. In addition, an employee's use of family/medical leave will not result in the loss of any employment benefit that the employee earned before using family/medical leave.

Reinstatement after family/medical leave may be denied to certain salaried "key" employees under the following conditions:

- * If leave has already begun, the City gives the employee a reasonable opportunity to return to work following the notice described previously.

For additional information about eligibility for family/medical leave, contact the Personnel Officer. Following adoption of this Ordinance, amendments to either the FMLA or CFRA are deemed to be incorporated herein to the extent that they vary from the terms herein.

Option: Time Accrual

Employees on Family and Medical Leave Act/California Family Rights Act leave will not continue to accrue vacation, sick leave, paid time off during unpaid Family and Medical Leave Act/California Family Rights Act leave.

Option: Carryover

Leave granted under any of the reasons provided by state and federal law will be counted as family/medical leave and will be considered as part of the 12-workweek entitlement (26-workweek entitlement if leave is to care for a service member) in a 12-month period. The 12-month period is measured forward from the date any employee’s first Family and Medical Leave Act leave begins. Successive 12-month periods commence on the date of an employee’s first use of such leave after the preceding 12-month period has ended. No carryover of unused leave from one 12-month period to the next 12-month period is permitted.

SECTION 703 HEALTHCARE PROVIDER

Healthcare provider means:

- A. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices; or
- B. Any other person determined by the Secretary of Labor for the United States of America to be capable of providing healthcare services.

CHAPTER 8: VACATION LEAVE

SECTION 801 USE OF VACATION

- A. The time at which an employee may use his/her accrued vacation leave and the amount to be taken at any one time shall be determined by his/her Department Head with particular regard for the needs of the City, but also insofar as possible, considering the wishes of the employee.
- B. Employees shall complete six (6) months continuous service before becoming eligible to use accrued vacation leave.
- C. Employees shall not work for the City during their vacation (double compensation).

SECTION 802 ELIGIBILITY

- A. **REGULAR EMPLOYEES** Regular employees shall be eligible for vacation leave in conformance with the provisions of Sec. 803.
- B. **PART-TIME EMPLOYEES** Part-time employees shall not be eligible for vacation leave.
- C. **TEMPORARY EMPLOYEES** Temporary employees shall not be eligible for vacation leave.

SECTION 803 VACATION ACCRUAL

Vacation will be accrued and credited on a monthly basis when an employee is in pay status for fifty percent (50%) or more of the workdays in a given month. Each eligible employee shall accrue vacation at the following rate continuous service performed in pay status:

- A. **LESS THAN FIVE (5) YEARS** For employees completing less than five (5) years continuous service: 5/6 working days for each month of service, ten (10) days per year
- B. **FIVE (5) OR MORE YEARS** For employees completing five (5) or more years of continuous service up to thirteen (13) years of continuous service: One and one-fourth (1 ¼) working days for each month of service (15) days per year.
- C. **TEN (10) OR MORE YEARS** For employees completing thirteen (13) or more years of continuous service: One and five-eighths (1 5/8) working days for each month of service, twenty (20) days per year.
- D. **LIMITS OF ACCRUAL** Such accrual and credit for all employees may not exceed twice the employee's annual rate of accrual. If an employee is unable to take vacation time to lower their balances below the accrual cap due to conditions within the City, the employee will meet with management and discuss a vacation plan and the possibility of being allowed to cash out up to forty (40) hours of the accrued vacation amounts.

SECTION 804 HOLIDAYS FALLING DURING VACATION

In the event a City holiday falls within an employee's vacation period which would have excused the employee from and for which no other compensation is made (see Sec.520) said holiday shall not be charged as a vacation day.

SECTION 805 VACATION AT TERMINATION

Employees leaving the municipal service with accrued vacation leave shall be paid to the date of termination. Payments for accrued vacation shall be at the employee's current rate of pay. Employees who terminate employment with the City and have less than six (6) months of continuous service shall not be compensated for accrued vacation.

SECTION 806 EFFECT OF EXTENDED MILITARY LEAVE

An employee who interrupts his/her municipal service because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.

CHAPTER 9: OTHER LEAVES OF ABSENCE

SECTION 901 LEAVE OF ABSENCE WITHOUT PAY

Leave of absence without pay may be granted in cases of emergency or where such absence would not be contrary to the best interests of the City. Such leave is not a right but a privilege. Employees on authorized leave of absence without pay may not extend such leave without express approval of the City Manager.

No vacation or sick leave benefits shall be used for illness occurring during such leave. Leave of absence without pay may be granted by the City Manager depending on the merit of the individual case.

SECTION 902 ABSENCE WITHOUT LEAVE

Absence without leave shall be considered to be without pay and reductions in the employee's pay shall be made accordingly. Absent without leave for more than three (3) consecutive days may result in termination of employment. Such termination shall not be subject to appeal in the manner provided in Sec. 1104 et seq.

SECTION 903 LEAVE OF ABSENCE: DEATH OUTSIDE THE IMMEDIATE FAMILY

Leave without pay may be granted to a regular employee in the event of death to family members other than described in Sec. 606, such leave to be granted in accordance with Sec. 901.

SECTION 904 MILITARY

State and other applicable laws shall govern the granting of military leaves of absence and the rights of employees returning from such absence.

SECTION 905 PREGNANCY DISABILITY LEAVE

Pregnancy, childbirth, or related medical conditions will be treated like any other disability, and an employee on leave will be eligible for temporary disability benefits in the same amount and degree as any other employee on leave.

Any female employee planning to take pregnancy disability leave should advise the personnel department as early as possible. The individual should make an appointment with the personnel manager to discuss the following conditions:

- Employees who need to take pregnancy disability must inform the City when a leave is expected to begin and how long it will likely last. If the need for a leave or transfer is foreseeable, employees must provide notification at least 30 days before the pregnancy disability leave or transfer is to begin. Employees must consult with the personnel officer regarding the scheduling of any planned medical treatment or supervision in order to minimize disruption to the operations of the City. Any such scheduling is subject to the approval of the employee's health care provider;
- If 30 days' advance notice is not possible, notice must be given as soon as practical;

- Upon the request of an employee and recommendation of the employee's physician, the employee's work assignment may be changed if necessary to protect the health and safety of the employee and her child;
- Requests for transfers of job duties will be reasonably accommodated if the job and security rights of others are not breached;
- Temporary transfers due to health considerations will be granted when possible. However, the transferred employee will receive the pay that accompanies the job, as is the case with any other temporary transfer due to temporary health reasons;
- Pregnancy leave usually begins when ordered by the employee's physician. The employee must provide the City with a certification from a health care provider. The certification indicating disability should contain:
 - The date on which the employee became disabled due to pregnancy;
 - The probable duration of the period or periods of disability; and
 - A statement that, due to the disability, the employee is unable to perform one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.
- Leave returns will be allowed only when the employee's physician sends a release;
- An employee will be allowed to use accrued sick time during a pregnancy disability leave. An employee will be allowed to use accrued vacation or personal time during a pregnancy disability leave; and
- Duration of the leave will be determined by the advice of the employee's physician, but employees disabled by pregnancy may take up to four months. Part-time employees are entitled to leave on a pro rata basis. The four months of leave includes any period of time for actual disability caused by the employee's pregnancy, childbirth, or related medical condition. This includes leave for severe morning sickness and for prenatal care.

Under most circumstances, upon submission of a medical certification that an employee is able to return to work from a pregnancy disability leave, an employee will be reinstated to her same position held at the time the leave began or to an equivalent position, if available. An employee returning from a pregnancy disability leave has no greater right to reinstatement than if the employee had been continuously employed.

SECTION 906 EMPLOYEE TIME OFF TO VOTE

Time off with pay to vote at any general, direct primary, or presidential primary election shall be granted as provided in the State of California Elections Code, and notice that an employee needs such time off shall be given in accordance with the provisions of said Code.

SECTION 907 JURY DUTY

An employee required to report for jury duty shall be granted a leave of absence with pay from his/her assigned duties until released by the court, provided the employee remits to

the City all fees received for such duties other than mileage or subsistence allowance within thirty (30) days from the termination of his/her jury services.

SECTION 908 SUBPOENAS

A regular employee who is subpoenaed to appear as a witness on behalf of the State of California or any of its agencies may be granted a leave of absence with pay from his/her assigned duties until released. The employee shall remit all fees received for such appearances to the City within thirty (30) days from the termination of his/her services. Compensation for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee.

SECTION 909 ATTENDANCE AT INDUSTRIAL ACCIDENT COMMISSION HEARINGS OR RELATED PHYSICAL EXAMINATIONS

An employee who has been injured in the course and scope of his/her employment with the City and who is required as a result of such injury to be absent from duty to take physical examinations required by the City's Workers Compensation Insurer or the Industrial Accident Commission, or to attend hearings of the Industrial Accident Commission, may be granted leave with pay for such absences by the City Manager. The City Manager shall determine if such absences are in the best interest of the City and only if the employee is in pay status at the time of the scheduled examination or hearing. Applications for such leaves of absence shall be filed in advance on City of Waterford Personnel Actions Forms.

CHAPTER 10: PROBATIONARY STATUS

SECTION 1001 OBJECTIVE OF PROBATIONARY PERIOD

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

SECTION 1002 PROBATIONARY PERIOD

- A. All original appointments to regular municipal service positions shall be tentative and subject to a probationary period fixed by the Department Head at the time of appointment of not less than twelve (12) months or more than eighteen (18) months. The probationary period may be extended with the approval of the City Manager for a period of not to exceed six (6) months where the Department Head finds that extraordinary conditions justify such extension.

- B. A promotional appointment probationary period shall be for six (6) months, and may be extended by the Department Head for not more than three (3) months with the approval of the City Manager.

SECTION 1003 PROBATIONARY EMPLOYEE PERFORMANCE REPORTS

A performance report of each probationary employee shall be made by the Department Head and forwarded to the City Manager. The Employee Performance Report shall be filed by the Department Head upon the completion of the employee's first, third, and sixth months of service with the City. If there is a Police Department, Public Safety Employee Performance Reports shall be made upon the completion of the employee's third, sixth, ninth and twelfth months. In those cases where the probationary period is extended beyond the normal time, an Employee Performance Report shall be made monthly until the end of the probation extension.

SECTION 1004 REJECTION OF PROBATIONER

During the probationary period, an employee may be suspended demoted or terminated at any time subject to the approval of the City Manager, without cause and without the right of appeal or to submit a grievance.

SECTION 1005 REJECTION FOLLOWING PROMOTION

Any employee rejected during the probationary period, following a promotional appointment shall be reinstated to the position which s/he was promoted or a comparable position, unless charges are filed and s/he is discharged in the manner provided in Chapter 10 herein.

An employee who elects a voluntary demotion after the six (6) month probationary period for a promotional appointment may be reinstated to the position from which s/he was promoted or to a comparable position subject, however, to a vacancy available at that time.

CHAPTER 11: DISCIPLINARY PROCEEDINGS

SECTION 1101 DISCIPLINARY ACTION: DEFINITION

As used in this Chapter, "Disciplinary Action" shall mean: reprimand (written or oral), suspension, demotion, reduction in salary, disciplinary probation, or discharge from employment.

SECTION 1102 CAUSE FOR DISCIPLINARY ACTION

Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

- A. Fraud in securing the appointment.
- B. Neglect of duty.
- C. Insubordination.
- D. Dishonesty
- E. Drunkenness on duty
- F. Intemperance

- G. Unlawful use, sale or possession of narcotics or habit forming drugs.
- H. Absence without leave
- I. Conviction of a felony or conviction of a misdemeanor involving moral turpitude
- J. Immorality
- K. Discourteous treatment of the public or other employees
- L. Improper political activity as defined by State Law
- M. Violation of safety procedures
- N. Misuse of City property
- O. Violation of any of the provisions of these working Rules and Regulations or Departmental Rules and Regulations
- P. Other failure of good behavior either during or outside of duty hours which is of such a nature that causes discredit to the City.
- Q. Refusal to take or subscribe to any oath of affirmation which is required by law in connection with employment.

SECTION 1103 PERSONS BY WHOM DISCIPLINARY ACTION MAY BE TAKEN: NOTICE; SERVICE; CONTENTS

The City Manager or any Department Head may take disciplinary action against an employee under his/her control for one or more causes for discipline specified in this chapter by notifying the employee verbally of the action, pending the service upon him/her of a written notice.

Disciplinary action against a regular employee shall be followed immediately by a written notice served on the employee and filed with the City Manager's Office. The notice may be served upon the employee, either personally or by certified mail and shall include:

- A. A statement of the nature of the disciplinary action.
- B. The effective date of the penalty.
- C. A statement of the causes therefore.
- D. A statement in ordinary and concise language of the act of omission upon which the causes are based.
- E. A statement advising the employee of his/her right to appeal from such action.

SECTION 1104 RIGHT OF APPEAL: FORM

Any regular employee shall have the right of appeal to the City Manager from any disciplinary action taken by his/her Department Head under Sec. 1102. Such appeal must be filed with the City Manager within ten (10) working days after receipt of written notice of such disciplinary action; failure to file an appeal within such period constitutes a waiver of right to appeal. The appeal must be in writing, must be verified before a notary

public, or made under penalty of perjury, and must state specifically the reasons upon which it is based. The City Manager shall cause such appeal to be investigated and shall conduct a hearing as provided in this Chapter. Neither the provisions of this section nor of this Chapter shall apply to reductions in force or reductions in pay which are part of a general plan to reduce or adjust salaries and wages.

SECTION 1105 HEARING

The City Manager shall conduct a hearing on an appeal filing in accordance with Sec. 1104 within thirty (30) days after receipt thereof. The City Manager may continue the hearing either for the convenience of the City or upon written application of the appellant, for a period not to exceed an additional thirty (30) days from the receipt of the appeal. Written notice of the time and place of the hearing, and any continuance thereof, shall be given to the appellant. Such hearings shall be conducted in accordance with the provisions of Section 11513 of the Government Code of the State of California, except that the appellant and other persons may be examined as provided in Section 19580 of said Government Code and the parties may submit all proper and competent evidence against or in support of the causes, but it shall be presumed that the statement of causes is true.

SECTION 1106 REPRESENTATION

Any City employee, other than those appointed to supervisory, management, and confidential classifications as provided in Sec. 1311 herein, shall be permitted to represent another City employee or group of City employees at the hearing of an appeal. The appellant may appear in person or be represented by counsel.

SECTION 1107 NOTICES TO WITNESSES: COST

The City Manager shall issue notices for the appearances of witnesses for the appellant upon his/her written request and his/her cost to be prepaid.

SECTION 1108 FAILURE OF EMPLOYEES TO APPEAR AT HEARING

Failure of the appellant to appear at the hearing shall be deemed a withdrawal of his/her appeal and the action of the City Manager shall be final.

SECTION 1109 DECISIONS

The City Manager shall render a written decision within fifteen (15) days after concluding the hearing. The City Manager's decision shall be final and conclusive. A copy of such decision shall be forwarded to the appellant. If the disciplinary action taken against the employee is reversed or modified by the City Manager, the employee may be compensated, in whole or in part, for the time lost as determined by the City Manager.

SECTION 1110 EFFECT OF CERTAIN DISCIPLINARY ACTIONS

- A. **ORAL REPRIMAND** Employees receiving an oral reprimand may have it noted in their departmental record by the Department Head.
- B. **WRITTEN REPRIMAND** Employees receiving a written reprimand shall have a copy of the reprimand filed in their permanent record for

future reference. Each employee's permanent record is his/her personnel file kept in the City Clerk's office. Written reprimands will be purged from the record according to the State Statute if no further reprimand or action is necessary.

- C. **DISCIPLINARY PROBATION** Employee's placed on disciplinary probation shall not accrue vacation, sick leave, or earned time for salary review while on such probation.
- D. **SUSPENSION** Employees suspended from the municipal service shall forfeit all rights, privileges and salary while on such suspension with the exception of Group Insurance Benefits.
- E. **DISCHARGE** Employees terminated pursuant to Sec. 404 of these Rules and Regulations shall be paid salary accumulated to the effective date of termination only and shall be paid for accumulated vacation, accumulated compensatory time and paid days in lieu of holidays.

CHAPTER 12: GRIEVANCE PROCEDURES

SECTION 1201 PURPOSE OF CHAPTER

- A. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations.
- B. To afford employees individually or through qualified employee organizations a systemic means of obtaining further consideration of problems after every other reasonable effort has failed to resolve them through discussions.
- C. To provide that grievance shall be heard and settled as informally as possible.

SECTION 1202 MATTERS SUBJECT TO GRIEVANCE PROCEDURES

Any City employee shall have the right to present a grievance regarding wages, salaries, hours, and working conditions for which appeal is not provided or is not prohibited under the provisions of Chapter 12.

SECTION 1203 INFORMAL GRIEVANCE PROCEDURES

An employee should first attempt to resolve a grievance or complaint through discussion with this immediate supervisor without delay. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, s/he shall have the right to discuss it with his/her supervisor's immediate superior, if any. Every effort should be made to find an acceptable solution by informal means at the most immediate level of

supervision. If the employee is not in agreement with the decision reached through such discussion, s/he shall then have the right to file a formal grievance in writing within ten (10) calendar days after receiving the informal decision of his/her superior or superiors. An informal grievance shall not be taken above the Department Head.

SECTION 1204 FORMAL GRIEVANCE PROCEDURE

Formal grievance procedure after exhaustion of the informal grievance procedure shall proceed as follows:

- A. **DEPARTMENT REVIEW** The grievance shall be presented in writing to the employee's Department Head who may discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The Department Head shall render his/her decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the grievance. If the employee does not agree with the decision reached or if no answer has been received within fifteen (15) calendar days, s/he may present the grievance in writing to the City Manager. Failure of the employee to take further action within ten (10) calendar days if no decision is rendered, will constitute withdrawal of the grievance.
- B. **CITY MANAGER REVIEW** Upon receiving the grievance, the City Manager shall discuss the grievance with the employee, his/her representative, if any, and with all other appropriate persons. The City Manager shall render a decision in writing to the employee within twenty (20) calendar days after receiving the grievance. The decision of the City Manager shall be final. However, in cases where disciplinary action results in termination of the employee, this action is subject to ratification by the City Council.

SECTION 1205 CONDUCT OF GRIEVANCE PROCEDURES

- A. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- B. The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her grievance at any level of review.
- C. Employees shall be free from reprisal for using the grievance procedure.

CHAPTER 13: EMPLOYER-EMPLOYEE RELATIONS

SECTION 1301 PURPOSE OF CHAPTER

It is also the purpose of the City to promote the improvement of personnel management and employer-employee relations by providing a uniform basis for recognizing the rights of public employees to joint organizations in their employment relationships with the City. Nothing contained in this Chapter shall be deemed to supersede the provisions of existing state law and the Ordinance and Rules and Regulations of the City which establish and regulate a merit personnel system or which provide for other methods of administering employer-employee relationships through the establishment of uniform and orderly methods of communication between employees and the City.

SECTION 1302 DEFINITIONS

- A. **CITY COUNCIL** shall mean the City Council of the City of Waterford.
- B. **CITY MANAGER** shall mean the City Manager for the City of Waterford.
- C. **CONFERENCE REPRESENTATIVE** shall mean the City Manager and his/her representative and/or the duly authorized representatives of an employee organization that has been granted formal recognition by the City Council as representing the employees of a representational unit.
- D. **CONSULT OR CONSULTATION IN GOOD FAITH** shall mean to communicate verbally or in writing for the purpose of presenting and obtaining views or advising of intended actions.
- E. **EMPLOYEE ORGANIZATION** shall mean any organization which included employees of the City and which has some of its primary purposes representing such employees in their employment relations with the City.
- F. **MEDIATION** shall mean efforts by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between representatives of the City and the recognized employee organization or recognized employee organizations, through interpretation suggestions, and advice.
- G. **MEET AND CONFER IN GOOD FAITH** shall mean that the City by and through its City Manager and his/her representatives and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer in order to freely exchange information, opinions and proposals and to reach agreement on matters within the scope of representation.
- H. **MISCELLANEOUS EMPLOYEES** shall mean all regular City employees who are referred to as “miscellaneous members” by the

California Public Employee's Retirement System. (Section 20018 Government Code).

- I. **RECOGNIZED EMPLOYEE ORGANIZATION** shall mean an employee organization which has been acknowledged by the City Council as an employee organization that represents employees of the City. The rights of City recognition are either:
 - 1. **FORMAL RECOGNITION** which is the right to consultation in good faith as the conference representative in a representational unit; or
 - 2. **INFORMATION RECOGNITION** which is the right to consultation in good faith by all recognized employee organization.
- J. **REPRESENTATIONAL UNIT** shall mean a unit as established by Sec. 1307, paragraph (B) of this Chapter.
- K. **SWORN POLICE OFFICERS**, if the City has a Police Department, shall mean regular employees of the Waterford Police Department who are referred to as "Policeman" by the California Public Employee's Retirement System.

SECTION 1303 DESIGNATION AND RECOGNITION OF CONFERENCE REPRESENTATIVES

- A. The City Manager and his/her representatives shall be the Conference Representatives for the City for the purpose of meeting and conferring in good faith pursuant to Government Code Sections 3500-3511 inclusive.
- B. There shall be not more than two representational units of employees for purposes of extending formal recognition to and meeting and conferring in good faith with the conference representatives of the City. If City employees request more than one representational unit, said additional unit shall be established as follows: Sworn Police Officers, if the City has a Police Department, and miscellaneous employees.
- C. Every regular authorized position identified in the Employee Compensation Plan of the City as it now exists or as it may hereafter be amended shall be included in an appropriate representational unit set forth in Sec. 1307 B. above, provided, however, that positions which are in a close and confidential relationship with elected or appointed officials, and management positions, shall be restricted from representing any employee organization which represents other employees of the City on matters within the scope of representation. A list of positions so restricted is provided in Sec. 1311.

Employee organization shall meet at mutually agreeable times and places with the City Manager or his/her representatives for the purpose of conferring in good faith regarding wages, hours, and other terms and conditions of employment. The parties, in conferring shall consider, but are not limited to, consideration of prevailing rates and standards in private business and other public employment, cost of living, internal salary relationships in the City, and the financial conditions of the City.

- D. All memorandum of understanding regarding cost items shall be submitted to the City Council by April 18 of each year for consideration at the annual budget hearings, or as especially requested by the City Council at other times.
- E. The City Council shall cause written notice to be provided to each recognized employee organization concerning matters described in Government Code Section 3504.5.

SECTION 1304 CONFERENCE PROCEDURE

- A. Within the first sixty days of each calendar year, or if there is an existing multiyear Memorandum of Understanding, the last year of the Memorandum of Understanding, each formally recognized employee organization and City Manager, or his/her representative, shall mutually exchange written proposals on salaries, fringe benefits, and other terms and conditions of employment to affect each representational unit during the coming fiscal year. Following such exchange, representatives of each formally recognized employee organization shall meet at mutually agreeable times and places with the City Manager or his/her representatives for the purpose of conferring in good faith regarding wages, hours, and other terms and conditions of employment, the parties, in conferring shall consider, but are not limited to, consideration of prevailing rates and standards in private business and other public employment, cost of living, internal salary relationships in the City, and the financial conditions of the City.
- B. If agreement is reached by the City Manager and/or his/her representatives and the employee organization, then they shall jointly prepare a written memorandum of understanding, which shall not be binding. Both sides shall sign it, and present it to the City Council. The City Council may, with or without modifications, approve the memorandum of understanding and enact such ordinance or resolution necessary to implement said memorandum of understanding.
- C. If, after a reasonable period of time, representatives of the City and the formally recognized employee organization fail to reach agreement, the City and the formally recognized employee organization together may

agree upon the appointment of a mediator mutually agreeable to the parties. Cost of mediation shall be divided one-half (1/2) to the City and one-half (1/2) to the formally recognized employee organization.

- D. During the last year of an existing Memorandum of Understanding, cost items shall be submitted to the City Council by April 18, of each year for consideration at the annual budget hearings, or as especially requested by the City Council at other times.
- E. The City Council shall cause written notice to be provided to each recognized employee organization concerning matters described in Government Code Section 3504.5.

SECTION 1305 SCOPE OF REPRESENTATION

Conference representatives may meet and confer in good faith, and execute a written memorandum of understanding on any matter of employer-employee relations, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law of executive order.

SECTION 1306 REGISTRATION OF EMPLOYEE ORGANIZATION

Any employee organization that wishes to be registered as a representative of City employees in matters concerning conditions and terms of employment shall file the following information with the City Manager before being registered.

- A. Name and mailing address of the organization, its local officers and / or representatives.
- B. The names and mailing addresses of each area, state, national association and other organizations with which it is directly affiliated.
- C. Certified and complete copies of the Articles of Incorporation or Constitution, the By-Laws and any other written rules or regulations governing the organizations along with all amendments thereto.
- D. A designation of those persons, not exceeding two in number, and their addresses, to whom notices, sent by regular United States mail will be deemed sufficient to the organization for any purpose.
- E. A statement that the organization has no restrictions on membership based on race, color, creed, gender, religion, marital status, registered domestic partner status, age, national origin or ancestry, physical or mental disability, medical condition including genetic characteristics, sexual orientation.
- F. Authorized signature cards of a membership list of City employees by

department and classification that are members. Any list of members of an organization, on file with the City Manager, is confidential and shall not be open to public inspection.

- G.** Requests for continued registration shall be submitted annually by January 15 of each year.
- H.** A written statement acknowledging review of this resolution and a statement agreeing to abide by the provisions of this resolution establishing employer employee relations policy.
- I.** All statements and City documents shall be signed and certified by the President and another officer of the organization. Until all data is received by the City, registration shall not be granted to the particular employee organization. Such registration or non-registration shall not deprive an employee of the right to represent himself/herself, or be represented individually in his/her employment relations with the City.
- J.** After receiving registration, an employee organization is eligible to petition for certification as the exclusive representative of an appropriate unit. A registered employee organization shall not represent those persons in a representation unit which already has an organization certified as its exclusive representative, except as provided for in Secs. 1308 and 1309.

SECTION 1307 CERTIFICATION OF A REGISTERED ORGANIZATION

- A.** After completing the prescribed procedures for registration of an employee organization the organization is eligible to petition for certification of exclusive representation to an appropriate representation unit.
- B.** The registered employee organization shall file with the City Manager a “Showing of Interest” or employee authorization cards containing the dated signatures of 30% of the unit. The “Showing of Interest” shall clearly state that the employees are authorizing the registered employee organization to represent them in their employment relations within the City, and whose signature was obtained not more than ninety (90) days earlier than the date said document is presented to the City.
- C.** Upon receipt of the petition and verification of 30% of the employees of the unit from the registered employee organization, the City Manager shall notify all other registered employee organizations of the filing of petition and shall post a notice of the action in the work areas where members of the proposed representation unit are employed.
- D.** Other registered employed employee organizations who wish to file a petition for the same representation unit shall do so within fifteen (15)

working days to be included on the election ballot for the representation unit in question. These organizations shall provide a "Showing of Interest" of 15% of the employees in the representation unit before being included on the ballot. The City Manager shall recommend to the City Council that an election for the certification of an exclusive representative for the representation unit shall be held. This recommendation shall be made not less than fifteen (15) working days or its equivalent, nor more than twenty (20) working days or its equivalent after receipt of the first petition for that unit has been determined to be appropriate.

- E. Upon recommendation of the City Manager the City Council shall set the date for the election as soon as appropriate arrangements can be made.

SECTION 1308 CERTIFICATION ELECTIONS

- A. Within an appropriate representation unit, the member of that unit shall choose among the registered employee organizations seeking the exclusive representation of the unit by secret ballot election. The City Manager shall arrange for the State Department of Conciliation to conduct the election in accordance with this policy. If the State Department of Conciliation is unavailable, the Secretary to the City Council shall conduct the election.
- B. All ballots in a certification or decertification election for a representation unit shall contain a choice among all organizations that have petitioned for certification for the particular unit in question, as provided in this policy, and a choice of voting for "no organization".
- C. For certification or decertification, an organization must receive over 50% of the votes cast. If none of the choices receive over 50% of the votes cast, no certification is available. If the ballot contains three or more choices, and if no choice receives over 50%, a "run off" election of the two choices receiving elections shall be held as soon thereafter as appropriate arrangements can be made.
- D. Employees eligible for voting in the election for certification or decertification are those persons on a pay status during the pay period which is fifteen (15) days prior to the election in permanent full time or full time probationary employment. Extra help, seasonal or intermittent employees and those persons on an independent contract basis shall not be eligible to vote.
- E. Elections for certification or decertification are to be held not more than once each calendar year for each unit. All expenses in administration of the election itself shall be paid by the City.

- F. The election shall be conducted in accordance with established rules and procedures of State of Conciliation Service or the Clerk of the City.
- G. The election results shall be submitted to the City Council for appropriate action as soon as possible, but not to exceed thirty (30) days from date of receipt of the final results.

SECTION 1309 DECERTIFICATION OF A CERTIFIED ORGANIZATION

- A. A registered employee organization may challenge a certified registered employee organization for the exclusive representation of its unit.
- B. A registered employee organization may challenge the certified employee organization by filing a petition requesting certification for exclusive representation of the unit in question. The organization challenging shall provide valid signatures or a “Showing of Interest” of at least 30% of the employees in that unit. The signatures shall not be over ninety (90) days old at the time the petition is presented. The “Showing of Interest” shall clearly state that the employees are authorizing the registered employee organizations to represent them in their employment relations with the City.
- C. An election as prescribed in Sec. 1308 of this policy shall be held.
- D. Such challenges for the certification of the representation units may only occur after the existing certified employee organization of the unit has been certified for not less than one calendar year and shall only be accepted in October of the fiscal year of the expiration of the existing Memorandum of Understanding then having been in effect less than three (3) years.

SECTION 1310 NO DISCRIMINATION

- A. There shall be no discrimination by the City or by any employee organization in employment conditions or treatment of employees on the basis of race, color, creed, gender, religion, marital status, registered domestic partner status, age, national origin or ancestry, physical or mental disability, medical condition including genetic characteristics, sexual orientation.

SECTION 1311 CLASSIFICATION RESTRICTED FROM REPRESENTING RECOGNIZED EMPLOYEE ORGANIZATIONS

The City Manager, all Department Heads, elected officials and City employees who are appointed to supervisory, management and/or confidential classifications shall be restricted from representing a recognized employee organization to avoid potential conflicts of interest.

SECTION 1312 SAVING CLAUSE

If, at any time, any part of this Chapter should be found to be unconstitutional, or contrary to applicable law as it now exists or as it may hereafter be amended, the remainder of the Chapter will not be affected thereby.

CHAPTER 14: MISCELLANEOUS

SECTION 1401 REPORTS OF CHANGE OF STATUS

All actions involving employment and change in status of employment shall be reported by the Department Head to the City Manager on the City Personnel Action forms. Copies of such reports shall be furnished to the employee involved.

SECTION 1402 GRATUITIES

No officer or employee of the City shall solicit or accept any gratuity for services rendered.

SECTION 1403 OUTSIDE EMPLOYMENT

Any regular employee desiring to engage in outside employment shall first obtain non-City conflict job approval from his/her Department Head. The employee shall submit a statement to his/her Department Head, naming the prospective employer, his/her address and telephone number, and outlining the proposed duties and the hours of work. Approval may be denied if, in the opinion of the Department Head, such outside employment is incompatible with the proper discharge of the employee's official duties. All such approvals shall be resubmitted prior to January 10, each year to maintain valid, continuous authorization. Authorization for outside employment is automatically terminated whenever the outside employer and/or nature of outside employment changes from that specified on the request for outside employment approval. When such a change occurs, employees shall apply for a new approval for outside employment as provided herein.

SECTION 1404 ANNUAL PAY ALLOWANCES

Uniform & Safety Equipment Allowance: Each permanent Public Works Department employee shall be eligible to receive an annual uniform allowance as follows:

- (a) Uniform Allowance: Each Public Works Department employee shall be eligible to receive new uniforms annually purchased by the City of Waterford, and reported to CalPERS in an amount not to exceed \$250.
- (b) Safety Equipment Allowance
Each employee in the Public Works Department shall be eligible to receive \$150 annually for required safety footwear as a safety equipment allowance. Safety footwear is required. The above \$150 is to be paid on the first pay day in September each year.

The above \$150.00 is to be paid on the first pay day in September of each year..

Cellular Phone Allowance: For eligible employees with six (6) months of employment service who regularly perform work outside of the office, employees will be eligible to receive two hundred dollars (\$200) per year for each employee (\$100 paid semi-annually) who carries a personal cellular telephone that is used for City business. The employee's supervisor or manager must concur that the cellular telephone was used for City business during the semi-annual period.

The cell phone is the sole and exclusive property of the Employee. The City does not assume any responsibility for the cell phones or provide any compensation for misuse, loss or replacement of the cell phone. If the City requests records to prove that the cell phone was used for City business, it will not question nor review any personal calls included in those records, but the City will limit its review to those calls the employee points out as work related.

SECTION 1405 POLITICAL ACTIVITY

The political activity of City employees shall be governed by the appropriate provisions of the Government Code.

SECTION 1406 CONFLICT OF INTEREST

No employee shall engage in any business transaction or shall have a financial interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties in the public interest or would tend to impair his/her independence of judgment or action in the performance of his/her official duties.

CHAPTER 15: ADDITIONAL POLICIES

SECTION 1501 AFFIRMATIVE ACTION POLICY

It is the firm policy of the City to adhere to a positive and definite policy of affirmative action. This policy expressly states that it is the intention of the City when hiring new employees or promoting existing employees to new positions to seek out and offer every opportunity for assistance to the candidate in advance of hiring that will permit the candidate maximum chances of achieving new hire and/or promotion. This policy means that the City will attempt to provide training programs for pending positions, seek to eliminate any barriers that discriminate among sex or ethnic origin, eliminate other barriers so as to enhance the ability to compete for employment opportunities.

Affirmative action does not mean compliance with a quota system to meet population ratios in the community with ratios of the employees. While this is a goal that is desirable, it is not limiting. The City must reach out to prospective candidates and offer every opportunity for them to compete for jobs. This will include posting and publishing job announcements in easily read locations, establishing examination procedures that are measured and validated against bona fide job qualification standards and whenever

possible to utilize professional examination services with other agencies to reduce City costs and maximum exposure of job opportunity.

All employees are urged to consider ways in which employment with the City can be opened up to all potential candidates in a positive manner. Such ideas should be communicated in writing or verbally to the City Manager for consideration. Every such idea that is submitted will be responded to in writing, if desired.

SECTION 1502 EQUAL EMPLOYMENT OPPORTUNITY

The City of Waterford is an equal opportunity employer and makes employment decisions on the basis of merit. We want to have the best available persons in every job. City policy prohibits unlawful discrimination based on race, color, creed, gender, religion, marital status, registered domestic partner status, age, national origin or ancestry, physical or mental disability, medical condition including genetic characteristics, sexual orientation. It also prohibits unlawful discrimination based on the perception that anyone has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics. All such discrimination is unlawful.

The City of Waterford is committed to compliance with all applicable laws providing equal employment opportunities. This commitment applies to all persons involved in City operations and prohibits unlawful discrimination by any employee of the City , including supervisors and coworkers.

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

Any applicant or employee who requires an accommodation in order to perform the essential functions of the job should contact a City representative with day-to-day personnel responsibilities and request such an accommodation. The individual with the disability should specify what accommodation he or she needs to perform the job. The City then will conduct an investigation to identify the barriers that interfere with the equal opportunity of the applicant or employee to perform his or her job. The City will identify possible accommodations, if any, that will help eliminate the limitation. If the accommodation is reasonable and will not impose an undue hardship, the City will make the accommodation.

If you believe you have been subjected to any form of unlawful discrimination, submit a written complaint to your supervisor or the individual with day-to-day personnel responsibilities. Your complaint should be specific and should include the names of the individuals involved and the names of any witnesses. If you need assistance with your complaint, or if you prefer to make a complaint in person, contact the City Manager. The City will immediately undertake an effective, thorough, and objective investigation and attempt to resolve the situation.

If the City determines that unlawful discrimination has occurred, effective remedial action will be taken commensurate with the severity of the offense. Appropriate action

also will be taken to deter any future discrimination. The City will not retaliate against you for filing a complaint and will not knowingly permit retaliation by management employees or your coworkers.

SECTION 1503 ANTI-HARASSMENT POLICY

The City has adopted a clear policy of discouraging any and all actions that may be interpreted to be sexual harassment. By reference, the City has adopted the guidelines established by the State of California Department Fair Employment and Housing with respect to avoidance of sexual harassment and the processing of grievances arising from allegations of sexual harassment. While those guidelines govern, and the most recently amended rules may not be available for incorporation within these rules, it is intended to follow them to the maximum extent possible. To that end, copies of the guidelines will be posted on employee bulletin boards and will be made available upon request by an employee.

Sexual harassment is prohibited at the workplace. Sexual harassment involves: (a) unwelcome sexual advances; (b) request for sexual favors; or (c) other verbal or physical conduct of a sexual nature when (i) submission to sexual advances or behavior is either made explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or (iii) such conduct has a purpose or effect of: (A) unreasonably interfering with an individual's work performance; or (B) creating an intimidating, hostile or offensive work environment. Same sex harassment is actionable and prohibited at the workplace. Such unlawful harassment is that harassment which is so objectively offensive as to alter the conditions of the victim's employment.

Persons experiencing action which is believed to constitute sexual harassment are to completely describe in writing the time, date and description of circumstances leading up to the event. One copy of the description should be kept by the individual and the other copy filed within 48 hours of the event with the City Manager. The latter position will respond in writing within 48 hours as to how the grievance will be processed and what opportunity exists for the individual to receive a fair hearing and review of the event.

If the individual must proceed to file the complaint of alleged sexual harassment with a third party of the individual's choice, such third party may be legal counsel retained by the individual, the Stanislaus County District Attorney; the Stanislaus County Women's Center, or other responsible public agency competent to deal with representation of individuals affected by sexual harassment during employment. The City Manager, upon request of a declaration of alleged harassment as described in these rules, shall immediately commence a complete investigation into the incident. Assistance from the Police Chief, if there is a Police Department, or other law enforcement official empowered to conduct internal affairs investigations may be obtained. The results of such investigation into the incident shall be made available to the individual filing the declaration. Following that disclosure, the City Manager shall determine, within 48 hours, what corrective action, if any, is required and should be implemented. If the individual filing the declarations deems such corrective action to be inadequate to deal

with the incident, the individual may proceed to file a formal grievance in accordance with the provisions of these rules.

It is the express policy of the City that all persons who become aware, in any fashion, of conduct which is believed to constitute sexual harassment shall immediately report such conduct to the City Manager unless the perpetrator of the conduct is the City Manager in which case, the employee should report the conduct to either their Department Head or if they are a Department Head, to the City Council.

The City policy expressly includes the following: (a) sexual harassment in any form will not be tolerated; (b) the City will investigate the alleged violation; and (c) the City will take prompt, appropriate action as a result of its investigation and offenders will be subject to disciplinary action up to and including discharge. No employee or supervisor will be reprimanded for reports of incidents experienced or witnessed of conduct believed to be sexual harassment. All employees and supervisors are required to report incidents experienced or witnessed of conduct believed to be sexual harassment. The City's investigation will be prompt and thorough. The City will attempt to obtain the alleged victim's written consent to investigate and disclose the allegation only to those who need to know. If the alleged victim does not provide permission, the City will conduct only such investigation as will ensure maximum confidentiality to both the alleged victim and the alleged harasser. In any event, City will issue generalized warning to all staff regarding the seriousness of sexual harassment and conduct training for all employees. An appropriate investigating team will be chosen in order to ensure neutrality, in some instances, utilizing sources of an outsider. The City will take appropriate corrective action reasonably calculated to end the harassment.

The City of Waterford is committed to providing a work environment free of harassment, disrespectful or other unprofessional conduct. City policy prohibits conduct that is disrespectful, unprofessional as well as harassment based on pregnancy, childbirth or related medical conditions, race, religious creed, color, gender, national origin or ancestry, physical or mental disability, medical condition, marital status, registered domestic partner status, age, sexual orientation. The City's anti-harassment policy applies to all persons involved in the operation of the City and prohibits harassment, disrespectful or unprofessional conduct by any employee of the City, including supervisors and managers, as well as vendors, customers, independent contractors and any other persons. It also prohibits unlawful harassment based on the perception that anyone has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics.

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

- Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments;
- Visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings or gestures;

- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work because of sex, race or any other protected basis;
- Threats and demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss and offers of employment benefits in return for sexual favors;
- Retaliation for reporting or threatening to report harassment;-and
- Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law, or by city policy.

If you believe that you have been the subject of harassment or other prohibited conduct, bring your complaint to your own or any other City supervisor, Department Manager, or the Personnel Officer of the City as soon as possible after the incident. It is the express policy of the City that all persons who become aware, in any fashion, of conduct which is believed to constitute sexual harassment shall immediately report such conduct to the City Manager unless the perpetrator of the conduct is the City Manager in which case, the employee should report the conduct to either their Department Head or if they are a Department Head, to the City Council. You will be asked to provide details of the incident or incidents, names of individuals involved and names of any witnesses. It would be best to communicate your complaint in writing, but this is not mandatory. Supervisors will refer all complaints involving harassment or other prohibited conduct to the Personnel Officer or investigative officer of the City. The City will immediately undertake an effective, thorough and objective investigation of the allegations.

If the City determines that harassment or other prohibited conduct has occurred, effective remedial action will be taken in accordance with the circumstances involved. Any employee determined by the City to be responsible for harassment or other prohibited conduct will be subject to appropriate disciplinary action, up to, and including termination. A City representative will advise all parties concerned of the results of the investigation. The City will not retaliate against you for filing a complaint and will not tolerate or permit retaliation by management, employees or co-workers.

SECTION 1504 TRAVEL AND MEETING ATTENDANCE

It is the responsibility of each official and staff to accomplish the City's travel as economically as feasible. The City Manager shall administer the provisions of this travel policy and shall have the authority to reduce or increase the allocation for travel whenever, in his/her, judgment, the travel reimbursement should be other than that provided by this policy. The City Manager shall first determine if these amounts are valid and budgeted items. If s/he rejects them, the final decision shall be made by the City Council.

City officials and staff attending City business related meetings, conferences, seminars, etc., by automobile, shall be reimbursed for mileage if a private vehicle is used. The City shall reimburse for gasoline expenses if a City vehicle is used. Proper documentation is required in the form of a receipt of purchase. Officials and staff should make every effort to "car pool" when more than one person is attending the same conference. Mileage

reimbursement for privately owned automobiles shall be at the current approved IRS rate in effect for the year.

The City will pay for related conference meetings, or seminar expenditures, including registration, lodging, meals, tips (up to 15% only), bus/taxi fares, parking fees and toll bridges,. Ineligible expenses, or non-conference related costs, include the following: in-room movies, laundry services (for conferences of less than a three-day duration), entertainment outside of those activities offered as a part of the conference registration package, personal services, such as beauty parlor, haircuts, etc.

The cost of meals and miscellaneous expenses should normally not exceed \$60.00 per day. This amount is established on an approximate distribution as follows: breakfast - \$10.00, lunch – \$10.00, dinner - \$20.00 and other - \$10.00. The City will not pay for the purchase of alcoholic beverages.

After returning from a conference, meeting or seminar, the attendee is to complete a travel expense form, available from the City office. The signed expense form with all receipts attached is to be submitted to the City office no later than two (2) weeks after returning. Completed forms are to be signed by the individual. For ineligible expenses: a) if a City credit card or funds from the City are used directly, the item is to be designated ineligible on the expense form and either added to any amount due the City or deducted from any amount due the requestee; b) a City credit card or funds from the City shall not be used.

SECTION 1505 PERSONAL VEHICLE USE POLICY

Each RMA member City employee who in the course and scope of employment regularly uses a vehicle not otherwise owned, rented or leased by the member City shall have in effect a public liability and property damage commercial insurance policy providing a minimum of \$100,000/\$300,000 bodily injury coverage and \$50,000 property damage and require proof of such at least five (5) days before allowing use of such City owned, rented or leased vehicle; and

Each RMA member City employee, who in the course and scope of employment, incidentally uses a vehicle not otherwise owned, rented or leased by the member City shall have in effect a public liability and property damage commercial insurance policy providing a minimum of \$15,000/\$30,000 bodily injury coverage and \$10,000 property damage coverage and require proof of such at least five (5) days before allowing use of such City owned, rented or leased vehicle.

SECTION 1506 DRUG-FREE WORKPLACE

The Drug-Free Workplace Act requires the City to certify that it is a “drug-free workplace” in order to maintain eligibility for federal grants and contracts. Although the federal legislation specially applies to those employees who are paid from a federally funded grant, or work with equipment purchased with federal funds, the City requires all employees to comply with these federal regulations as well as the City’s Rules of Conduct. These policies are specifically applicable to all City employees, including full-

time, part-time and contract employees, during the course of their employment. The manufacture, distribution, possession or use of a controlled substance while employed by the City is prohibited. The employee who voluntarily admits to or is found to be in violation by a judicial process of the state or by the City will be suspended from employment and/or subject to other disciplinary action or be terminated.

SECTION 1507 ALCOHOL AND DRUG ABUSE POLICY

The purpose of this administrative guide is to set forth the procedures for the implementation of controlled substances and alcohol use and testing of employees of the city. The policy/program administrator is designed to monitor, facilitate, and answer questions pertaining to these procedures. The City Manager or his/her designee is the program administrator.

This policy applies to all employees of the City. This policy applies to alcohol and to all substances, drugs, or medication, legal or illegal, which could impair an employee's ability physically and/or mentally to effectively and safely perform the functions and duties of the employee's position.

- A. APPLICANT TESTING** All applicants shall be required to submit to and pass a urine drug test as a condition of employment. Job applicants who are denied employment because of a positive test may reapply for employment after six (6) months.

- B. AN EMPLOYEE MUST:**
 - 1. Not report to work or be subject to duty while his/her physical and/or mental ability to perform job duties is impaired due to on or off duty alcohol or drug use;
 - 2. Not possess impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while subject to duty, on breaks, or at any time while at the assigned worksite. An exception exists for those employees whose duties require possession of drugs and/or possession of alcohol in the course and scope of job duties.
 - 3. Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty;
 - 4. Submit immediately to a medical examination when ordered, in writing, by a Department Head or his/her designee when probable cause exists that the employee is either physically and/or mentally unable to perform the duties of his/her position.
 - 5. Notify his/her supervisor, before beginning work, prior to taking any medically prescribed medications or drugs at work which the employee has knowledge or has been medically advised that the prescribed medication could interfere with the safe and effective performance of duties or operation of City equipment; and
 - 6. Provide within two (2) working days of request bona fide verification of a current valid prescription for any potentially

impairing drug or medication identified when a drug screening/test is positive. Extensions of time beyond the two (2) working days may be granted upon the showing of good cause. The prescription must be in the employee's name;

7. Must abide by the regulations of the Federal Drug-Free Workplace Act. Thus, such employees who are convicted after March 18, 1989 of any criminal drug statute for a violation occurring in the workplace must notify the Director of Personnel no later than five (5) days after the conviction. Once the City is notified of the conviction, the City must then notify the appropriate Federal agency of the conviction. With respect to any employee so convicted, the City will take appropriate personnel action up to and including termination. As a condition of continued employment, the City may require the convicted employee to satisfactorily participate in an approved drug abuse rehabilitation program.

C. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

1. Department Heads or their designees are responsible for reasonable enforcement of this policy.
2. Department Heads or the designees may order in writing an employee to submit to a medical examination if they have probable cause that an employee is intoxicated or impaired by drugs or alcohol while on the job or receiving compensation for on call duty and thereby subject to being called, and is not physically and/or mentally able to perform the duties of the position. The medical examination may include sampling of urine for purposes of testing for alcohol or drugs.

Probable cause is such a state of facts as would lead a supervisor of ordinary care and prudence to believe, or to entertain an honest and strong suspicion that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee is not able to physically and/or mentally able to perform the duties of the position in a proper manner.

3. Any Department Head or designee ordering an employee to undergo a medical examination shall document in writing the facts constituting probable cause that the employee in question is intoxicated or impaired by alcohol or drugs, prior to the request for the medical examination.
4. Any Department Head or designee encountering an employee who refuses an order to submit to a medical examination shall remind the employee of the requirements and disciplinary consequences of this policy. Where there is probable cause that the employee is then impaired by alcohol or drugs, the Department Head or designee should detain the employee for a reasonable time until the

employee can be safely transported home, or removed to another appropriate location.

5. Any Department Head or designee shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent by the employee, unless such search is authorized by City policy.
6. Department Heads or designees shall notify the City Manager when there is probable cause to believe that an employee may have illegal drugs or alcohol in his or her possession or in an area not jointly or fully controlled by the City. If the Department Head or designee concurs that there is probable cause of illegal drug possession, the Department Head shall notify the appropriate parties, including the City Manager and the City Attorney.
7. The Department Head or designee shall give due consideration to the employee's completion of any generally recognized treatment plan when determining whether disciplinary action shall be taken and/or the appropriate level of discipline.

D. MEDICAL EXAMINATION AND PROCEDURE The medical examination may test for any substance that could physically and/or mentally impair an employee's ability to effectively and safely perform the functions of his/her job, including but not limited to prescription medications, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana, or other cannabinoids, and other illegal substances defined by state and federal law.

E. RESULTS OF MEDICAL EXAMINATION

1. Alcohol/Drug Tests
 - (a) A positive result from a drug and/or alcohol test obtained during a medical exam may result in disciplinary action, up to and including discharge.
 - (b) If a drug screen is positive, the employee must provide within two (2) working days of the request, bona fide verification of a valid current prescription for the drug identified in the drug screen. Extension of the item beyond the two (2) working days may be granted upon the showing of good cause. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or the employee has not previously notified his/her supervisor, the employee will be subject to disciplinary action up to, and including, discharge.
 - (c) If an alcohol or drug test is administered during the medical

exam and is positive for alcohol or drugs, the City shall conduct an investigation to gather all relevant facts.

- (d) Testing and reporting of test results will follow the guidelines.

F. COLLECTION OF BREATH AND URINE SPECIMENS AND LABORATORY ANALYSIS

1. Breath alcohol testing will be conducted either on site or at a prearranged location by a qualified Breath Alcohol Technician according to CFR 49 part 40 procedures. Refusal to complete and sign the testing form or refusal to provide breath will be considered a positive test, and the employee will be removed from a safety-sensitive function until resolved.
 - (a) The City employees will provide the testing samples at the location designated by the City Council. Currently that location is the Occupational Health Center, Oak Valley Hospital, 1390 West H Street, Suite A, Oakdale, CA 95361.
2. Specimen Collection: specimen collection will be conducted in accordance with applicable state and federal law. The collection of the specimen provided by each driver, and those procedures will strictly follow federal chain-of-custody guidelines. Moreover, every reasonable effort will be made to maintain the dignity of each employee submitting a specimen for analysis in accordance with these procedures.
 - (a) The collection site for urine specimens will also be at the location designated by the City Council. Currently that location is the Occupational Health Center, Oak Valley Hospital, 1390 West H Street, Suite A, Oakdale, CA 95361.
3. Laboratory Analysis: As required by FHWA and FTA regulations only a laboratory certified by Department of Health and Human Services to perform urinalysis for the detection of the presence of controlled substances will be retained by the City of Waterford. The laboratory will be required to maintain strict compliance with federally approved chain-of-custody procedures, quality control, maintenance and scientific analytical methodologies.

G. APPEAL OF TEST RESULTS:

1. Alcohol and drug abuse may not only threaten the safety and productivity of all employees at the City, but causes serious individual health consequences to those who use them. Any confirmed actions prohibited by this policy, while performing a safety-sensitive function or refusing to take a controlled substance or breath test, shall be grounds for termination. An employee who

has a confirmed positive test result by actions prohibited by this policy will be terminated from employment with the City.

2. An employee testing positive for alcohol or drug use is subject to termination. Refusal to submit to testing will also be considered as positive.

Refusal may be defined as not providing a breath sample or urine as directed, neglecting to sign appropriate control forms, using alcohol within eight (8) hours of an accident or engaging in conduct clearly obstructing the testing process. Any employee testing positive for the presence of a controlled substance will be contacted by the City of Waterford Occupational Health Representative (OHR). The driver will be allowed to explain and present medical documentation to explain any permissible use of a drug. All such discussion between the driver and the Occupational Health Representative will be confidential. The City will not be a party to, or have access to matters discussed between the employee and the Occupational Health Representative. If medically supportable reasons exist to explain the positive result, the Occupational Health Representative will report the test results to the City as negative.

Within 72 hours after the driver has been notified of a positive test result for drugs, the employee may request a retest of the split sample. This signed request will be provided to the Occupational Health Representative in writing, who will then initiate the new laboratory, the test will be voided by the Occupational Health Representative and the City Alcohol and Drug Program Administrator will be notified. A retest may be initiated as appropriate.

3. The cost of initial interview, any treatment and/or rehabilitation program prescribed by the employee's health care provider shall be borne by the employee.

H. RECORDS Under no circumstances, unless required or authorized by law, will alcohol and drug testing information or results for any employee or applicant be released without written request from the applicable employee.

Each employer shall make available copies of all results for employer alcohol and/or controlled substance tests conducted under these regulations and any other information pertaining to the employers alcohol/controlled substance program when requested by an agency or official.

An employee may disclose information required to be maintained under these regulations, pertaining to an employee, and initiated by or on behalf of the individual in a lawsuit, grievance or other proceeding.

To ensure confidentiality in the workplace, all required records will be placed in a locked file at the City of Waterford, City Hall. The only persons with authorization to these records will be: City Manager and his/her designee

Employees are entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substance tests. This is without cost to the employee.

Collection of breath and urine samples must always be documented and sealed with a tamper-proof sealing system in the presence of the employee, to ensure that all tests can be correctly traced to the employee.

Drug test analysis from the DHHS approved laboratory will be forwarded directly to the Occupational Health Representative assigned by the Alcohol and Drug Program Administrator.

Alcohol test results will be forwarded by the Occupational Health Representative to the Alcohol and Drug Program Administrator for confidential record keeping. The Occupational Health Representative is required to sign all positive notifications; all others may have his/her rubber stamp signature.

The employer shall notify the employee of the results of all positive tests. The Occupational Health Representative for the City is to make contact with the employee on all positive tests. If the Occupational Health Representative is unable to make contact with the employee, the City's representative will make a reasonable effort to contact the employee. The employer will then notify the Occupational Health Representative that the employee was contacted and to contact the Occupational Health Representative within twenty-four (24) hours.

- I. **POST ACCIDENT TESTING** Currently, federal regulations place the burden of compliance with post-accident alcohol and drug testing regulations on the employer. Therefore, all employees are required to provide a breath test and a urine specimen to be tested for the use of controlled substances "as soon as practical" after an accident. Employers have up to thirty-two (32) hours to have the drug test specimen collected. The alcohol test should be performed within two (2) hours but can be performed up to eight (8) hours after the accident provided the employer documents the reason(s) why the test was delayed beyond the two (2) hour

limit. The employee shall remain readily available for such testing or may be deemed by the Alcohol and Drug Program Administrator to have refused to submit to testing. No alcohol may be consumed for eight (8) hours after the accident or until a test is conducted. If the employee is seriously injured and cannot provide a specimen at the time of the accident, s/he shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances in his/her system. This is not to be interpreted that necessary medical attention be delayed to any persons. (An accident is defined by 390.5 of the Federal Motor Carrier Regulations as an accident which results in the death of a human being or bodily injury to a person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or which has had one of the vehicles receive disabling damage which requires it to be towed from the scene of the accident.)

- J. RANDOM TESTING:** The City will conduct random testing for all commercial licensed drivers as required by the Federal Transportation Department as follows:
1. A random employee pool selection process which removes discretion in selection from any supervisory personnel will be adopted by the City. This process will select covered drivers by social security number through the use of a computerized program with its Occupational Health Representative chosen. The Occupational Health Representative is given a list of employees that are required to be tested in the alcohol and controlled substance program. Other pertinent employee information is also provided. The size of the employee pool is also monitored and can be adjusted to test the proper amount of employees for the year.
 2. The random testing, once begun, will provide for alcohol testing of at least twenty-five (25%) and for drug testing of at least fifty percent (50%) of all covered drivers.
 3. The random testing will be reasonably spaced over any twelve (12) month period.
 4. Once notified, a required employee shall proceed immediately to the assigned collection site. The driver will be required to sign a notification form when advised to report to the collection site. If the employee fails to provide a sample at the assigned time other than medical reason, it will be considered a refusal and the same as a positive test.