



**"AMENDED" AGENDA**

**WATERFORD CITY COUNCIL - REGULAR MEETING  
WATERFORD CITY HALL, CITY COUNCIL CHAMBERS  
101 "E" STREET, WATERFORD, CA**

**AND**

**TELECONFERENCE LOCATION: HUNTSVILLE MARRIOTT  
ENTERPRISE CONFERENCE ROOM  
5 TRANQUILITY BASE, HUNTSVILLE, ALABAMA 35805  
HOTEL PHONE NUMBER: 256-830-2222**

**TELECONFERENCE PHONE # FOR THE REGULAR CITY COUNCIL MEETING,  
DIAL: 1-661-705-2010 – AT PROMPT, ENTER PARTICIPANT ACCESS CODE: 86106**

Pursuant to Government Code §54953(b), this meeting will include a teleconference location at the Huntsville, Alabama Marriott Hotel (hotel address and phone # identified above). Council Member Whitfield will be attending the regular meeting via teleconference. The public shall have the opportunity to address the City Council at this teleconference location pursuant to Government Code §54954.3. All votes during the teleconferencing session will be conducted by roll call vote. The teleconference location is accessible to the public and the agenda will be posted at the teleconference location at least 72 hours before the meeting.

**CITY COUNCIL OPEN SESSION – JULY 17, 2014 - 6:30 PM**

**CALL TO ORDER:**

**Mayor Charlie Goeken**

**FLAG SALUTE:**

**Mayor Charlie Goeken**

**INVOCATION:**

**Minister Susan Price, Empire Church of the Brethren**

**ROLL CALL:**

**Mayor:**

**Charlie Goeken**

**Vice Mayor:**

**Jose Aldaco**

**Council Members:**

**Michael Van Winkle, Ken Krause, Joshua Whitfield**

**ADOPTION OF AGENDA:**

A member of the City Council motions to accept the items on the agenda for consideration as presented, or motions for any additions, including emergency items, or items pulled from consideration.

**CONFLICT OF INTEREST DECLARATION:**

Declaration by City Council members who may have a direct Conflict of Interest on any scheduled agenda item to be considered.

**ADOPTION OF CONSENT CALENDAR:**

All Matters listed under the Consent Calendar are considered routine by the Council and will be adopted by one action of the Council unless any Council Member desires to discuss any item or items separately. In that event, the Mayor will remove that item from the Consent Calendar and action will be considered separately.

**1. CITY ATTORNEY REPORT FROM CLOSED SESSION**

None.

**2. CONSENT CALENDAR**

2a: Waive Readings - All readings of Ordinances and Resolutions, except by title, are waived

2b: RESOLUTION 2014-75: Warrant Register

2c: Minutes of the Regular City Council Meeting held on July 17, 2014

### 3. PRESENTATIONS

- 3a: Waterford City Council to present Mila Romo with a Certificate of Recognition for her 15 years of volunteer services with Waterford Youth Sports programs
- 3b: Matt Erickson, Public Works Director to give a presentation and update on drought conditions

### 4. COMMUNICATIONS FROM THE AUDIENCE

This is the portion of the meeting specifically set aside to invite public comments regarding any matters not appearing on the agenda and within the jurisdiction of the City Council or the Successor Agency. Individual audience participation is limited to a maximum of 5 minutes and you will be asked to state your name and city of residence. Please complete and submit a speaker card to the City Clerk.

### 5. PUBLIC HEARING

- 5a: INTRODUCTION & FIRST READING: ORDINANCE 2014-09: An Ordinance Amending Title 8 "Health and Safety", Chapter 8.12 "Nuisances" by Amending WMC Sections 8.12.010, 8.12.080 and 8.12.090
- 5b: INTRODUCTION & FIRST READING: ORDINANCE 2014-11: An Ordinance Amending Title 1 "General Provisions", Chapter 1.17 "Administrative Citations" by amending WMC Sections 1.17.020, 1.17.100 and 1.17.120
- 5c: INTRODUCTION & FIRST READING: ORDINANCE 2014-12: An Ordinance Amending Title 10 "Vehicles and Traffic", Chapter 10.54 "Abandoned Vehicles" by amending WMC Sections 10.54.010 and 10.54.110
- 5d: INTRODUCTION & FIRST READING: Ordinance 2014-13: An Ordinance Amending Title 15 "Buildings and Construction", Chapter 15.42 "Public Nuisance" by amending WMC Sections 15.42.020 and 15.42.160
- 5e: INTRODUCTION & FIRST READING: Ordinance 2014-14: An Ordinance Amending Title 8 "Health and Safety", Chapter 8.08 "Self-Service Fuel Stations" by amending WMC Section 8.08.090

### 6. GENERAL BUSINESS

- 6a: RESOLUTION 2014-76: Approve FY 14-15 Budget Amendment for Transfer of Funds for the Skate Park Project
- 6b: RESOLUTION 2014-77: Approve a Financing Agreement with MID for Relocation of Utility Poles
- 6c: **"Amended"** RESOLUTION 2014-78: Approving Amendments to the City's Merit System Rules and Regulations

### 7. ITEMS FOR CONSIDERATION BY THE CITY COUNCIL ACTING SOLELY AS SUCCESSOR AGENCY TO THE FORMER WATERFORD REDEVELOPMENT AGENCY

None.

8.

**INFORMATIONAL ITEMS**

- 8a: California Regional Water Quality Control Board Letter and Response relating to WWTP Reporting
- 8b: Community Calendar – Aug – Sept 2014

9.


**STAFF/COUNCIL COMMENTS**

- 9a: City Staff Comments
- 9b: City Council Comments

10.

**ADJOURNMENT**

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.



\_\_\_\_\_  
Lori Martin, MMC  
City Clerk

## NOTICE

**REPORTS:** Copies of the staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the office of the City Clerk. Any writings or documents provided to a majority of the City Council regarding any item on this agenda (other than writings legally exempt from public disclosure) will be made available for public inspection at the front counter at City Hall during normal business hours.

**COMMUNICATIONS FROM THE AUDIENCE:** If you wish to address the City Council or the Successor Agency on any item not on the printed agenda, prior to the start of the meeting, or prior to addressing the City Council or the Successor Agency, complete and submit a speaker card and deliver it to the City Clerk. (Please note, speaker cards are not required, however completing a speaker card enables staff to better follow up with you later, if necessary and attribute your comments to you in the minutes of the meeting). When the Mayor calls for "Communications from the Audience," stand or raise your hand and the Mayor will ask you to approach the podium and state your name and city of residence. It is the policy of the City Council that they will not act on any matter not appearing on the posted agenda. The purpose of the discussion is to permit a member of the public to raise an issue or problem and to permit the City Council to ask questions for clarification of the issue or problem, provide information to the public, provide direction of the City Staff, or schedule the matter for a future meeting. Please hold all comments to five (5) minutes.

**PUBLIC COMMENTS RELATED TO AN ITEM ON THE PRINTED AGENDA:** Members of the public are entitled to directly address the City Council or the Successor Agency concerning any item that is described on the agenda during consideration of that item. If during a public hearing, the Mayor will direct when the hearing has opened for public comment. If you wish to address the City Council or the Successor Agency on any item listed on this agenda, please complete a speaker card and deliver it to the City Clerk prior to discussion of that item. (Please note, speaker cards are not required, however completing a speaker card enables staff to better follow up with you later, if necessary and attribute your comments to you in the minutes of the meeting.) When your name is called proceed to the podium and state your name and city of residence.

**WRITTEN MATERIAL INTRODUCED INTO THE RECORD:** Citizens wishing to introduce written material into the record at the public hearing on any item are requested to provide a copy of the written material to the City Clerk prior to the public hearing date and/or prior to the opening of the public hearing so that the material may be distributed to the City Council prior to the public hearing.

**NOTICE REGARDING CHALLENGES TO DECISIONS:** Pursuant to all applicable laws and regulations, including without limitation, California Government Code Section 65009 and or California Public Resources Code Section 21177, if you wish to challenge in court any decisions (regarding planning, zoning and/or environmental decisions), you may be limited to raising only those issues you or someone else raised at the public hearing(s) described in this notice/agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

**LIVE AND ON-DEMAND VIDEO RECORDINGS OF THE CITY COUNCIL/SUCCESSOR AGENCY:** The meeting of the Waterford City Council/Successor Agency can be watched live and on-demand from the City's website at [www.cityofwaterford.org](http://www.cityofwaterford.org).

**AMERICANS WITH DISABILITIES ACT (ADA):** In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (209) 874-2328 ext. 109 or email: [cityclerk@cityofwaterford.org](mailto:cityclerk@cityofwaterford.org). Requests must be made as early as possible and at least two-full business days before the start of the meeting.

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**General Information:** The Waterford City Council meets on the 1<sup>st</sup> and 3<sup>rd</sup> Thursday's of each month at 6:30PM., unless otherwise noticed.

**Council Agenda's:** Copies of City Council Agenda and agenda related writings or documents will be made available for public inspection at the front counter at City Hall located at 101 "E" Street, Waterford, CA 72 hours prior to the meeting, or at the time of the scheduled meeting.

<b>DATE &amp; TIME OF POSTING</b>	
Council Meeting Date:	<u>08/07/14</u>
Post Date:	<u>08/01/14</u>
Time:	<u>at or before 5:00PM</u>
Verified by:	<u>Lori Martin</u>
Title:	<u>City Clerk</u>



**Consent 2a**  
August 7, 2014  
Lori Martin, City Clerk  
City Council Staff Report

**Waive Readings**

**SUMMARY:**

N/A

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

All readings of Ordinances and Resolutions, except by title, are waived.

**ATTACHMENTS:**

N/A



**Consent 2b**  
August 7, 2014  
Lori Martin, City Clerk  
City Council Staff Report

**Warrant Register**

**SUMMARY:**

N/A

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

Approve Warrant Register

**ATTACHMENTS:**

- Resolution #2014-75
- Check Register Report

**WATERFORD CITY COUNCIL**  
**RESOLUTION # 2014-75**

A Resolution of the City Council of the City of Waterford allowing certain claims and demands

		TOTALS
PAYROLL		
Payroll Date:	15-Jul-14	\$28,156.38
ACCOUNTS PAYABLE		
	7/31/2014	\$46,625.52
	8/7/2014	\$ 13,763.97
TOTAL		<u>\$88,545.87</u>

The City Council of the City of Waterford does hereby reserve, determine and order as follows:

**SECTION 1:**       That in accordance with Section 37202 of the Government Code that the City Manager hereby certifies to the accuracy of the following demands and the availability of funds for the payment thereof.

**SECTION 2:**       That the following claims and demands are subject to audit as required by law, and that the same are hereby set forth.

Passed and adopted by the City Council of the City of Waterford at a regular meeting held on ~~08/07~~ 08/07/2014 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Lori Martin, MMC, City Clerk

\_\_\_\_\_  
Charlie Goeken, Mayor

# Payroll

## ACH Check Register

User: 'trish'  
Printed: 07/15/2014 - 1:43PM  
Batch: 15-7-2014  
Include Partial: FALSE



Check Date	Check Number	Employee No	Employee Name	Amount
07/15/2014	0	1001	LORI MARTIN	2,987.21
07/15/2014	0	1002	PATRICIA KRAUSE	1,884.59
07/15/2014	0	1004	TIM OGDEN	3,971.57
07/15/2014	0	1006	CHRISTINA ENVIA	404.26
07/15/2014	0	1007	CARLA JAUREGUI	1,821.40
07/15/2014	0	1008	MARISSA MARTINEZ	1,209.97
07/15/2014	0	2000	MATTHEW ERICKSON	3,111.06
07/15/2014	0	2001	STEVEN GREEN	2,202.06
07/15/2014	0	2002	WILLIAM NULL	1,350.74
07/15/2014	0	2003	JAMES CAPPS	485.03
07/15/2014	0	2004	CARLOS GARCIA	2,353.61
07/15/2014	0	2005	STEPHANIE BROWN	1,544.08
07/15/2014	0	2006	LONNIE STATZER, II	1,517.57
07/15/2014	0	2007	JUSTIN HAMILTON	1,802.27
07/15/2014	0	2008	MATTHEW SCOFIELD	1,510.96
Total Employees:			15	Total: 28,156.38



# Accounts Payable

## Computer Check Proof List by Vendor

User: trish  
 Printed: 07/25/2014 - 10:51AM  
 Batch: 00031.07.2014



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 102200	ABS DIRECT, INC			Check Sequence: 1	ACH Enabled: False
MP-20140717	POSTAGE FOR UTILITY BILLING	795.00	07/31/2014	5050-700-7540	
MP-20140717	POSTAGE FOR UTILITY BILLING	265.00	07/31/2014	5070-800-7540	
	Check Total:	1,060.00			
Vendor: UB*01044	AMY ALDERSON			Check Sequence: 2	ACH Enabled: False
	Refund Check	9.96	07/23/2014	5050-000-2010	
	Check Total:	9.96			
Vendor: 104500	AT & T			Check Sequence: 3	ACH Enabled: False
JULY 2014	PHONE SERVICES	183.46	07/31/2014	1010-210-7810	
JULY 2014	PHONE SERVICES	531.58	07/31/2014	1010-110-7810	
JULY 2014	PHONE SERVICES	59.44	07/31/2014	1010-310-7810	
JULY 2014	PHONE SERVICES	154.36	07/31/2014	5070-800-7810	
JULY 2014	PHONE SERVICES	134.43	07/31/2014	5050-700-7810	
	Check Total:	1,063.27			
Vendor: 104550	AT&T LONG DISTANCE			Check Sequence: 4	ACH Enabled: False
JULY 2014	LONG DISTANCE SERVICES	6.30	07/31/2014	1010-110-7810	
	Check Total:	6.30			
Vendor: UB*01048	CHARLEY BENNET			Check Sequence: 5	ACH Enabled: False
	Refund Check	1.95	07/23/2014	5050-000-2010	
	Check Total:	1.95			
Vendor: UB*01046	STEPHANIE BLAKELEY			Check Sequence: 6	ACH Enabled: False
	Refund Check	8.20	07/23/2014	5050-000-2010	
	Refund Check	74.29	07/23/2014	5070-000-2010	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	82.49			
Vendor: 110600	CHARTER COMMUNICATIONS			Check Sequence: 7	ACH Enabled: False
JULY 2014	INTERNET SERVICES	220.99	07/31/2014	1010-110-7810	
JUNE 2014	INTERNET SERVICES	151.12	07/31/2014	1010-110-7810	
	Check Total:	372.11			
Vendor: 111700	CITY OF MODESTO			Check Sequence: 8	ACH Enabled: False
JULY 2014	WATER SERVICES	96.94	07/31/2014	1010-210-7820	
JULY 2014	WATER SERVICES	32.53	07/31/2014	1010-310-7820	
JULY 2014	WATER SERVICES	38.30	07/31/2014	1010-110-7820	
JULY 2014	WATER SERVICES	3,007.98	07/31/2014	2210-260-7820	
JULY 2014	WATER SERVICES	240.48	07/31/2014	1010-550-7820	
JULY 2014	WATER SERVICES	114.48	07/31/2014	1010-560-7820	
JULY 2014	WATER SERVICES	459.99	07/31/2014	1010-580-7820	
JULY 2014	WATER SERVICES	157.88	07/31/2014	5050-700-7820	
	Check Total:	4,148.58			
Vendor: UB*01051	Linda Estrada			Check Sequence: 9	ACH Enabled: False
	Refund Check	22.65	07/23/2014	5050-000-2010	
	Check Total:	22.65			
Vendor: 122560	GUARDIAN-BETHLEHEM			Check Sequence: 10	ACH Enabled: False
AUGUST 2014	EMPLOYEE BENEFITS	708.32	07/31/2014	5050-700-7120	
AUGUST 2014	EMPLOYEE BENEFITS	36.46	07/31/2014	2330-110-7120	
AUGUST 2014	EMPLOYEE BENEFITS	170.94	07/31/2014	1010-580-7120	
AUGUST 2014	EMPLOYEE BENEFITS	19.44	07/31/2014	2070-460-7120	
AUGUST 2014	EMPLOYEE BENEFITS	72.56	07/31/2014	2210-260-7120	
AUGUST 2014	EMPLOYEE BENEFITS	69.95	07/31/2014	1010-560-7120	
AUGUST 2014	EMPLOYEE BENEFITS	9.09	07/31/2014	1010-550-7020	
AUGUST 2014	EMPLOYEE BENEFITS	15.46	07/31/2014	1010-210-7120	
AUGUST 2014	EMPLOYEE BENEFITS	340.32	07/31/2014	1010-110-7120	
AUGUST 2014	EMPLOYEE BENEFITS	471.16	07/31/2014	1010-310-7120	
AUGUST 2014	EMPLOYEE BENEFITS	118.27	07/31/2014	1010-410-7120	
AUGUST 2014	EMPLOYEE BENEFITS	4.28	07/31/2014	1010-430-7120	
AUGUST 2014	EMPLOYEE BENEFITS	50.46	07/31/2014	1010-300-7120	
AUGUST 2014	EMPLOYEE BENEFITS	274.26	07/31/2014	5070-800-7120	
AUGUST 2014	EMPLOYEE BENEFITS	19.43	07/31/2014	5090-110-7120	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	2,380.40			
Vendor: 200339 07112014	DONDA JOHNSON PAV RENTAL DEP REFUND	50.00	07/31/2014	Check Sequence: 11 1010-000-2510	ACH Enabled: False
	Check Total:	50.00			
Vendor: 200340 071914	GUADALUPE JUAREZ PAV RENTAL DEP REFUND	50.00	07/31/2014	Check Sequence: 12 1010-000-2510	ACH Enabled: False
	Check Total:	50.00			
Vendor: UB*01049	PARVEEN KUMAR Refund Check	32.38	07/23/2014	Check Sequence: 13 5050-000-2010	ACH Enabled: False
	Check Total:	32.38			
Vendor: 129950 06282014	LORI MARTIN MILEAGE REIMBIRESMENT FOR CSJVRM	126.56	07/31/2014	Check Sequence: 14 1010-110-7750	ACH Enabled: False
	Check Total:	126.56			
Vendor: UB*01042	LELLA MAUGERI Refund Check	39.48	07/23/2014	Check Sequence: 15 5050-000-2010	ACH Enabled: False
	Check Total:	39.48			
Vendor: 131000 10296	MCR ENGINEERING, INC. WATERFORD RIVER TRAIL	440.00	07/31/2014	Check Sequence: 16 6580-580-8283	ACH Enabled: False
	Check Total:	440.00			
Vendor: 131025	MEDICAL EYE SERVICES			Check Sequence: 17	ACH Enabled: False
AUGUST 2014	EMPLOYEE BENEFITS	2.41	07/31/2014	5090-110-7120	
AUGUST 2014	EMPLOYEE BENEFITS	34.74	07/31/2014	5070-800-7120	
AUGUST 2014	EMPLOYEE BENEFITS	4.56	07/31/2014	2330-110-7120	
AUGUST 2014	EMPLOYEE BENEFITS	94.53	07/31/2014	5050-700-7120	
AUGUST 2014	EMPLOYEE BENEFITS	1.21	07/31/2014	1010-550-7020	
AUGUST 2014	EMPLOYEE BENEFITS	8.91	07/31/2014	1010-560-7120	
AUGUST 2014	EMPLOYEE BENEFITS	9.50	07/31/2014	2210-260-7120	
AUGUST 2014	EMPLOYEE BENEFITS	2.41	07/31/2014	2070-460-7120	
AUGUST 2014	EMPLOYEE BENEFITS	23.46	07/31/2014	1010-580-7120	
AUGUST 2014	EMPLOYEE BENEFITS	42.26	07/31/2014	1010-110-7120	
AUGUST 2014	EMPLOYEE BENEFITS	1.78	07/31/2014	1010-210-7120	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
AUGUST 2014	EMPLOYEE BENEFITS	6.37	07/31/2014	1010-300-7120	
AUGUST 2014	EMPLOYEE BENEFITS	0.51	07/31/2014	1010-430-7120	
AUGUST 2014	EMPLOYEE BENEFITS	15.28	07/31/2014	1010-410-7120	
AUGUST 2014	EMPLOYEE BENEFITS	59.54	07/31/2014	1010-310-7120	
	Check Total:	307.47			
Vendor: UB*01043	MARIO and SALLY MEJIA			Check Sequence: 18	ACH Enabled: False
	Refund Check	3.00	07/23/2014	5050-000-2010	
	Refund Check	133.48	07/23/2014	5070-000-2010	
	Check Total:	136.48			
Vendor: 132700	MODESTO IRRIGATION DISTRICT			Check Sequence: 19	ACH Enabled: False
JULY 2014	ELELCTRICAL SERVICES	3,334.94	07/31/2014	5070-800-7820	
JULY 2014	ELELCTRICAL SERVICES	8,244.70	07/31/2014	5050-700-7820	
JULY 2014	ELELCTRICAL SERVICES	128.37	07/31/2014	2210-260-7820	
JULY 2014	ELELCTRICAL SERVICES	47.19	07/31/2014	2230-260-7820	
JULY 2014	ELELCTRICAL SERVICES	425.43	07/31/2014	1010-580-7820	
JULY 2014	ELELCTRICAL SERVICES	334.10	07/31/2014	1010-560-7820	
JULY 2014	ELELCTRICAL SERVICES	62.55	07/31/2014	1010-550-7820	
JULY 2014	ELELCTRICAL SERVICES	253.13	07/31/2014	1010-310-7820	
JULY 2014	ELELCTRICAL SERVICES	1,295.52	07/31/2014	1010-210-7820	
JULY 2014	ELELCTRICAL SERVICES	671.27	07/31/2014	1010-110-7820	
	Check Total:	14,797.20			
Vendor: 136600	P.G. & E			Check Sequence: 20	ACH Enabled: False
JULY 2014	GAS SERVICES	15.63	07/31/2014	1010-110-7820	
JULY 2014	GAS SERVICES	8.12	07/31/2014	1010-210-7820	
JULY 2014	GAS SERVICES	8.12	07/31/2014	1010-550-7820	
JULY 2014	GAS SERVICES	15.63	07/31/2014	1010-560-7820	
	Check Total:	47.50			
Vendor: 142325	SAN JOAQUIN VALLEY INSURANCE AUTH			Check Sequence: 21	ACH Enabled: True
AUGUST 2014	EMPLOYEE BENEFITS	395.03	07/31/2014	1010-560-7120	
AUGUST 2014	EMPLOYEE BENEFITS	54.85	07/31/2014	1010-550-7020	
AUGUST 2014	EMPLOYEE BENEFITS	1,074.79	07/31/2014	1010-580-7120	
AUGUST 2014	EMPLOYEE BENEFITS	110.61	07/31/2014	2070-460-7120	
AUGUST 2014	EMPLOYEE BENEFITS	430.00	07/31/2014	2210-260-7120	
AUGUST 2014	EMPLOYEE BENEFITS	209.93	07/31/2014	2330-110-7120	
AUGUST 2014	EMPLOYEE BENEFITS	3,835.56	07/31/2014	5050-700-7120	
AUGUST 2014	EMPLOYEE BENEFITS	282.17	07/31/2014	1010-300-7120	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
AUGUST 2014	EMPLOYEE BENEFITS	2,644.45	07/31/2014	1010-310-7120	
AUGUST 2014	EMPLOYEE BENEFITS	677.20	07/31/2014	1010-410-7120	
AUGUST 2014	EMPLOYEE BENEFITS	22.57	07/31/2014	1010-430-7120	
AUGUST 2014	EMPLOYEE BENEFITS	79.01	07/31/2014	1010-210-7120	
AUGUST 2014	EMPLOYEE BENEFITS	1,923.21	07/31/2014	1010-110-7120	
AUGUST 2014	EMPLOYEE BENEFITS	1,536.58	07/31/2014	5070-800-7120	
AUGUST 2014	EMPLOYEE BENEFITS	110.60	07/31/2014	5090-110-7120	
	Check Total:	13,386.56			
Vendor: UB*01045	EMMANUEL SEPULVEDA			Check Sequence: 22	ACH Enabled: False
	Refund Check	38.53	07/23/2014	5050-000-2010	
	Check Total:	38.53			
Vendor: 146100	STANISLAUS COUNTY AUDITOR CONTRO			Check Sequence: 23	ACH Enabled: False
FY2014-15 WATER	14/15 FY LAFCO FEES	1,412.79	07/31/2014	1010-110-7190	
	Check Total:	1,412.79			
Vendor: 146900	STANISLAUS COUNTY SHERIFF			Check Sequence: 24	ACH Enabled: False
1314-273	VEHICLE CHARGES APR-JUN 2014	6,542.96	07/31/2014	1010-210-7170	
	Check Total:	6,542.96			
Vendor: UB*01050	NOEMI VELARDE			Check Sequence: 25	ACH Enabled: False
	Refund Check	59.04	07/23/2014	5050-000-2010	
	Check Total:	59.04			
Vendor: UB*01047	KAREN WIMMER			Check Sequence: 26	ACH Enabled: False
	Refund Check	3.81	07/23/2014	5050-000-2010	
	Refund Check	7.05	07/23/2014	5070-000-2010	
	Check Total:	10.86			
	Total for Check Run:	46,625.52			
	Total of Number of Checks:	26			

# Accounts Payable

## Computer Check Proof List by Vendor

User: trish  
 Printed: 07/30/2014 - 3:52PM  
 Batch: 00007.08.2014



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 101400	A & L WESTERN AG LAB, INC.			Check Sequence: 1	ACH Enabled: False
161673	RIVER POINTE WATER TREATMENT	92.00	08/07/2014	5070-800-7510	
161863	RIVER POINTE WATER TREATMENT	192.00	08/07/2014	5070-800-7510	
	Check Total:	284.00			
Vendor: 102200	ABS DIRECT, INC			Check Sequence: 2	ACH Enabled: False
94117	UTILITY BILLING	501.86	08/07/2014	5050-700-7190	
94117	UTILITY BILLING	167.29	08/07/2014	5070-800-7190	
	Check Total:	669.15			
Vendor: 102222	ADTECH			Check Sequence: 3	ACH Enabled: False
301498	IT SERVICES	360.00	08/07/2014	1010-110-7190	
	Check Total:	360.00			
Vendor: 103400	ANSWERNET			Check Sequence: 4	ACH Enabled: False
140700465101	ANSWERING SERVICES	26.63	08/07/2014	5050-700-7810	
140700465101	ANSWERING SERVICES	26.63	08/07/2014	1010-310-7810	
	Check Total:	53.26			
Vendor: 105600	BAY ALARM COMPANY			Check Sequence: 5	ACH Enabled: False
1119642140715M	ALARM MONITORING SERVICES	168.00	08/07/2014	1010-310-7730	
	Check Total:	168.00			
Vendor: 105975	BELKORP AG, LLC			Check Sequence: 6	ACH Enabled: False
75318	MOWER PARTS	73.00	08/07/2014	1010-580-7510	
	Check Total:	73.00			
Vendor: 106515	BOSS BUSINESS SYSTEMS INC			Check Sequence: 7	ACH Enabled: False

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
322858	COPIER SUPPLIES AND SERVICE	283.55	08/07/2014	1010-110-7600	
	Check Total:	283.55			
Vendor: 107350	CALIFORNIA AUTO SERVICE			Check Sequence: 8	ACH Enabled: False
18889	VEHICLE MAINT	177.08	08/07/2014	1010-310-7430	
18913	VEHICLE MAINT	203.42	08/07/2014	5070-800-7430	
	Check Total:	380.50			
Vendor: 107750	CALIFORNIA BUILDING STANDARDS COM			Check Sequence: 9	ACH Enabled: False
4TH QTR 2014	4TH QTR 2014 BUILDING FEES	32.00	08/07/2014	1010-410-5430	
	Check Total:	32.00			
Vendor: 110800	CHUCK'S AUTO PARTS			Check Sequence: 10	ACH Enabled: False
724316	MISC SUPPLIES	40.29	08/07/2014	1010-310-7430	
	Check Total:	40.29			
Vendor: 112831	CITY OF RIVERBANK			Check Sequence: 11	ACH Enabled: False
JUNE 2014	FUEL	166.78	08/07/2014	1010-310-7520	
JUNE 2014	FUEL	7.96	08/07/2014	1010-110-7520	
JUNE 2014	FUEL	179.36	08/07/2014	1010-310-7520	
	Check Total:	354.10			
Vendor: 200341	YESENIA CORTEZ			Check Sequence: 12	ACH Enabled: False
072714	PAV RENTAL DEPOSIT REFUND	50.00	08/07/2014	1010-000-2510	
	Check Total:	50.00			
Vendor: 114310	DE LAGE LANDEN			Check Sequence: 13	ACH Enabled: False
42155622	COPIER SERVICES	747.69	08/07/2014	1010-110-7600	
	Check Total:	747.69			
Vendor: 114500	DEPARTMENT OF CONSERVATION DIV. OF			Check Sequence: 14	ACH Enabled: False
4TH QTR 2014	4TH QTR 2014 SMP FEES	67.82	08/07/2014	1010-410-7300	
	Check Total:	67.82			
Vendor: 115200	DEPARTMENT OF TRANSPORTATION			Check Sequence: 15	ACH Enabled: False
SL141110	SIGNALS AND LIGHTING APRIL-JUNE 2014	1,982.99	08/07/2014	1010-310-7820	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	1,982.99			
Vendor: 118800 060114-063014	FINANCIAL CREDIT NETWORK, INC COLLECTION SERVICES	241.32	08/07/2014	Check Sequence: 16 5050-700-7190	ACH Enabled: False
	Check Total:	241.32			
Vendor: 119925 612028	GARCIA'S TIRE SHOP TIRE REPAIR	30.00	08/07/2014	Check Sequence: 17 1010-310-7510	ACH Enabled: False
	Check Total:	30.00			
Vendor: 131550 3493	MENDENHALL ELECTRICAL PLUG REPLACEMENTS	265.55	08/07/2014	Check Sequence: 18 1010-210-7510	ACH Enabled: False
	Check Total:	265.55			
Vendor: 131900 104888 104889 104969	MID-VALLEY PUBLICATIONS SOLID WASTE RATES SUMMARY OF ORD# 2014-10 SOLID WASTE PUBLIC HEARING	228.85 84.58 218.90	08/07/2014 08/07/2014 08/07/2014	Check Sequence: 19 1010-110-7710 1010-430-7710 1010-110-7710	ACH Enabled: False
	Check Total:	532.33			
Vendor: 132300 230246391 230246892 230247416 230247930	MISSION LINEN AND UNIFORM LINEN SERVICES LINEN SERVICES LINEN SERVICES LINEN SERVICES	55.63 55.63 55.63 55.63	08/07/2014 08/07/2014 08/07/2014 08/07/2014	Check Sequence: 20 1010-110-7730 1010-110-7730 1010-110-7730 1010-110-7730	ACH Enabled: False
	Check Total:	222.52			
Vendor: 135100 583575 588494 588909	NOR-MAC, INC MISC SUPPLIES MISC SUPPLIES MISC SUPPLIES	44.31 104.31 72.75	08/07/2014 08/07/2014 08/07/2014	Check Sequence: 21 1010-580-7510 1010-580-7510 1010-580-7510	ACH Enabled: False
	Check Total:	221.37			
Vendor: 135325 3915-227056 3915-227058	O'REILLY AUTO PARTS MISC SUPPLIES MISC SUPPLIES	42.93 14.63	08/07/2014 08/07/2014	Check Sequence: 22 5050-700-7510 5050-700-7510	ACH Enabled: False



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	57.56			
Vendor: 136600 JULY 2014	P.G. & E GAS SERVICES	21.34	08/07/2014	Check Sequence: 23 1010-310-7520	ACH Enabled: False
	Check Total:	21.34			
Vendor: 138400 11386101-IN	POLLARD WATER MISC SUPPLIES	1,078.87	08/07/2014	Check Sequence: 24 5070-800-7510	ACH Enabled: False
	Check Total:	1,078.87			
Vendor: 138700 49925875	PRAXAIR DISTRIBUTION, INC O2 RENTAL	26.25	08/07/2014	Check Sequence: 25 1010-310-7510	ACH Enabled: False
	Check Total:	26.25			
Vendor: 143200 10098	SIERRA AIRLESS REPAIR STREET PAINTING SUPPLIES	174.16	08/07/2014	Check Sequence: 26 1010-310-7510	ACH Enabled: False
	Check Total:	174.16			
Vendor: 143300 10009772 10010145	SIERRA CHEMICAL CO. MISC SUPPLIES MISC SUPPLIES	509.13 8.69	08/07/2014 08/07/2014	Check Sequence: 27 5070-800-7510 5070-800-7510	ACH Enabled: False
	Check Total:	517.82			
Vendor: 144400 6885	SPECIALTY ENGINEERING MISC SUPPLIES	65.00	08/07/2014	Check Sequence: 28 1010-310-7510	ACH Enabled: False
	Check Total:	65.00			
Vendor: 144700 1281 INV28780	SPRINGBROOK SOFTWARE JULY 2014 JULY 2014	308.33 2,081.18	08/07/2014 08/07/2014	Check Sequence: 29 1010-110-7610 1010-110-7610	ACH Enabled: False
	Check Total:	2,389.51			
Vendor: 146100 040114-063014	STANISLAUS COUNTY AUDITOR CONTRO DIAL A RIDE FEES	90.00	08/07/2014	Check Sequence: 30 2100-000-2100	ACH Enabled: False
	Check Total:	90.00			

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 146700 13183 ENID	STANISLAUS COUNTY RECORDER RELEASE OF LIEN	15.00	08/07/2014	Check Sequence: 31 1010-110-6480	ACH Enabled: False
	Check Total:	15.00			
Vendor: 152800 14070335 14070335	UNDERGROUND SERVICE ALERT ANNUAL MEMBERSHIP ANNUAL MEMBERSHIP	76.47 76.47	08/07/2014 08/07/2014	Check Sequence: 32 1010-310-7720 5050-700-7720	ACH Enabled: False
	Check Total:	152.94			
Vendor: 155000 1831591 1832185 1832501	WARDEN'S MISC SUPPLIES MISC SUPPLIES MISC SUPPLIES	103.73 57.00 18.16	08/07/2014 08/07/2014 08/07/2014	Check Sequence: 33 1010-110-7510 1010-110-7510 1010-110-7510	ACH Enabled: False
	Check Total:	178.89			
Vendor: 155630 2158 2159	WATERFORD AUTO VEHICLE MAINT VEHICLE MAINT	40.04 200.20	08/07/2014 08/07/2014	Check Sequence: 34 1010-580-7430 1010-580-7430	ACH Enabled: False
	Check Total:	240.24			
Vendor: 157400 S1594715.001	WILLE ELECTRIC SUPPLY CO. INC MISC SUPPLIES	300.24	08/07/2014	Check Sequence: 35 1010-110-7510	ACH Enabled: False
	Check Total:	300.24			
Vendor: 157700 4126	WILSON'S PLUMBING CC BATHROOMS	1,396.71	08/07/2014	Check Sequence: 36 1010-560-7730	ACH Enabled: False
	Check Total:	1,396.71			
	Total for Check Run:	13,763.97			
	Total of Number of Checks:	36			



**Consent 2c**  
August 7, 2014  
Lori Martin, City Clerk  
City Council Staff Report

**City Council Minutes – 07/17/14**

**SUMMARY:**

N/A

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

Approve Minutes of the Regular City Council Meeting held on July 17, 2014.

**ATTACHMENTS:**

- City Council Regular Meeting Minutes of July 17, 2014



**MINUTES**  
**WATERFORD CITY COUNCIL - REGULAR MEETING**  
**WATERFORD CITY HALL, CITY COUNCIL CHAMBERS**  
**101 "E" STREET, WATERFORD, CA**

**CITY COUNCIL CLOSED SESSION– JULY 17, 2014 - 6:00 PM**

**MEETING CALLED TO ORDER BY MAYOR CHARLIE GOEKEN AT 6:00 PM**

**ROLL CALL:**

Mayor - Goeken: Present  
Vice-Mayor - Aldaco: Present  
Council Member - Van Winkle: Present  
Council Member - Krause: Present  
Council Member - Whitfield: Present

**CLOSED SESSION PUBLIC COMMENTS: None.**

**RECESS TO CLOSED SESSION: 6:01 PM**

**CITY COUNCIL OPEN SESSION – JULY 17, 2014 - 6:30 PM**

**MEETING CALLED TO ORDER BY MAYOR CHARLIE GOEKEN AT 6:30 PM**

**FLAG SALUTE: Led by Mayor Charlie Goeken**

**INVOCATION: Council Member Whitfield**

**ROLL CALL:**

Mayor - Goeken: Present  
Vice-Mayor - Aldaco: Present  
Council Member - Van Winkle: Present  
Council Member - Krause: Present  
Council Member - Whitfield: Present

**STAFF PRESENT:**

Tim Ogden, City Manager  
Lori Martin, City Clerk  
Corbett J. Browning, City Attorney  
Matt Erickson, Public Works Director  
Mike Radford, Police Chief

**ADOPTION OF AGENDA:**

A member of the City Council motions to accept the items on the agenda for consideration as presented, or motions for any additions, including emergency items, or items pulled from consideration.

City Manager Ogden requested that Item 3a be tabled until the next meeting as the recipient could not be present tonight.

Motion by VM/Aldaco, seconded by CM/Krause to adopt the agenda as amended.

Vice-Mayor - Aldaco: Motion  
Council Member - Krause: 2nd  
Mayor - Goeken: Approve  
Vice-Mayor - Aldaco: Approve  
Council Member - Van Winkle: Approve  
Council Member - Krause: Approve  
Council Member - Whitfield: Approve

Motion passed.

**CONFLICT OF INTEREST DECLARATION:**

Declaration by City Council members who may have a direct Conflict of Interest on any scheduled agenda item to be considered.  
None.

**ADOPTION OF CONSENT CALENDAR:**

All Matters listed under the Consent Calendar are considered routine by the Council and will be adopted by one action of the Council unless any Council Member desires to discuss any item or items separately. In that event, the Mayor will remove that item from the Consent Calendar and action will be considered separately.

Motion by CM/Van Winkle, seconded by CM/Krause to adopt the consent calendar.

Council Member - Van Winkle: Motion  
Council Member - Krause: 2nd  
Mayor - Goeken: Approve  
Vice-Mayor - Aldaco: Approve  
Council Member - Van Winkle: Approve  
Council Member - Krause: Approve  
Council Member - Whitfield: Approve

Motion passed.

**1. CITY ATTORNEY REPORT FROM CLOSED SESSION**

City Attorney Browning gave a report of closed session items as identified below.

- 1a: "CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION"  
(PURSUANT TO GOVERNMENT CODE SECTION 54956.9)
- **City of Modesto Water System:** City Attorney provided a report on letter drafted to City of Modesto's City Attorney and direction was given to City Attorney.
  - **State Controller's Office Asset Transfer Review Report:** Report given and direction given to City Manager.

**2. CONSENT CALENDAR**

- 2a: Waive Readings. All readings of Ordinances and Resolutions, except by title, are waived  
2b: RESOLUTION 2014-68: Warrant Register  
2c: Minutes of the Regular City Council Meeting held on June 19, 2014  
2d: RESOLUTION 2014-69: Approve Department of Fish & Wildlife Streambed Alteration Agreement  
2e: RESOLUTION 2014-70: Approve Agreement for the Establishment and Participation in the Stanislaus Operational Area Organization  
2f: Receive and File the 2014 Biennial Notices for the Successor Agency and the Waterford Public Financing Authority  
2g: RESOLUTION 2014-71: Approving an Agreement with Stanislaus County Relating to the Placement of Charges on the Tax Roll and other Related Services  
2h: RESOLUTION 2014-72: Approving a Joint Use Agreement with the Waterford Historical Society for use of the Waterford Museum

- 2i: RESOLUTION 2014-73: Accept Public Improvements and Authorize the City Engineer to Prepare and File a Notice of Completion  
2j: Police Services Monthly Statistics Report – May and June 2014

### 3. PRESENTATIONS

- 3a: Waterford City Council to present Mila Romo with a Certificate of Recognition for her 15 years of volunteer services with Waterford Youth Sports Programs: (Item was tabled to the August 7, 2014 City Council meeting)

### 4. COMMUNICATIONS FROM THE AUDIENCE

This is the portion of the meeting specifically set aside to invite public comments regarding any matters not appearing on the agenda and within the jurisdiction of the City Council or the Successor Agency. Individual audience participation is limited to a maximum of 5 minutes and you will be asked to state your name and city of residence. Please complete and submit a speaker card to the City Clerk.

None.

### 5. PUBLIC HEARING

Members of the public may comment when the item is opened for public hearing.

### 6. GENERAL BUSINESS

- 6a: Approve Design for Skate Park: City Manager Ogden provided a PowerPoint Presentation showing the new proposed skate park design.  
Tom Powell, Waterford resident asked a question relating to the proposed site of the skate park.

Motion by VM/Aldaco, seconded by CM/Whitfield to approve the proposed skate park design

Vice-Mayor - Aldaco: Motion  
Council Member - Whitfield: 2nd  
Mayor - Goeken: Approve  
Vice-Mayor - Aldaco: Approve  
Council Member - Van Winkle: Approve  
Council Member - Krause: Approve  
Council Member - Whitfield: Approve

Motion passed.

- 6b: Skate park Construction Funding Discussion: City Manager Ogden presented a PowerPoint presentation showing the skate park history.

City Council weighed the pros and cons of using general fund versus trying to fund through the CDBG County Consortium Program.

City residents speaking in favor of funding the skate park with general fund and proceeding with construction of the skate park to be completed in the fall of 2014 were: Debra Turner, Ryan Hay, Theresa Powell, Ken Ayers, Rebecca Hay and Christina Lowe.

Motion by CM/Van Winkle, seconded by CM/Krause to fund \$104,000 from the General Fund and proceed with the skate park and complete as scheduled in fall of 2014.

Council Member - Van Winkle: Motion  
Council Member - Krause: 2nd  
Mayor - Goeken: Approve  
Vice-Mayor - Aldaco: Approve  
Council Member - Van Winkle: Approve  
Council Member - Krause: Approve  
Council Member - Whitfield: Approve

Motion passed.

6c: RESOLUTION 2014-74: Approving a Memorandum of Understanding Agreement with the Miscellaneous Employees Bargaining Unit: City Manager Ogden presented a PowerPoint Presentation outlining the changes negotiated in the Employee Bargaining Unit Agreement.

Motion by CM/Whitfield, seconded by VM/Aldaco to adopt Resolution 2014-74.

Council Member - Whitfield: Motion  
Vice-Mayor - Aldaco: 2nd  
Mayor - Goeken: Approve  
Vice-Mayor - Aldaco: Approve  
Council Member - Van Winkle: Approve  
Council Member - Krause: Approve  
Council Member - Whitfield: Approve

Motion passed.

**7. ITEMS FOR CONSIDERATION BY THE CITY COUNCIL ACTING SOLELY AS SUCCESSOR AGENCY TO THE FORMER WATERFORD REDEVELOPMENT AGENCY**

None.

**8. INFORMATIONAL ITEMS**

- 8a: Planning Commission Regular Meeting Minutes – May 27, 2014
- 8b: Q1 – 2014 Countywide Sales Tax Report
- 8c: Encroachment Permit # 18927EO from Central Valley Flood Protection Board for the River Parkway Project
- 8d: SJVAPCD Grant Application for New Alternative Fuel Vehicle Purchase (Zero Motorcycle)
- 8e: Community Calendar – July – Aug 2014
- 8f: Business License Report – June 2014
- 8g: Building Report – June 2014
- 8h: Parks & Recreation Meeting Minutes of June 10, 2014
- 8i: Notice of Cancellation of the Regular Meeting of the City Council scheduled for July 3, 2014

**9. STAFF/COUNCIL COMMENTS**

- 9a: City Staff Comments (Information Only – No Action)
- 9b: City Council Comments (Information Only – No Action)

**10. ADJOURNMENT**

Adjourn: 8:03 PM

Motion by CM/Whitfield, seconded by CM/Van Winkle to adjourn the City Council meeting at 8:03 PM.

Council Member - Whitfield: Motion  
Council Member - Van Winkle: 2nd  
Mayor - Goeken: Approve  
Vice-Mayor - Aldaco: Approve  
Council Member - Van Winkle: Approve  
Council Member - Krause: Approve  
Council Member - Whitfield: Approve

Motion passed.

**PASSED AND ADOPTED** by the Waterford City Council at a regular meeting held on August 7, 2014, by the following vote:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**City of Waterford**

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Charlie Goeken, Mayor

ATTEST:

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Lori Martin, MMC, City Clerk





**Waterford City Council to present a Certificate of Appreciation to Mila Romo**

**SUMMARY:**

The Waterford City Council will present a Certificate of Recognition to Mila Romo in recognition of her 15 years of outstanding support, dedication and volunteerism to the youth sports programs of Waterford.

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

Council Member Whitfield provided a listing of Ms. Romo's community service efforts over the last 15 years:

- Parks & Recreation Board Member
- Coached Softball for City and Waterford High School
- Board Member Of WBSA
- Board Member and President of Waterford Sabercats Youth Football & Cheer
- Volunteered for Child Safety Seat Inspection thru Waterford Head Start
- Turlock Together – Volunteered with Annual Christmas Food Drive
- Chairperson of Waterford Relay For Life
- Chaired WHS Sober Grad in 2012
- Volunteered Numerous Hours for WHS
- Participant in Annual Trunk or Treat

**ATTACHMENTS:**

- Certificate of Recognition – Mila Roma

# CERTIFICATE OF RECOGNITION



*In recognition and grateful appreciation for 15 years of outstanding support, commitment and volunteerism to youth sports in Waterford*

*Mila Romo*

*Is hereby awarded this Certificate of Recognition for her outstanding dedication, support, and commitment to volunteering in the youth sports programs of Waterford which have been of great value to the community and to the City of Waterford, and which have helped to further the common goal of making our City a better place in which to live.*

*Presented On this 7th Day of August 2014*

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*Charlie Goeken, Mayor*

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*Jose Aldaco, Vice-Mayor*

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*Michael Van Winkle, Councilmember*

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*Kenneth Krause, Councilmember*

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*Joshua Whitfield, Councilmember*



**Presentations 3b**

August 7, 2014

Matt Erickson, Public Works Director  
City Council Staff Report

**Drought Conditions Update Presentation by Public Works Director Matt Erickson**

**SUMMARY:**

The Public Works Director will provide an update on current drought conditions and give a brief overview of the River Pointe Drinking Water System.

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

With ever changing conditions, staff feels that a presentation on the current drought conditions and how it relates to our drinking water system, is appropriate.

**ENVIRONMENTAL REVIEW:**

N/A

**ATTACHMENTS:**

N/A



**Ordinance Amending Chapter 8.12, "Nuisances" of the Waterford Municipal Code by amending Waterford Municipal Code Sections 8.12.010, 8.12.080 and 8.12.090**

**SUMMARY:**

Ordinance 2014-09 amends Chapter 8.12, "Nuisances", of the Waterford Municipal Code, Sections 8.12.010, 8.12.080 and 8.12.090. This amendment adds a new definition to define the appeals hearing board to be set by resolution of the city council and amends language throughout to reflect that appeals will be heard by the appeals hearing board instead of the city council.

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

Ordinance 2014-09 is before the City Council at the August 7, 2014 council meeting for a public hearing to consider approving the Introduction and First Reading by title only. Thereafter, a summary of the Ordinance will be published in the *Waterford News*. The Ordinance is scheduled to come back to the City Council as a public hearing item at the August 21, 2014 council meeting to consider the second reading by title only and adoption of Ordinance 2014-09.

Thereafter, within 15 days of passage and adoption the Ordinance Summary will be published in the *Waterford News* together with the names of the members of the City Council voting for and against same. This ordinance will become effective and be in full force on and after thirty (30) days of its passage and adoption.

After adoption of the Ordinance, staff will come back to City Council with an item establishing the appeals hearing board.

**ENVIRONMENTAL REVIEW:**

N/A

**ATTACHMENTS:**

- Summary of Ordinance 2014-09
- Ordinance 2014-09
- Public Hearing Notice

## **SUMMARY OF ORDINANCE 2014-09**

Ordinance 2014-09 amending Title 8, HEALTH AND SAFETY by amending Chapter 8.12 titled "NUISANCES", of the Waterford Municipal Code. The proposed ordinance amends the language of Waterford Municipal Code Sections 8.12.010, 8.12.080 and 8.12.090 by adding a definition of an appeals hearing board as set by resolution of the City Council and amending language to reflect that appeals will be heard by an appeals hearing board instead of the City Council.

A certified copy of the full text is posted in the office of the City Clerk. Copies and a complete text of the ordinance are available at Waterford City Hall, 101 E Street, Waterford, CA for review.

This ordinance was adopted by the Waterford City Council on August 21, 2014. The ordinance will be in effect thirty (30) days from the date of adoption.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

### **CITY OF WATERFORD**

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CHARLIE GOEKEN, Mayor

### **ATTEST:**

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LORI MARTIN, City Clerk

### **APPROVED AS TO FORM:**

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CORBETT J. BROWNING, City Attorney

## ORDINANCE NO. 2014-09

### AN ORDINANCE OF THE WATERFORD CITY COUNCIL AMENDING WATERFORD MUNICIPAL CODE TITLE 8, CHAPTER 8.12 ENTITLED “NUISANCES” BY AMENDING WMC SECTIONS 8.12.010, 8.12.080 AND 8.12.090

**WHEREAS**, the City of Waterford is amending Title 8, Chapter 8.12 entitled “Nuisances” to the Waterford Municipal Code by amending Waterford Municipal Code Sections 8.12.010, 8.12.080 and 8.12.090.

**THE CITY COUNCIL OF THE CITY OF WATERFORD, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** Title 8 Chapter 8.12 entitled “Nuisances” is amended to read as follows:

~~Stricken~~—~~through~~ text represents deletions to the Waterford Municipal Code, highlighted/underlined text represents additions to the Waterford Municipal Code.

#### **8.12.010 Definitions.**

For the purposes of this chapter, the following terms shall be defined as follows:

A. “Parkings” means the area between the established concrete curbing and the private property line.

B. “Street” means a public or private thoroughfare which affords principal or secondary access by vehicles to abutting property including any street, avenue, place, way, drive, lane, boulevard, highway, road, alley and any other thoroughfare used by vehicles.

C. “Weeds” means all weeds growing upon roads, streets, sidewalks or private property as defined by Health and Safety Code, Section 14875. (Ord. 72-10 §3, 1972).

D. “Board” means the appeals hearing board of the city of Waterford as set by resolution of the city council.

#### **8.12.080 Abatement notice.**

Upon the failure of any owner to destroy or remove such dirt, rubbish, weeds, or other rank growths, grass or other obstructions as are described in Sections 8.12.020 and 8.12.030 in the manner described herein, the owner of the real property involved shall be notified by the city manager/code enforcement officer or the designee of either to remove the same within a period of seven days. The notice shall identify the property by its commonly known name, the street, road or highway upon which it is located, and shall describe the property by reference to the tract, block, lot, code area and parcel number as used in the records of the county assessor. The notice shall state that the grass, weeds, dirt, rubbish or other obstructions on the property or

sidewalks, parkings and the half of the streets as abut the property, as the case may be, is a nuisance and hazard and that by the provisions of this chapter they must be abated by the owner; that otherwise they will be abated by city authorities, in which case the cost of such abatement shall be a special assessment on the property and will constitute a lien on the property until paid. The notice shall contain the name of the city manager/code enforcement officer or the designee of either and shall state that an appeal from the notice may be made in writing to the ~~city council~~ board through the office of the city clerk, and give his or her name, address, telephone number, and the date by which such appeal must be made. Such notice shall be in writing or printed and shall:

- A. Be posted in a conspicuous place upon said property for a period of seven days; and
- B. Be mailed to the property owner as shown on the assessment roll. (Ord. 02-02 §1, 2002; Ord. 74-7 §1, 1974; Ord. 72.10 §8, 1972).

### **8.12.090 Appeal.**

If the property owner objects to the determination of the city manager/code enforcement officer or the designee of either that the condition of his or her property is such as is described in Sections 8.12.020 and 8.12.030, he or she may file his or her objection in writing with the ~~city council~~ board through the city clerk's office within the seven days after the date of the notice, and such objection shall be heard as soon thereafter as the business of the ~~city council~~ board will permit. If the ~~city council~~ board upholds the determination of the city manager/code enforcement officer or the designee of either, the property owner shall be allowed seven days thereafter to comply after which the procedure in Sections 8.12.100 and 8.12.110 shall be employed. If the ~~city council~~ board does not uphold the determination of the city manager/code enforcement officer or the designee of either, such action may be taken as the ~~city council~~ board directs. (Ord. 02-02 §1, 2002; Ord. 74-7 §1, 1974; Ord. 72.10 §9, 1972).

**SECTION 2, Validity:** If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases be declared invalid or unconstitutional.

**SECTION 3, Enactment:** This ordinance shall become effective and be in full force on and after thirty (30) days of its passage and adoption, and prior to the expiration of fifteen (15) days from the passage and adoption thereof, shall be published in the City of Waterford, County of Stanislaus, State of California, together with the names of the members of the City Council voting for and against the same.

The foregoing ordinance was passed and adopted by the City Council of the City of Waterford, County of Stanislaus, State of California, at a regular meeting thereof held on the 21<sup>st</sup> day of August, 2014.

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**CITY OF WATERFORD**

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CHARLIE GOEKEN, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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LORI MARTIN  
City Clerk

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CORBETT J. BROWNING  
City Attorney





**TO: Mid Valley Publications – Legals**

**From: Lori Martin, City Clerk, City of Waterford**

**Date: July 24, 2014**

**Re: Public Hearing Notice to be published on Tues 08/05/14**

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### **NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the City Council of the City of Waterford in the Council Chambers at a regular meeting thereof on August 7, 2014 at or about 6:30pm.

The City Council will consider amendments to Chapters 1.17 “Administrative Citations”, Chapter 8.12, “Nuisances”, Chapter 10.54 “Abandoned Vehicles” and Chapter 15.42 “Public Nuisance” of the Waterford Municipal Code. The proposed ordinance amendments will add sections and/or wording that defines an appeals hearing board as set by resolution of the City Council.

Copies and a complete text of the Ordinance amendments are available at City Hall, 101 E Street, Waterford, CA for review.

The Waterford City Council Chambers are located inside Waterford City Hall located at 101 E Street, Waterford, CA. For further information, please contact Lori Martin, City Clerk, at (209) 874-2328 ext. 109.

Date: August 5, 2014

By: Lori Martin, City Clerk



**Public Hearing 5b**  
August 7, 2014  
Lori Martin, City Clerk  
City Council Staff Report

**Ordinance Amending Chapter 1.17, “Administrative Citations” of the Waterford Municipal Code by amending Waterford Municipal Code Sections 1.17.020, 1.17.100, 1.17.110 and 1.17.120**

**SUMMARY:**

Ordinance 2014-11 amends Chapter 1.17, “Administrative Citations”, of the Waterford Municipal Code, Sections 1.17.020, 1.17.100 and 1.17.120. This amendment deletes all references to “Hearing Officer” and adds a new definition of an “Appeals Hearing Board”..

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

Ordinance 2014-11 is before the City Council at the August 7, 2014 council meeting for a public hearing to consider approving the Introduction and First Reading by title only. Thereafter, a summary of the Ordinance will be published in the *Waterford News*. The Ordinance is scheduled to come back to the City Council as a public hearing item at the August 21, 2014 council meeting to consider the second reading by title only and adoption of Ordinance 2014-11.

Thereafter, within 15 days of passage and adoption the Ordinance Summary will be published in the *Waterford News* together with the names of the members of the City Council voting for and against same. This ordinance will become effective and be in full force on and after thirty (30) days of its passage and adoption.

After adoption of the Ordinance, staff will come back to City Council with an item establishing the appeals hearing board.

**ENVIRONMENTAL REVIEW:**

N/A

**ATTACHMENTS:**

- Summary of Ordinance 2014-11
- Ordinance 2014-11
- Public Hearing Notice

## **SUMMARY OF ORDINANCE 2014-11**

Ordinance 2014-11 amending Title 1, "GENERAL PROVISIONS" by amending Chapter 1.17 titled "ADMINISTRATIVE CITATIONS", of the Waterford Municipal Code. The proposed ordinance amends the language of Waterford Municipal Code Sections 1.17.020, 1.17.100, 1.17.110 and 1.17.120 by adding a definition of an appeals hearing board as set by resolution of the City Council and amending language to reflect that appeals will be heard by an appeals hearing board and deleting reference to a hearing officer.

A certified copy of the full text is posted in the office of the City Clerk. Copies and a complete text of the ordinance are available at Waterford City Hall, 101 E Street, Waterford, CA for review.

This ordinance was adopted by the Waterford City Council on August 21, 2014. The ordinance will be in effect thirty (30) days from the date of adoption.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

### **CITY OF WATERFORD**

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CHARLIE GOEKEN, Mayor

### **ATTEST:**

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LORI MARTIN, City Clerk

### **APPROVED AS TO FORM:**

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CORBETT J. BROWNING, City Attorney

# ORDINANCE NO. 2014-11

## AN ORDINANCE OF THE WATERFORD CITY COUNCIL AMENDING WATERFORD MUNICIPAL CODE TITLE 1, CHAPTER 1.17 ENTITLED “ADMINISTRATIVE CITATIONS”

WHEREAS, the City of Waterford is amending Title 1, Chapter 1.17. entitled “Administrative Citations” to the Waterford Municipal Code by amending WMC Sections 1.17.020, 1.17.100, 1.17.110 and 1.17.120.

THE CITY COUNCIL OF THE CITY OF WATERFORD, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1: Title 1, Chapter 1.17 entitled “Administrative Citations” is amended to read as follows:

Stricken—through text represents deletions to the Waterford Municipal Code, highlighted/underlined text represents additions to the Waterford Municipal Code.

### TITLE 1

#### CHAPTER 1.17

##### 1.17.020 Definitions.

A. “Administrative citation” means a formal notice that is issued by an enforcement officer or other authorized agent to a person who has been determined to have committed a violation of this municipal code and/or other regulations and ordinances enforceable by the city of Waterford.

B. “Correction notice” means an informal notice informing a responsible party about the existence of a certain condition or activity which constitutes a violation of this code or a violation of any applicable statute, rule, regulation or other ordinance enforceable by the city of Waterford.

C. “Enforcement officer” means an individual holding the position title designated by resolution of the city council in accordance with Section 1.09.040 of this title and who is authorized to enforce certain prescribed provisions of this municipal code and all applicable statutes, rules, regulations and other ordinances enforceable by the city of Waterford.

D. ~~“Hearing officer” means the individual who shall conduct administrative citation appeal hearings and other administrative hearings pursuant to this chapter and shall render decisions pursuant to the applicable administrative hearing procedures set forth in this chapter. The hearing officer shall be the Waterford city administrator or designee.~~

“Board” means the appeals hearing board of the city of Waterford as set by resolution of the city council.

E. “Responsible party” means any person or persons in charge of the premises or location, or the person or persons responsible for the event or incident, and shall include any of the following:

1. The person or persons owning the property where the violation exists.
2. The person or persons in charge of the premises where the violation exists.
3. The person or persons using the premises where the violation exists.
4. If any of those persons are minors, the parent or guardian of such minor(s) shall be the responsible party.
5. If the person or persons is a business entity, the manager or on-site supervisor where the violation exists shall be a responsible party. (Ord. 2011-03 §1).

### **1.17.100 Hearing procedure.**

A. No hearing to contest an administrative citation before a hearing ~~officer~~ board shall be held unless and until the following has been completed:

1. A request for appeal hearing form has been completed and submitted to the city; and
2. The fine has been deposited in advance in accordance with Section 1.17.080; or
3. An advance deposit hardship waiver has been issued in accordance with Section 1.17.090.

B. A hearing before the ~~hearing officer~~ board shall be set for a date that is not less than fifteen days and not more than sixty days from the date that the request for appeal hearing form is filed in accordance with the provisions of this chapter. The hearing date may be continued upon mutual agreement of the city and the appellant.

C. At the hearing, the appellant shall be given the opportunity to testify and to present evidence concerning the administrative citation.

D. The failure of the appellant to appear at the appeal hearing without a showing of good cause shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.

E. The administrative citation and any additional evidence submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of that report shall be served by mail on the appellant at least five working days prior to the date of the hearing.

F. The ~~hearing officer~~ board may continue the hearing and request additional information from the enforcement officer or the appellant prior to issuing a written decision.

G. Failure to timely and properly file an appeal from an administrative citation shall constitute a waiver of all rights to an administrative appeal hearing and adjudication of the administrative citation or any portion thereof. The determination that the violation occurred and that the responsible party was responsible for the violation shall be deemed final on the date that service of the administrative citation is deemed completed pursuant to Section 1.17.030. (Ord. 2011-03 §1).

### **1.17.110 ~~Hearing officer's~~ Appeals hearing board decision.**

A. After considering all of the testimony and evidence submitted at the hearing, the ~~hearing officer~~ board may decide to uphold the administrative citation, establish a modified schedule for compliance, overturn some or all of the findings of the enforcement officer and/or rescind the citation in part or in its entirety, and/or reduce the amount or waive payment of the administrative fine. The ~~hearing officer~~ board shall issue a written decision.

B. The decision shall state whether the administrative citation has been either upheld, in full or in part, or rescinded, in full or in part. In addition, the decision shall contain a brief summary of the evidence considered, findings of fact, a determination of the issues presented, the effective date of the decision, and a compliance order, if applicable, which shall specifically describe the actions which shall be required to be taken to remedy the code violation(s) indicated in the decision and shall require the actions to be completed within a specified time period and by a specified deadline.

C. If the ~~hearing officer~~ board determines that the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city.

D. If the ~~hearing officer~~ board determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the ~~hearing officer~~ board shall set forth in the decision a requirement to pay the applicable administrative fine(s) by a specified date or a payment schedule for the fine(s).

E. If the ~~hearing officer~~ board determines that the administrative citation should be cancelled and the fine was deposited with the city, then the city shall promptly refund the amount of the deposited fine.

F. The ~~hearing officer~~ board shall serve a copy of the decision on the appellant either by delivering a copy of the decision personally or by certified mail, postage prepaid, return receipt requested, and addressed to appellant at the address shown on the appeal form. The decision shall be issued and served within twenty days from the date the hearing is deemed closed. A copy of the decision shall also be provided to the enforcement officer. (Ord. 2011-03 §1).

### **1.17.120 Right to judicial review.**

Any person aggrieved by the decision of the ~~hearing officer~~ board on an administrative citation may obtain review of that decision by filing a petition for review with the Superior Court of Stanislaus County in accordance with the timelines and provisions set forth in California Government Code Section 53069.4. (Ord. 2011-03 §1).

**SECTION 2, Validity:** If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases be declared invalid or unconstitutional.

**SECTION 3, Enactment:** This ordinance shall become effective and be in full force on and after thirty (30) days of its passage and adoption, and prior to the expiration of fifteen (15) days from the passage and adoption thereof, shall be published in the City of Waterford, County of Stanislaus, State of California, together with the names of the members of the City Council voting for and against the same.

The foregoing ordinance was passed and adopted by the City Council of the City of Waterford, County of Stanislaus, State of California, at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**CITY OF WATERFORD**

\_\_\_\_\_  
CHARLIE GOEKEN, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
LORI MARTIN  
City Clerk

\_\_\_\_\_  
CORBETT J. BROWNING  
City Attorney



**TO: Mid Valley Publications – Legals**

**From: Lori Martin, City Clerk, City of Waterford**

**Date: July 24, 2014**

**Re: Public Hearing Notice to be published on Tues 08/05/14**

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### **NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the City Council of the City of Waterford in the Council Chambers at a regular meeting thereof on August 7, 2014 at or about 6:30pm.

The City Council will consider amendments to Chapters 1.17 "Administrative Citations", Chapter 8.12, "Nuisances", Chapter 10.54 "Abandoned Vehicles" and Chapter 15.42 "Public Nuisance" of the Waterford Municipal Code. The proposed ordinance amendments will add sections and/or wording that defines an appeals hearing board as set by resolution of the City Council.

Copies and a complete text of the Ordinance amendments are available at City Hall, 101 E Street, Waterford, CA for review.

The Waterford City Council Chambers are located inside Waterford City Hall located at 101 E Street, Waterford, CA. For further information, please contact Lori Martin, City Clerk, at (209) 874-2328 ext. 109.

Date: August 5, 2014

By: Lori Martin, City Clerk





**Ordinance Amending Chapter 10.54, "Abandoned Vehicles" of the Waterford Municipal Code by amending Waterford Municipal Code Sections 10.54.010 and 10.54.110**

**SUMMARY:**

Ordinance 2014-12 amends Chapter 10.54, "Abandoned Vehicles", of the Waterford Municipal Code, Sections 10.54.010 and 10.54.110. This amendment adds new definitions for Public Nuisance Vehicle and an Appeals Hearing Board and amends language to reflect that appeals will be heard by the appeals hearing board.

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

Ordinance 2014-12 is before the City Council at the August 7, 2014 council meeting for a public hearing to consider approving the Introduction and First Reading by title only. Thereafter, a summary of the Ordinance will be published in the *Waterford News*. The Ordinance is scheduled to come back to the City Council as a public hearing item at the August 21, 2014 council meeting to consider the second reading by title only and adoption of Ordinance 2014-12.

Thereafter, within 15 days of passage and adoption the Ordinance Summary will be published in the *Waterford News* together with the names of the members of the City Council voting for and against same. This ordinance will become effective and be in full force on and after thirty (30) days of its passage and adoption.

After adoption of the Ordinance, staff will come back to City Council with an item establishing the appeals hearing board.

**ENVIRONMENTAL REVIEW:**

N/A

**ATTACHMENTS:**

- Summary of Ordinance 2014-12
- Ordinance 2014-12
- Public Hearing Notice

## **SUMMARY OF ORDINANCE 2014-12**

Ordinance 2014-12 amending Title 10, "VEHICLES AND TRAFFIC" by amending Chapter 10.54 titled "ABANDONED VEHICLES", of the Waterford Municipal Code. The proposed ordinance amends the language of Waterford Municipal Code Sections 10.54.010 AND 10.54.110 by adding a definition of an appeals hearing board as set by resolution of the City Council and amending language to reflect that appeals will be heard by an appeals hearing board and deleting reference to city administrator or designee.

A certified copy of the full text is posted in the office of the City Clerk. Copies and a complete text of the ordinance are available at Waterford City Hall, 101 E Street, Waterford, CA for review.

This ordinance was adopted by the Waterford City Council on August 21, 2014. The ordinance will be in effect thirty (30) days from the date of adoption.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

### **CITY OF WATERFORD**

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CHARLIE GOEKEN, Mayor

### **ATTEST:**

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LORI MARTIN, City Clerk

### **APPROVED AS TO FORM:**

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CORBETT J. BROWNING, City Attorney

## ORDINANCE No. 2014-12

### AN ORDINANCE OF THE WATERFORD CITY COUNCIL AMENDING WATERFORD MUNICIPAL CODE TITLE 10, CHAPTER 10.54 ENTITLED “ABANDONED VEHICLES”

**WHEREAS**, the City of Waterford is amending Title 10, Chapter 10.54. entitled “Abandoned Vehicles” to the Waterford Municipal Code by amending WMC Sections 10.54.010 and 10.54.110.

**THE CITY COUNCIL OF THE CITY OF WATERFORD, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** Title 10, Chapter 10.54 entitled “Abandoned Vehicles” is amended to read as follows:

~~Stricken—through~~ text represents deletions to the Waterford Municipal Code, highlighted/underlined text represents additions to the Waterford Municipal Code.

#### TITLE 10

#### CHAPTER 10.54.

##### **10.54.010 Definitions.**

Unless the context otherwise requires, the definitions of words and phrases set forth in this section shall govern the construction of this chapter.

- A. “Employee” means a city employee designated by City Manager.
- B. “Highway” means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular traffic. Highway includes a street, and all or any part of the entire width of the right of way of said highway.
- C. “Peace officer” means an individual as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.
- D. “Vehicle” is a device in, upon, or by which any person or property is or may be propelled, moved, or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.
- E. “Abandoned vehicle” includes the following:
  - 1. “Public nuisance vehicle” means any vehicle or parts thereof, that is abandoned, wrecked, dismantled or inoperative, that is left on public or private property, including highways and that creates a condition tending to reduce the value of private property, promotes blight and deterioration, invites plundering, creates fire hazards, constitutes an

attractive nuisance endangering the health and safety of minors, harbors rodents and insects, or jeopardizes health, safety and general welfare.

F. “Board” means the appeals hearing board of the city of Waterford as set by resolution of the city council.(Ord. 08-02 §1, 2008; Ord. 92-08 §3, 1992).

#### **10.54.110 Abandoned vehicles on public or private property, excluding a highway.**

A. Upon discovery of an abandoned vehicle or a vehicle which lacks an engine, transmission, wheels, tires, doors, windshield, or other major part or equipment necessary to operate safely on the highway, the city manager shall have the authority to cause the abatement and removal of said vehicle in accordance with the procedure prescribed in this section.

B. Except as otherwise provided by law or this chapter, not less than a ten-day notice of intention to abate and remove the vehicle or part thereof as a public nuisance shall be issued for a vehicle abandoned on public or private property, excluding a highway, unless the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof, except as provided in Vehicle Code Section 22661(c).

C. The ten-day notice of intention to abate and remove a vehicle or part thereof, when required by this chapter, shall contain a statement of hearing rights of the owner of the property on which the vehicle is located and of the owner of the vehicle. The statement shall include notice to the property owner that he or she may appear in person at a hearing or may submit a sworn written statement denying responsibility for the presence of the vehicle on the land, with his or her reason for such denial, in lieu of appearing. The notice of intention to abate shall be mailed, by registered or certified mail, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owners of record unless the vehicle is in such condition that the identification numbers are not available to determine ownership.

D. A request for a hearing shall be made to the city ~~administrator~~ clerk within ten days after the mailing of notice of intention to abate and remove the vehicle or at the time of signing a release.

E. Upon a request for a hearing by the owner of the vehicle or the owner of the land upon which such vehicle is located, a public hearing shall be held before the ~~city administrator or designee~~ board.

F. If such a request is not received within such period, the appropriate public body, agency, or officer shall have the authority to remove the vehicle.

G. The ~~city administrator or designee~~ board shall hear all facts and testimony it deems pertinent. The facts and testimony may include testimony on the condition of the vehicle or parts, and the circumstances concerning its location on the private property or public property. ~~The city administrator or designee~~ The board shall not be limited by the technical rules of evidence.

H. The owner of the land on which the vehicle is located is authorized to appear in person at the hearing or present a sworn written statement denying responsibility for the presence of the vehicle on the land, with his or her reason for such denial.

I. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the local authority shall not assess costs of administration or removal of the vehicle against the

property on which the vehicle is located or otherwise attempt to collect such cost from the owner.

J. If the owner of the land on which the vehicle is located submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land within such time period, this statement shall be construed as a request for hearing which does not require the presence of the owner submitting such request.

K. The ~~city administrator or designee~~board may impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purpose of this chapter. It may delay the time for removal of the vehicle, or parts, if, in the public hearing, the city manager or designee may find that a vehicle, or parts, has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same be removed from the property as a public nuisance and disposed of as provided in this chapter and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts and correct identification number and license number of the vehicle, if available.

L. Any interested party may appeal the decision of the ~~city administrator or designee~~board by filing a written notice of appeal with the city council within five days after ~~his or her~~the decision. Such appeal shall be heard by the city council which may affirm, amend, or reverse the order or take other action deemed appropriate. The clerk shall give written notice of the time and place of the hearing to the appellant, to the owner of the land, and the owner of the vehicle. In conducting the hearing, the city council shall not be limited by the technical rules of evidence.

M. This section shall not apply to: (1) a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or (2) a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or junk yard. This exception shall not, however, authorize the maintenance of a public or private nuisance as defined under provisions of law other than this chapter. (Ord. 92-08 §3, 1992).

**SECTION 2, Validity:** If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases be declared invalid or unconstitutional.

**SECTION 3, Enactment:** This ordinance shall become effective and be in full force on and after thirty (30) days of its passage and adoption, and prior to the expiration of fifteen (15) days from the passage and adoption thereof, shall be published in the City of Waterford, County of Stanislaus, State of California, together with the names of the members of the City Council voting for and against the same.

The foregoing ordinance was passed and adopted by the City Council of the City of Waterford, County of Stanislaus, State of California, at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**CITY OF WATERFORD**

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CHARLIE GOEKEN, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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LORI MARTIN  
City Clerk

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CORBETT J. BROWNING  
City Attorney



**TO: Mid Valley Publications – Legals**

**From: Lori Martin, City Clerk, City of Waterford**

**Date: July 24, 2014**

**Re: Public Hearing Notice to be published on Tues 08/05/14**

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### **NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the City Council of the City of Waterford in the Council Chambers at a regular meeting thereof on August 7, 2014 at or about 6:30pm.

The City Council will consider amendments to Chapters 1.17 “Administrative Citations”, Chapter 8.12, “Nuisances”, Chapter 10.54 “Abandoned Vehicles” and Chapter 15.42 “Public Nuisance” of the Waterford Municipal Code. The proposed ordinance amendments will add sections and/or wording that defines an appeals hearing board as set by resolution of the City Council.

Copies and a complete text of the Ordinance amendments are available at City Hall, 101 E Street, Waterford, CA for review.

The Waterford City Council Chambers are located inside Waterford City Hall located at 101 E Street, Waterford, CA. For further information, please contact Lori Martin, City Clerk, at (209) 874-2328 ext. 109.

Date: August 5, 2014

By: Lori Martin, City Clerk



**Ordinance Amending Chapter 15.42, "Public Nuisance" of the Waterford Municipal Code by amending Waterford Municipal Code Sections 15.42.020 and 15.42.160**

**SUMMARY:**

Ordinance 2014-13 amends Chapter 15.42, "Public Nuisance", of the Waterford Municipal Code, Sections 15.42.020 and 15.42.160. This amendment deletes all references to "hearing officer" and adds a new definition of an "appeals hearing board".

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

Ordinance 2014-13 is before the City Council at the August 7, 2014 council meeting for a public hearing to consider approving the Introduction and First Reading by title only. Thereafter, a summary of the Ordinance will be published in the *Waterford News*. The Ordinance is scheduled to come back to the City Council as a public hearing item at the August 21, 2014 council meeting to consider the second reading by title only and adoption of Ordinance 2014-13.

Thereafter, within 15 days of passage and adoption the Ordinance Summary will be published in the *Waterford News* together with the names of the members of the City Council voting for and against same. This ordinance will become effective and be in full force on and after thirty (30) days of its passage and adoption.

After adoption of the Ordinance, staff will come back to City Council with an item establishing the appeals hearing board.

**ENVIRONMENTAL REVIEW:**

N/A

**ATTACHMENTS:**

- **Summary of Ordinance 2014-13**
- **Ordinance 2014-13**
- **Public Hearing Notice**



## **SUMMARY OF ORDINANCE 2014-13**

Ordinance 2014-13 amending Title 15, "BUILDING AND CONSTRUCTION" by amending Chapter 15.42 titled "PUBLIC NUISANCE", of the Waterford Municipal Code. The proposed ordinance amends the language of Waterford Municipal Code Sections 15.42.020 and 15.42.160 by adding a definition of an appeals hearing board as set by resolution of the City Council and amending language to reflect that appeals will be heard by an appeals hearing board and deleting reference to hearing officer.

A certified copy of the full text is posted in the office of the City Clerk. Copies and a complete text of the ordinance are available at Waterford City Hall, 101 E Street, Waterford, CA for review.

This ordinance was adopted by the Waterford City Council on August 21, 2014. The ordinance will be in effect thirty (30) days from the date of adoption.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

### **CITY OF WATERFORD**

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CHARLIE GOEKEN, Mayor

### **ATTEST:**

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LORI MARTIN, City Clerk

### **APPROVED AS TO FORM:**

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CORBETT J. BROWNING, City Attorney

## ORDINANCE NO. 2014-13

### AN ORDINANCE OF THE WATERFORD CITY COUNCIL AMENDING WATERFORD MUNICIPAL CODE TITLE 15, CHAPTER 15.42 ENTITLED “PUBLIC NUISANCE”

**WHEREAS**, the City of Waterford is amending Title 15, Chapter 15.42. entitled “Public Nuisance” to the Waterford Municipal Code by amending WMC Sections 15.42.020 and 15.42.160.

**THE CITY COUNCIL OF THE CITY OF WATERFORD, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** Title 15, Chapter 15.42 entitled “Public Nuisance” is amended to read as follows:

Stricken—through text represents deletions to the Waterford Municipal Code, highlighted/underlined text represents additions to the Waterford Municipal Code.

#### TITLE 15

#### CHAPTER 15.42.

##### **15.42.020 Definitions used within this chapter.**

A. “Building/structure” means and includes, but is not limited to, any house, garage, carport, duplex, apartment, condominium, mobile home, storage shed, any commercial establishment, warehouse, fence, wall or other structures affixed to or upon real property, or any assemblage of materials on private property of another for the purpose of human habitation.

B. “City” means the area within the territorial city limits of the city of Waterford and all territory outside of the city over which the city has jurisdiction by virtue of any constitutional provisions, or any ordinance or law.

C. “City ~~administrator~~manager” means the manager of the city, or any person or persons designated by the city ~~administrator~~manager to act in his or her stead in connection with this chapter.

D. “Director” means the director of public works or any officer which is now or may in the future be charged with the enforcement of this code.

E. “Enforcement officer” means any city employee designated by the city ~~administrator~~manager to enforce the provisions of this code. Such employees may be employed in any city department.

F. “Board” means the appeals hearing board of the city of Waterford as set by resolution of the city council. ~~“Hearing officer” means the city administrator or any person appointed by the~~

~~city administrator to preside over administrative enforcement hearings held pursuant to this chapter.~~

G. “Person” means any natural person, firm, association, business, or organization, corporation, partnership, trust, estate, or any other legal entity recognized by law as the subject of legal rights or duties.

H. “Property” means any parcel of land which is identified in the secured roll of the Stanislaus County assessor, all residential, commercial and other real property, including but not limited to front yards, side yards, backyards, driveways, walkways, alleys, sidewalks, and shall include any building or structure whether fixed or moveable, located on such property.

I. “Property owner” means the record owner of real property as listed in the most current equalized assessment role as maintained by the Stanislaus County assessor.

J. “Responsible party” means any occupant, lessor, lessee, administrator, licensee, or other person having control over a structure or parcel of land. A responsible party may be a property owner.

K. “Violation” means a violation of Title 8 or Title 17 of this code by any property owner or any responsible party.

L. “Visual blight” means any unreasonably or unlawful condition or use of premises or of a building exterior which by reason of its appearance as viewed at ground level from the public right-of-way or from neighboring premises, is detrimental to the surrounding area and the property of others, or is detrimental to the health, safety and welfare of individuals residing within the community. (Ord. 05-02 §1, 2005).

#### **15.42.160 Vacant building monitoring fee.**

A. Fee Imposed. There is hereby imposed upon every owner of a vacant building an annual vacant building monitoring fee in an amount to be set by resolution of the city council. The fee shall not exceed the estimated reasonable cost of monitoring the vacant building. The fee shall be payable as to any building, residential or nonresidential, which:

1. Is boarded up by voluntary action of the owner or as the result of enforcement activities by the city; or
2. Is vacant for more than sixty days for any reason.

B. Fee Waiver. The vacant building monitoring fee may be waived by the building official upon a showing by the owner that:

1. The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy; or
2. The building meets all applicable codes and is actively being offered for sale, lease or rent; or
3. Imposition of the fee would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building.

C. Procedure.

1. The vacant building monitoring fee shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the county assessor.

2. Any owner billed may apply for a waiver on the grounds set forth in subsection B of this section by submitting a written statement of the grounds for the waiver, and the owner's daytime telephone number, to the building official within thirty days after the billing is mailed to the owner. The building official shall review the written statement and may contact the owner to discuss the application for waiver. The building official shall prepare a written decision which shall be mailed to the owner.

3. Any owner who disagrees with the decision of the building official may submit a written notice of appeal to the building official within thirty days of receipt of the decision. Failure to timely appeal the decision of the building official relating to a denial of a waiver constitutes a waiver of all rights to an administrative hearing and determination of the matter subject only to review pursuant to California Code of Civil Procedure Section 1094.5.

4. If the fee is not paid within sixty days after billing, or within sixty days after the decision of the building official or after the decision upon appeal by the owner becomes final, the fee may be specially assessed against the property involved and made a personal obligation of the owner. If the fee is to be specially assessed against the property, ~~a hearing officer~~ the board, as designated by the city administrator, shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

5. The ~~designated hearing officer~~ board may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee. (Ord. 05-02 §1, 2005).

**SECTION 2, Validity:** If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases be declared invalid or unconstitutional.

**SECTION 3, Enactment:** This ordinance shall become effective and be in full force on and after thirty (30) days of its passage and adoption, and prior to the expiration of fifteen (15) days from the passage and adoption thereof, shall be published in the City of Waterford, County of Stanislaus, State of California, together with the names of the members of the City Council voting for and against the same.

The foregoing ordinance was passed and adopted by the City Council of the City of Waterford, County of Stanislaus, State of California, at a regular meeting thereof held on the 21<sup>st</sup> day of August 2014.

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**CITY OF WATERFORD**

---

CHARLIE GOEKEN, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

---

LORI MARTIN  
City Clerk

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CORBETT J. BROWNING  
City Attorney



**TO: Mid Valley Publications – Legals**

**From: Lori Martin, City Clerk, City of Waterford**

**Date: July 24, 2014**

**Re: Public Hearing Notice to be published on Tues 08/05/14**

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### **NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the City Council of the City of Waterford in the Council Chambers at a regular meeting thereof on August 7, 2014 at or about 6:30pm.

The City Council will consider amendments to Chapters 1.17 “Administrative Citations”, Chapter 8.12, “Nuisances”, Chapter 10.54 “Abandoned Vehicles” and Chapter 15.42 “Public Nuisance” of the Waterford Municipal Code. The proposed ordinance amendments will add sections and/or wording that defines an appeals hearing board as set by resolution of the City Council.

Copies and a complete text of the Ordinance amendments are available at City Hall, 101 E Street, Waterford, CA for review.

The Waterford City Council Chambers are located inside Waterford City Hall located at 101 E Street, Waterford, CA. For further information, please contact Lori Martin, City Clerk, at (209) 874-2328 ext. 109.

Date: August 5, 2014

By: Lori Martin, City Clerk



**Public Hearing 5e**  
August 7, 2014  
Lori Martin, City Clerk  
City Council Staff Report

**Ordinance Amending Chapter 8.08, “Self-Service Fuel Stations” of the Waterford Municipal Code by amending Waterford Municipal Code Section 8.08.090**

**SUMMARY:**

Ordinance 2014-14 amends Chapter 8.08, “Self-Service Fuel Stations”, of the Waterford Municipal Code, Section 8.08.090 “Inspections and Inspection Fees”. This amendment deletes reference to Waterford-Hickman Fire District and adds reference to Stanislaus Consolidated Fire Protection District.

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

Ordinance 2014-14 is before the City Council at the August 7, 2014 council meeting for a public hearing to consider approving the Introduction and First Reading by title only. Thereafter, a summary of the Ordinance will be published in the *Waterford News*. The Ordinance is scheduled to come back to the City Council as a public hearing item at the August 21, 2014 council meeting to consider the second reading by title only and adoption of Ordinance 2014-14.

Thereafter, within 15 days of passage and adoption the Ordinance Summary will be published in the *Waterford News* together with the names of the members of the City Council voting for and against same. This ordinance will become effective and be in full force on and after thirty (30) days of its passage and adoption.

**ENVIRONMENTAL REVIEW:**

N/A

**ATTACHMENTS:**

- **Summary of Ordinance 2014-14**
- **Ordinance 2014-14**
- **Public Hearing Notice**

## **SUMMARY OF ORDINANCE 2014-14**

Ordinance 2014-14 amending Title 8, HEALTH AND SAFETY by amending Chapter 8.12 titled "SELF-SERVICE FUEL STATIONS", of the Waterford Municipal Code. The proposed ordinance amends the language of Waterford Municipal Code Section 8.08.090 by deleting reference to the Waterford-Hickman Fire District and adding reference to the Stanislaus Consolidated Fire Protection District.

A certified copy of the full text is posted in the office of the City Clerk. Copies and a complete text of the ordinance are available at Waterford City Hall, 101 E Street, Waterford, CA for review.

This ordinance was adopted by the Waterford City Council on August 21, 2014. The ordinance will be in effect thirty (30) days from the date of adoption.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

### **CITY OF WATERFORD**

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CHARLIE GOEKEN, Mayor

### **ATTEST:**

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LORI MARTIN, City Clerk

### **APPROVED AS TO FORM:**

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CORBETT J. BROWNING, City Attorney



## ORDINANCE NO. 2014-14

### AN ORDINANCE OF THE WATERFORD CITY COUNCIL AMENDING WATERFORD MUNICIPAL CODE TITLE 8, CHAPTER 8.08 ENTITLED “SELF-SERVICE FUEL STATIONS” BY AMENDING WMC SECTION 8.08.090 TITLED “INSPECTIONS AND INSPECTION FEES”

**WHEREAS**, the City of Waterford is amending Title 8, Chapter 8.08 entitled “Self-Service Fuel Stations” to the Waterford Municipal Code by amending Waterford Municipal Code Section 8.08.090.

**THE CITY COUNCIL OF THE CITY OF WATERFORD, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** Title 8 Chapter 8.08 entitled “Self-Service Fuel Stations” is amended to read as follows:

~~Stricken through~~ text represents deletions to the Waterford Municipal Code, highlighted/underlined text represents additions to the Waterford Municipal Code.

#### **8.08.090 Inspections and inspection fees.**

Installation and removal of fuel tanks shall be subject to inspection by the ~~Waterford-Hickman fire district~~ Stanislaus Consolidated Fire Protection District. Inspection fees shall be as established by resolution of the city council from time to time. Inspection fees collected by the city shall be surrendered to the fire district. (Ord. 80-9 (part), 1980).

**SECTION 2, Validity:** If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases be declared invalid or unconstitutional.

**SECTION 3, Enactment:** This ordinance shall become effective and be in full force on and after thirty (30) days of its passage and adoption, and prior to the expiration of fifteen (15) days from the passage and adoption thereof, shall be published in the City of Waterford, County of Stanislaus, State of California, together with the names of the members of the City Council voting for and against the same.

The foregoing ordinance was passed and adopted by the City Council of the City of Waterford, County of Stanislaus, State of California, at a regular meeting thereof held on the 21<sup>st</sup> day of August, 2014.

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**CITY OF WATERFORD**

---

CHARLIE GOEKEN, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

---

LORI MARTIN  
City Clerk

---

CORBETT J. BROWNING  
City Attorney



**TO: Mid Valley Publications – Legals**

**From: Lori Martin, City Clerk, City of Waterford**

**Date: July 25, 2014**

**Re: Public Hearing Notice to be published on Tues 08/05/14**

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### **NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the City Council of the City of Waterford in the Council Chambers at a regular meeting thereof on August 7, 2014 at or about 6:30pm.

The City Council will consider amendments to Title 8 "HEALTH & SAFETY", Chapter 8.08 "SELF-SERVICE FUEL STATIONS", of the Waterford Municipal Code. The proposed ordinance amendment removes reference to Waterford-Hickman Fire District and replaces with reference to Stanislaus Consolidated Fire District.

Copies and a complete text of the Ordinance amendments are available at City Hall, 101 E Street, Waterford, CA for review.

The Waterford City Council Chambers are located inside Waterford City Hall located at 101 E Street, Waterford, CA. For further information, please contact Lori Martin, City Clerk, at (209) 874-2328 ext. 109.

Date: August 5, 2014

By: Lori Martin, City Clerk



**General Business 6a**

August 7, 2014

Tina Envia, Finance Manager  
City Council Staff Report

**Resolution Approving the General Fund Budget Amendment for the Funding of the Skate Park in the Amount of \$104,000.**

**SUMMARY:**

On July 17<sup>th</sup> the City Council, by unanimous vote, directed the General Fund funding allocation for the Skate Park Project in the amount of \$104,000. This resolution provides for the formal approval and direction for the amendment of the budget.

**FISCAL IMPACT:**

Appropriate an additional \$104,000 to the General Fund Parks fund 6580 and replace the original CDBG fund 2030 funding in the amount of \$129,000. The result will be a budget of \$175,000 in Fund 6580 for the skate park, and approximately \$129,000 in the CDBG fund 2030.

**ATTACHMENTS:**

- Resolution 2014-76

**WATERFORD CITY COUNCIL  
RESOLUTION 2014-76**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATERFORD  
APPROVING BUDGET AMENDMENT FOR THE FUNDING OF THE SKATE  
PARK OUT OF THE GENERAL FUND**

**WHEREAS**, the City Council adopted the FY 2014-2015 City Budget on June 19, 2014; and,

**WHEREAS**, on July 17<sup>th</sup> the Council directed by unanimous vote the funding appropriation of the Skate Park Project out of the General Fund in the amount of \$104,000.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Waterford hereby approves the budget amendment for Fiscal Year 2014-2015 appropriating a \$104,000 transfer from the General Fund Parks (Department 580) to the CIP Parks Fund 6580 for use to complete the Skate Park Project. The proposed adjustment will also replace the original funding source transfer from the CDBG Fund 2030 in the amount of \$129,000.

The foregoing Resolution was passed and adopted by the City Council of the City of Waterford, County of Stanislaus, State of California, at a regular meeting thereof held on the 7th day of August 2014, by the following vote:

**AYES:  
NOES:  
ABSTAIN:  
ABSENT:**

**CITY OF WATERFORD**

\_\_\_\_\_  
CHARLIE GOEKEN, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
LORI MARTIN  
City Clerk

\_\_\_\_\_  
CORBETT J. BROWNING  
City Attorney



**General Business 6b**

August 7, 2014

Tim Ogden, City Manager  
City Council Staff Report

**Approve a Financing Agreement with Modesto Irrigation District for the Relocation of Utility Poles along La Gallina Ave in the Amount of \$135,000.**

**SUMMARY:**

Approval of a three year payment plan with Modesto Irrigation District (“MID”) to relocate utility poles along La Gallina Ave costing an estimated \$135,000 will be paid for out of budgeted Community Development Block Grant (“CDBG”) funds.

**FISCAL IMPACT:**

The current available balance for the project is \$347,740.03. Once HUD approves the FY 2014 AAP, we will have a total of \$471,945.03 available for the project. The cost of the pole relocation is estimated at \$135,000, and the three year financing arrangement at 0% interest will be paid based on actual costs to be determined at the end of the construction.

**ANALYSIS:**

Staff has been working on a road improvement proposal for La Gallina Ave for the last couple of years. Over the last year a significant delay has occurred wherein MID has been unwilling to relocate several of their utility poles located in the City’s right-of-way. After much discussion, the staff and attorneys of both agencies have agreed that the pole relocation on La Gallina Ave will be done according to this Financing Agreement summarized below wherein the costs can be paid over time instead of all at once.

1. The City will pay for the pole relocation with MID performing the work, at cost, with such cost estimated at \$135,000. The City will repay MID for the total actual cost of the project over a term no greater than three years and at 0% interest.
2. The City will repay MID’s financing in three (3) annual installments of 33% due and payable on December 1, 2014; on December 1, 2015; and on December 1, 2016. Budgeted CDBG funds made eligible for this project after a 2013 income survey was performed, and outlined above, will cover the costs.
3. Future pole relocation projects that request MID funding assistance will need to have an independent traffic engineer assessment regarding whether the project is needed for the safety of the travelling public, and the City must include utility or pole relocation costs in its initial request for grant funding prior to City requesting MID funding for pole relocation projects.
4. The City will provide MID with an opportunity to review and comment on any pole relocation project plans (with MID to provide timely comments) prior to seeking grant funding or prior to a project plan’s submission to the City Council for approval. A collaborative approach should reduce project costs and avoid redesign delays by both City and MID.

Nothing in the agreement is an admission by either party of the legal rights or obligations as it relates to further utility pole relocation liabilities and costs. The agreement was reviewed and approved as to form by the City Attorney. The MID Board approved the agreement on July 22, 2014.

**ATTACHMENTS:**

- Resolution 2014-77 including MID Financing Agreement

**WATERFORD CITY COUNCIL  
RESOLUTION #2014-77**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATERFORD APPROVING A  
FINANCING AGREEMENT WITH MODESTO IRRIGATION DISTRICT FOR RELOCATION OF UTILITY  
POLES WITHIN THE CITY'S RIGHT-OF-WAY AND RELATED TO THE  
LA GALLINA ROADWAY IMPROVEMENT PROJECT**

**WHEREAS**, the City Council has determined that it would be beneficial to the City of Waterford ("CITY") to enter into a financing agreement, attached hereto as Exhibit "A", with the Modesto Irrigation District ("MID") for relocation of utility poles along La Gallina Avenue; and,

**WHEREAS**, the intention of the financing agreement is for MID and CITY to work together in the relocation of utility poles in the city right-of-way in preparation of a city roadway project on La Gallina Avenue; and,

**WHEREAS**, the City will fund the utility pole relocation with budgeted Community Development Block Grant ("CDBG") funds in three (3) annual installments of 33% due and payable on December 1, 2014, December 1, 2015, and December 1, 2016.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WATERFORD DOES EHREBY RESOLVE AS FOLLOWS:**

**Section 1.** The City Council does hereby approve the Financing Agreement with MID, attached hereto as Exhibit "A".

**Section 2.** The City Council authorizes the City Manager to execute the agreement.

The foregoing Resolution was passed and adopted by the City Council of the City of Waterford, County of Stanislaus, State of California, at a regular meeting thereof held on the 7<sup>th</sup> day of August 2014, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

**City of Waterford,**

\_\_\_\_\_  
**Charlie Goeken, Mayor**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Lori Martin, MMC, City Clerk**

\_\_\_\_\_  
**Corbett J. Browning  
City Attorney**

## FINANCING AGREEMENT

This Agreement is executed by and between the Modesto Irrigation District ("District") and the City of Waterford, California, ("City") upon the terms and conditions described herein. Specifically, District has agreed to provide a one-time monetary loan to the City to assist the City with its Pole Relocation project ("Agreement").

### Project

City has requested that the District relocate several utility poles in the City's right-of-way ("Pole Relocation"). The parties have agreed solely for purposes of this Agreement that the Pole Relocation will be done pursuant to standard District process and documentation. All Pole Relocation project costs shall be charged by District as 'Work Billed to Others,' more specifically to WBO no. 514338 et al., and will be documented and available for review by the City.

The City shall ultimately bear all costs for the Pole Relocation ("Total Actual Cost"). District shall perform the Pole Relocation, at cost, with such cost estimated at \$135,000.00. District and City have agreed that City shall repay District for the Total Actual Cost of the Pole Relocation in the manner described herein. The Total Actual Cost of the Pole Relocation will be determined upon project completion.

Nothing in this Agreement shall be construed as an admission by either party of the legal responsibilities, rights or obligations as it relates to further utility pole relocations or issues, including but not limited to liability to pay the cost of any future pole relocations.

### Repayment Terms

The parties have determined that, by working cooperatively on projects, each party can more effectively serve its constituents. District has agreed to provide City a one-time loan to accomplish City's Pole Relocation on the terms and conditions described below.

1. City shall repay District for the Total Actual Cost of the Pole Relocation over a term no greater than three (3) years and at zero (0) percent interest ("Financing").
2. City shall repay District's Financing in three (3) annual installments: 33% of Financing is due and payable on December 1, 2014; 33% of Financing is due and payable on December 1, 2015; and the remainder of the Financing to be repaid is due and payable on December 1, 2016.
3. All City repayment obligations made under this Agreement must be made in lawful money of the United States of America.
4. District shall not require a security deposit from City as a condition to providing Financing.



5. City may accelerate Financing repayment, or repay Financing in full, at any time during the three (3) year period without penalty.
6. If City fails to repay Financing in accord with this Agreement, District may immediately and without further action, terminate this Agreement and/or take such other action as may be available to District, at law or in equity.
7. Any City failure to repay Financing in accord with this Agreement will be deemed a default and, upon such default, all amounts owing under this Agreement will become immediately due and payable.

#### Additional Terms and Conditions

8. Unless otherwise explicitly agreed to by the parties, pole relocation projects that request District funding assistance shall have an independent Traffic Engineer assessment regarding whether the project is needed for the safety of the travelling public included in its request for District assistance.
9. Unless otherwise explicitly agreed to by the parties, City must include utility or pole relocation costs in its initial request for grant funding (evidence of such request to be provided to District upon request), prior to City requesting District funding for pole relocation projects.
10. Unless otherwise explicitly agreed to by the parties, City shall provide District with an opportunity to review and comment on any pole relocation project plans (with District to provide timely comments) prior to seeking grant funding or prior to a project plan's submission to the City Council for approval. A collaborative approach should reduce project costs and avoid redesign delays by both City and District.
11. In case of a dispute over this Agreement, the parties agree to use all best efforts to resolve the dispute informally. If informal resolution is not possible, the dispute shall be determined in arbitration in or proximate to Stanislaus County, California, before a sole arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Rules and Procedures (2014); any judgment must be entered in Stanislaus County Superior Court. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.
12. The prevailing party in any litigation or other proceeding arising hereunder shall be entitled to its reasonable attorneys' fees and court costs, including appeals, if any.
13. This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement

July 9, 2014

Page 3

must be in writing and executed by both parties. This Agreement may be executed in counterparts, and when all are taken together, shall constitute one instrument.

**MODESTO IRRIGATION DISTRICT**

**CITY OF WATERFORD**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**"Amended" General Business 6c**

August 7, 2014

Lori Martin, City Clerk  
City Council Staff Report

**Approve Amendments to the City's Merit System Rules and Regulations**

**SUMMARY:**

The Merit System Rules & Regulations ("Merit System") governs the personnel matters of the City's employees. The proposed amendments attempt to add certain provisions adopted in the Memorandum of Understanding ("MOU") by and between the City of Waterford and the International Union of Operating Engineers Stationary Engineers, Local 39 for the period of July 1, 2014 through June 30, 2019. The MOU was adopted by the City Council at a regular meeting held on July 17, 2014.

**FISCAL IMPACT:**

N/A

**ANALYSIS:**

The following amendments were made to allow certain provisions of the MOU adopted on July 17, 2014. Other minor formatting, spelling and grammar amendments were made that are not indicated below.

1. **Section 509:** Adds language related to alternate work schedules
2. **Section 511:** Changes pay periods from semi-monthly to bi-weekly
3. **Section 514:** ~~Removes regulations related to public safety (police) overtime~~
4. **Section 515:** Removes a reference to previous section
5. **Section 519:** Amends the ½ day paid holiday off on Christmas Eve to a full day off
6. **Section 605:** Amends sick leave accumulation limit from 480 to 400 hours and amends the sick leave incentive from the utilization of 2 sick days to 3 sick days and changes the sick leave incentive payout from one-half (1/2) to one-fourth (1/4) or twenty-five percent (25%)
7. **Section 606:** Amends the definition of employee's family to include grandparents of spouse
8. **Section 611 (A & B):** Amends the minimum accrued sick hours required to donate sick leave from 280 hours to 200 hours and amends the maximum donation of sick leave hours from 10% to 25%
9. **Section 803 (C):** Amends vacation accrual from thirteen (13) or more years to ten (10) or more years of service will accrue 20 days of vacation per year
10. **Section 903:** Adds reference to Section 606 for description of employees family
11. **Section 1501:** Amends the Affirmative Action Policy by removing a procedure to prepare bilingual job announcements
12. **Section 1504:** Amends the Travel and Meeting Attendance Policy to reflect identical language and regulations adopted in a recent expense reimbursement policy

**ATTACHMENTS:**

- Resolution 2014-78
- Merit System Rules & Regulations – (Showing changes)
- Merit System Rules & Regulations - (Clean version)

**WATERFORD CITY COUNCIL  
RESOLUTON # 2014-78**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATERFORD  
APPROVING AMENDMENTS TO THE CITY MERIT SYSTEM  
RULES AND REGULATIONS**

**WHEREAS**, the Waterford Municipal Code Section 2.40.030 authorizes the City Council to adopt rules and regulations in order to establish equitable and uniform procedures for dealing with personnel matters; and,

**WHEREAS**, the Myers Millis Brown Act (commencing with Government Code Section 3500) specifically Government Code Section 3507 authorizes a public agency to adopt reasonable rules and regulations for the administration of employer/employee relations; and,

**WHEREAS**, amendments were made to Sections 509, 511, 515, 519, 605, 606, 611 (A & B), 803 (C), 903, 1501 and 1504; and,

**WHEREAS**, other minor formatting, spelling and/or grammatical amendments were made throughout the entire Merit System Rules and Regulations document; and,

**WHEREAS**, the revisions to the current City Merit System Rules and Regulations is attached hereto, as Exhibit "A" in strike-through format.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Waterford hereby approves the amendments to the City of Waterford Merit System Rules and Regulations, attached hereto as Exhibit "A".

The foregoing Resolution was passed and adopted by the City Council of the City of Waterford, County of Stanislaus, State of California, at a regular meeting thereof held on the 7<sup>th</sup> day of August 2014, by the following vote:

**AYES:  
NOES:  
ABSENT:  
ABSTAIN:**

**City of Waterford,**

\_\_\_\_\_  
**Charlie Goeken, Mayor**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Lori Martin, MMC, City Clerk**

\_\_\_\_\_  
**Corbett J. Browning  
City Attorney**

**CITY OF WATERFORD**

**MERIT SYSTEM**

**RULES & REGULATIONS**

**CHANGE OR REVISIONS**

**DATE:**

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Adopted	
Revision: Chapter 5. Section 521	07/01/83
Revision: Chapter 14. Sections 1401, 1402 & 1403	08/20/84
Revision: Chapter 6 Sections 611 & 612	12/10/90
Revision: Chapter 12 (Resolution 93-26)	05/03/93
Addition: Chapter 4. Section 407 (Resolution 95-44)	07/17/95
Revision: Chapter 1. Section 104 (Resolution 2004-39)	05/06/04
Revision: Chapter 3. Section 304 (Resolution 2004-39)	05/06/04
Addition: Chapter 3. Section 315 (Resolution 2004-39)	05/06/04
Revision: Chapter 5. Section 507, 514, 515, 521 (Resolution 2004-39)	05/06/04
Addition: Chapter 5. Section 522 (Resolution 2004-39)	05/06/04
Revision: Chapter 6. Section 605 (Resolution 2004-39)	05/06/04
Revision: Chapter 7. Section 703 (Resolution 2004-39)	05/06/04
Revision: Chapter 13. Section 1304 (Resolution 2004-39)	05/06/04
Revision: Chapter 14. Section 1403 (Resolution 2004-39)	05/06/04
Addition: Chapter 14. Section 1404, 1405, 1406, 1407 (Resolution 2004-39)	05/06/04
Addition: Chapter 7. Section 701, 702, 703, 704, 705, 706 (Resolution 2005-77)	09/01/05
Addition: Introduction (Resolution 2011 - 76)	09/01/11
Revision: Chapter 1. Section 104 (Resolution 2011 - 76)	09/01/11
Revision: Chapter 2. Section 201 (D) (Resolution 2011 - 76)	09/01/11
Revision: Chapter 3. Section 301, 306, 312, 313 (A) & (B) (Resolution 2011 - 76)	09/01/11
Revision: Chapter 4. Section 402, 404 (Resolution 2011 - 76)	09/01/11
Revision: Chapter 5. Section 501, 510, 522 (Resolution 2011 - 76)	09/01/11
Addition: Chapter 5. Section 514 (A) (Resolution 2011 - 76)	09/01/11
Revision: Chapter 6. Section 601, 605, 606 (Resolution 2011-76)	09/01/11
Revision: Chapter 7. Section 701, 702 (Resolution 2011 - 76)	09/01/11
Revision: Chapter 8. Section 802, 803 (D) (Resolution 2011-76)	09/01/11
Revision: Chapter 9. Section 902, 903, 905 (Resolution 2011-76)	09/01/11
Revision: Chapter 11. Section 1102 (Resolution 2011-76)	09/01/11
Revision: Chapter 11. Section 1105 (Resolution 2011-76)	09/01/11
Revision: Chapter 11. Section 1106 (Resolution 2011-76)	09/01/11
Revision: Chapter 13. Section 1302 (J), 1303, 1304 (A) & (D) (Resolution 2011-76)	09/01/11

Revision: Chapter 13. Section 1306 (J) & (E) (Resolution 2011-76)	09/01/11
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<u>Revision: Chapter 8, Section 803 (c) (Resolution 2014-78)</u>	<u>08/07/14</u>
<u>Revision: Chapter 9, Section 903 (Resolution 2014-78)</u>	<u>08/07/14</u>
<u>Revision: Chapter 14, Section 1404 (Resolution 2014-78)</u>	<u>08/07/14</u>
<u>Revision: Chapter 15, Section 1501, 1504 (Resolution 2014-78)</u>	<u>08/07/14</u>

**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~~, 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~~. City.

This employee merit system rules and regulations ~~is~~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~~9 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 (HJ)-.

**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 110 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 509510 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 510511 PAY PERIODS**

Effective January 1, 2015 ~~the~~ pay periods for all employees shall be ~~semi-monthly bi-weekly, on the 15<sup>th</sup> and the last day of the month.~~ 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 ~~normally be paid on the regular payday following the date of termination~~ 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 511512 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 512513 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 ~~513~~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 ~~514~~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 ~~as provided in Sec. 513.~~

**SECTION ~~514(a)~~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 ~~515~~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 ~~516~~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 ~~517~~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  $\frac{1}{2}$  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 ~~518~~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 ~~519~~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 ~~520~~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 ~~521~~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 ~~522~~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. Sick leave shall be allowed and used only in case of necessity and actual personal sickness or disability, medical or dental treatment, or in case of an emergency illness in the immediate family. Immediate family shall mean spouse, parent, child, brother, sister or other close relative residing in the household of the employee. A doctor's certificate may be required.

#### **SECTION 602 ELIGIBILITY**

Regular and probationary employees shall be eligible to accrue sick leave. Such employees shall be entitled to sick leave as authorized in this Chapter, upon the completion of one (1) month of employment with the City. 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 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 ~~eighty (480)~~ (400) hours of sick leave. All accumulated sick leave over four hundred ~~eighty (480)~~ (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 ~~two (2)~~ three (3) days or less of the annual sick leave allocation shall be eligible to "cash

out” ~~half (1/2~~ twenty-five percent (25%) of the remaining days allocated for the year ending November 30<sup>th</sup> 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 ~~eighty-eight (288)~~200 hours accrued sick leave.
- B. Employee may donate a maximum of ~~10~~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 ~~Department Head and~~ 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 ~~needs~~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. ~~**THIRTEEN (13)**~~ **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. [522520](#)) 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 ~~one of the immediate family~~[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 filled 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. ~~1003~~[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 ~~or Department Head~~ 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 ~~jacket~~ file kept in the City ~~Manager's~~ 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 ~~10~~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 ~~aeof~~ City ~~ing~~ 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 ~~aeCity ing~~ 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 ~~UNIFORM ANNUAL PAY~~ ALLOWANCES**

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

- (a) \$150.00 per year clothing and safety equipment allowance. Safety footwear is required for public works employees.

The above \$150.00 is to be paid \$75.00 on the first pay day in September of each year and \$75.00 on the first pay day in March 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 ~~bilingual job announcements~~, 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 ~~Administrator~~ 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, ~~fuel, and business calls~~. Ineligible expenses, or non-conference related costs, include the following: in-room movies, laundry services (for conferences of less than a three-day duration), ~~non-City-related phone calls~~, 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 - ~~\$8.00~~10.00, lunch - ~~\$12.00~~10.00, dinner - ~~\$25.00~~20.00 and other - ~~\$15.00~~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.

**CITY OF WATERFORD**

**MERIT SYSTEM**

**RULES & REGULATIONS**

CHANGE OR REVISIONS	DATE:
Adopted	
Revision: Chapter 5. Section 521	07/01/83
Revision: Chapter 14. Sections 1401, 1402 & 1403	08/20/84
Revision: Chapter 6 Sections 611 & 612	12/10/90
Revision: Chapter 12 (Resolution 93-26)	05/03/93
Addition: Chapter 4. Section 407 (Resolution 95-44)	07/17/95
Revision: Chapter 1. Section 104 (Resolution 2004-39)	05/06/04
Revision: Chapter 3. Section 304 (Resolution 2004-39)	05/06/04
Addition: Chapter 3. Section 315 (Resolution 2004-39)	05/06/04
Revision: Chapter 5. Section 507, 514, 515, 521 (Resolution 2004-39)	05/06/04
Addition: Chapter 5. Section 522 (Resolution 2004-39)	05/06/04
Revision: Chapter 6. Section 605 (Resolution 2004-39)	05/06/04
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Revision: Chapter 6, Section 604 (A), 606, 609, 611 (D), 612 (D), (Resolution 2012-21)	03/01/12
Revision: Chapter 9, Section 901, 909 (Resolution 2012-21)	03/01/12
Revision: Chapter 10, Section 1002 (A) & (B), 1003, 1004 (Resolution 2012-21)	03/01/12
Revision: Chapter 11, Section 1103, 1104, 1105, 1107, 1108, 1109, 1110 (B) (Resolution 2012-21)	03/01/12
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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 or 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. Sick leave shall be allowed and used only in case of necessity and actual personal

sickness or disability, medical or dental treatment, or in case of an emergency illness in the immediate family. Immediate family shall mean spouse, parent, child, brother, sister or other close relative residing in the household of the employee. A doctor's certificate may be required.

**SECTION 602 ELIGIBILITY**

Regular and probationary employees shall be eligible to accrue sick leave. Such employees shall be entitled to sick leave as authorized in this Chapter, upon the completion of one (1) month of employment with the City. 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 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 30<sup>th</sup> 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 ( $\frac{1}{2}$ ) 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 Allowance:** Each permanent Public Works Department employee shall be eligible to receive an annual uniform allowance as follows:

- (a) \$150.00 per year clothing and safety equipment allowance. Safety footwear is required for public works employees.

The above \$150.00 is to be paid \$75.00 on the first pay day in September of each year and \$75.00 on the first pay day in March 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.



**Informational 8a – 8b**  
August 7, 2014  
Lori Martin, City Clerk  
City Council Staff Report

## Informational Items

### **SUMMARY:**

N/A

### **FISCAL IMPACT:**

N/A

### **ANALYSIS:**

All items under this category are considered for informational purpose only.

### **ATTACHMENTS:**

- Item 8a – California Regional Water Quality Control Board Letter and Response relating to WWTP Reporting
- Item 8b – Community Calendar – August, September 2014

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## Central Valley Regional Water Quality Control Board

8 July 2014

Matt Erikson  
City of Waterford Department of Public Works  
P.O. BOX 199  
Waterford, CA 95386

### ***MONITORING REPORT REVIEW, CITY OF WATERFORD WASTEWATER TREATMENT PLANT, STANISLAUS COUNTY***

The City of Waterford Wastewater Treatment Plant (WWTP) is regulated by Waste Discharge Requirements (WDRs) Order 94-273. The City of Waterford Department of Public Works operates the facility and is named as the Discharger in the WDRs. A copy of the WDRs is attached for your information.

Regional Water Board staff recently reviewed monitoring reports for the period January 2012 through April 2014 for the City of Waterford wastewater treatment facility. Based on our review, the Discharger did not comply with the WDRs or Monitoring and Reporting Program (MRP) as follows:

#### **Pond Monitoring Violations**

The monthly monitoring reports for the period January 2012 through April 2014 did not include all of the required information stated in the MRP. In particular, the MRP states each pond must be measured weekly for dissolved oxygen (DO) and monthly for pond freeboard. Results for one or more ponds were not submitted for the entire period of review.

#### **Pipe Crossing Monitoring Violations**

The monitoring reports for the period January 2012 through April 2014 did not include annual pressure testing of the inner pipe for leakage as required by the MRP.

#### **Reporting Comments**

1. Monthly monitoring reports include results designated with the notation of "O.O.S." or "LOW LEVEL." Any time results are submitted with a notation, the reports must state what the notation means.

8 July 2014

Matt Erickson  
City of Waterford  
Wastewater Treatment Plant  
Stanislaus County

2. Quarterly reports were submitted with the result as "BDL" for nitrate value. The notation "BDL" implies the measured value is below the detection limit. Laboratory results listed as "BDL" should be submitted on the monitoring report as less than, "<", the detection limit value.
  
3. The analytical data for groundwater monitoring will be evaluated in the near future.

By **7 August 2014**, please respond and describe the changes that will be made to ensure that future monitoring and reporting is completed in compliance with the MRP.

If you have questions, please contact Guy Childs at [gchilds@waterboards.ca.gov](mailto:gchilds@waterboards.ca.gov) or (916) 464-4648

*for Wendy Myers*

HOWARD HOLD  
Senior Engineering Geologist  
Compliance and Enforcement  
Title 27 and Non 15 Programs

Attachment: WDRs Order R5-94-273

cc: Bella Bedal, Stanislaus County Environmental Health Department, Modesto

CIWQS: 971673, 971674, 971675, 971676, 971677, 971678, 971679, 971680, 971682, 971729, 971728, 971727, 971726, 971725, 971724, 971723, 971722, 971721, 971720, 971719, 971718, 971717, 971716, 971715, 971714, 971713, 971712, 971711, 971710, 971709, 971708, 971707, 971706, 971705, 971704, 971703, 971702, 971696, 971797, 971798, 971799, 971700, 971701, 971683, 971684, 971685, 971686, 971687, 971688, 971689, 971690, 971691, 971692, 971692, 971693, 971694, 971695





Phone 209.874.2328

101 "E" Street  
P.O. Box 199  
Waterford, CA 95386

[www.cityofwaterford.org](http://www.cityofwaterford.org)

July 17, 2014

Howard Hold, Senior Engineering Geologist  
California Regional Water Quality Control Board  
11020 Sun Center Drive #200  
Rancho Cordova, Ca 95670

Re: Your correspondence dated July 8, 2014; MONITORING REPORT REVIEW,  
CITY OF WATERFORD WASTEWATER TREATMENT PLANT, STANISLAUS  
COUNTY

Charlie Goeken  
Mayor

Jose Aldaco  
Vice Mayor

Michael Van Winkle  
Council Member

Ken Krause  
Council Member

Joshua Whitfield  
Council Member

Dear Mr. Hold,

The city is in receipt of the above mentioned correspondence. It is our understanding that Regional Water Board staff recently reviewed monitoring reports for the period January 2012 through April 2014 for the City's wastewater treatment facility and that as a result of that review, Board staff noted that the city did not comply with certain Waste Discharge Requirements (WDR's) or Monitoring and Reporting Program (MRP) requirements.

Outlined below, as requested, I will describe the changes that will be made to insure that future monitoring and reporting is completed in compliance with the MRP and WDR's.

#### **1. Pond Monitoring Violations**

**State Comments:** *The monthly monitoring reports for the period January 2012 through April 2014 did not include all of the required information stated in the MRP. In particular, the MRP states each pond must be measured weekly for dissolved oxygen (DO) and monthly for pond freeboard. Results for one or more ponds were not submitted for the entire period review.*

**City Response:** City staff will insure that future reports include all of the required information in the MRP, specifically that each pond be measured weekly for (DO) and monthly for pond freeboard.

#### **2. Pipe Crossing Monitoring Violations**

**State Comments:** *The monitoring reports for the period January 2012 through April 2014 did not include annual pressure testing of the inner pipe for leakage as required by the MRP.*

**City Response:** City staff will insure that annual pressure testing of the inner pipe will occur, beginning with this reporting year.

### 3. Reporting Comments

a. **State Comments:** *Monthly monitoring reports include results designated with the notation of "O.O.S" or "LOW LEVEL." Any time results are submitted with a notation, the reports must state what the notation means.*

- **City Response:** As suggested above, any future notations made will state what the notation means.

b. **State Comments:** *Quarterly reports were submitted with the result as "BDL" for nitrate value. The notation "BDL" implies the measured value is below the detection limit. Laboratory results listed as "BDL" should be submitted on the monitoring report as less than, "<", the detection limit value.*

- **City Response:** Future reports will reflect the change as outlined above.

If you need further information or have any questions, please feel free to contact me at 209.874.2328 x130 or by email at [publicworks@cityofwaterford.org](mailto:publicworks@cityofwaterford.org) .

Sincerely,



Matt Erickson  
Public Works Director  
City of Waterford

Cc: Tim Ogden, City Manager  
James Capps, Chief of Operations, WWTP  
Stephanie Brown, WWTP Operator

**City Of Waterford**  
 "GATEWAY TO RECREATION"

### Calendar of Events

← July 2014 August 2014 September 2014 →

[EVENT LIST](#) [CALENDAR](#)

SUN	MON	TUE	WED	THU	FRI	SAT
					1	2 Waterford Museum
3	4	5 Waterford Lions Club Meeting	6	7 City Council Meeting	8	9 Waterford Museum
10	11 Waterford 4-H Meeting	12 Parks and Recreation Commission Meeting	13 Friends of the Library	14	15	16 River Park Citizen's Group Meeting Waterford Museum
17	18	19 Waterford Lions Club Meeting	20 Waterford VFW Meeting	21 City Council Meeting	22	23 Waterford Museum
24	25	26 Waterford high School Boosters Meeting Planning Commission Meeting	27	28 Historical Society Meeting	29	30 Waterford Museum
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**City Of Waterford**  
*"GATEWAY TO RECREATION"*

**Calendar of Events**

← August 2014 September ▾ 2014 ▾ October 2014 →

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