

City of Healdsburg
Personnel Rules & Regulations

January 1, 2008

CITY OF HEALDSBURG

PERSONNEL RULES AND REGULATIONS

Adopted by Resolution of the City Council on: December 3, 2007

TABLE OF CONTENTS

I. INTRODUCTION.....	7
A. ADOPTION OF PERSONNEL SYSTEM.....	7
B. EQUAL EMPLOYMENT OPPORTUNITY	7
C. APPLICABILITY OF RULES.....	8
D. DEFINITION OF TERMS.....	8
E. PERSONNEL DIRECTOR.....	13
II. CLASSIFICATION PLAN AND SELECTION PROCESS	13
A. CLASSIFICATION PLAN.....	13
1. IMPLEMENTATION OF THE CLASSIFICATION PLAN	13
2. PERIODIC UPDATES.....	13
3. ADOPTION BY CITY COUNCIL	14
4. AMENDMENTS	14
5. ASSIGNMENT OF CLASSIFICATIONS TO BARGAINING UNITS	14
B. NEW POSITIONS AND VACANCIES	14
C. JOB ANNOUNCEMENTS	14
D. APPLICATION FORMS.....	15
E. DISQUALIFICATION	15
F. SUBJECT AND METHOD OF EXAMINATIONS	16
G. QUALIFYING GRADE AND RATING EXAMINATIONS	16
H. ELIGIBILITY LISTS	16
I. REMOVAL OF NAMES FROM ELIGIBILITY LIST	17
J. NOTIFICATION OF RESULTS.....	18
K. RELATIVES WORKING FOR THE CITY	18
III. APPOINTMENTS	19
A. OFFERS OF APPOINTMENT	19
B. PRE-EMPLOYMENT EXAMINATIONS.....	19
C. PROBATIONARY APPOINTMENTS.....	20
D. REGULAR APPOINTMENTS	20
E. AT WILL APPOINTMENTS	21
F. MANAGEMENT APPOINTMENTS.....	21
G. TEMPORARY APPOINTMENTS.....	21
H. ACTING APPOINTMENTS.....	21
I. PROMOTIONAL APPOINTMENTS.....	22
J. EMERGENCY APPOINTMENTS	22
K. PART TIME SEASONAL AND TEMPORARY EMPLOYEES.....	22
L. VOLUNTEERS	23
IV. CHANGES TO POSITIONS.....	24
A. TRANSFERS.....	24

B.	RECLASSIFICATION	24
C.	DEMOTIONS	25
D.	LAYOFFS	25
E.	BUMPING	26
F.	REINSTATEMENT FROM LAY-OFF	26
G.	SEPARATIONS	27
H.	REINSTATEMENT	27
V.	COMPENSATION	27
A.	COMPENSATION PLAN	27
1.	COMPENSATION SYSTEM PRINCIPLES	27
2.	COMPENSATION PLAN	28
3.	REVIEW OF COMPENSATION PLAN	28
B.	SALARY UPON APPOINTMENT	28
C.	SALARY UPON HOURLY APPOINTMENT	28
D.	SALARY UPON ACTING APPOINTMENT	29
E.	SALARY UPON PROMOTION	29
F.	SALARY UPON TRANSFER	29
G.	SALARY UPON RECLASSIFICATION	29
1.	UPWARD RECLASSIFICATION	29
2.	DOWNWARD RECLASSIFICATION	29
H.	SALARY UPON DEMOTION	30
I.	MERIT SALARY INCREASES	30
1.	ELIGIBILITY FOR A MERIT INCREASE	30
2.	POSTPONEMENT OF A MERIT INCREASE	30
3.	MERIT INCREASES FOR EXCEPTIONAL CIRCUMSTANCES	30
J.	SALARY UPON SUSPENSION WITHOUT PAY	31
K.	OVERTIME COMPENSATION	31
1.	OVERTIME COMPENSATION	31
2.	COMPENSATORY TIME-OFF	31
L.	DEDUCTIONS FROM PAY	32
1.	DEDUCTIONS FROM SALARIES FOR PERSONAL OR SICK LEAVE	32
2.	PROHIBITED DEDUCTIONS FROM SALARIES	32
M.	ERRORS IN COMPENSATION	32
VI.	GENERAL EMPLOYMENT MATTERS	33
A.	HOURS OF WORK	33
B.	MEAL AND REST PERIODS	33
C.	TIMEKEEPING	34
D.	ATTENDANCE	34
E.	EMPLOYEE PERFORMANCE EVALUATION	34
F.	FITNESS FOR DUTY EXAMINATIONS	35
G.	SMOKING	35
H.	SAFETY AND HEALTH	36
I.	OUTSIDE EMPLOYMENT AND OFF-DUTY CONDUCT	36

1.	PROHIBITED OFF-DUTY CONDUCT	36
2.	OUTSIDE EMPLOYMENT	37
J.	PERSONNEL FILES	37
K.	REASONABLE ACCOMMODATION.....	37
1.	PROCEDURE.....	37
VII.	LEAVES OF ABSENCE	38
A.	ELIGIBILITY FOR PAID LEAVES OF ABSENCE.....	38
B.	VACATION.....	38
1.	SCHEDULING VACATIONS.....	38
2.	CAP ON ACCRUAL	39
3.	EFFECTS OF SICK LEAVE ON VACATION LEAVE.....	39
4.	COMPENSATION FOR CITY WORK DURING VACATION PROHIBITED	39
5.	VACATION PAY UPON TERMINATION	39
C.	HOLIDAYS	39
1.	AUTHORIZED HOLIDAYS.....	39
2.	HOLIDAYS DURING VACATION/LEAVE	40
3.	EMPLOYEE WORKING HOLIDAY	40
D.	SICK LEAVE.....	40
1.	PROOF OF ILLNESS	40
2.	USE OF SICK LEAVE FOR FAMILY	41
3.	INTEGRATION OF BENEFITS.....	41
E.	JURY DUTY AND WITNESS LEAVE	41
F.	MILITARY LEAVE	41
G.	BEREAVEMENT LEAVE	42
H.	ADMINISTRATIVE LEAVE.....	42
I.	SCHOOL ACTIVITY LEAVE.....	42
J.	VOTING LEAVE	42
K.	FAMILY AND MEDICAL LEAVE.....	42
1.	DEFINITIONS	42
2.	ELIGIBILITY	43
3.	REASONS FOR LEAVE	43
4.	AMOUNT OF LEAVE.....	44
5.	BENEFITS WHILE ON LEAVE	45
6.	SUBSTITUTION OF PAID ACCRUED LEAVES.....	45
7.	EMPLOYEE NOTICE OF LEAVE	45
8.	MEDICAL CERTIFICATION.....	46
9.	REINSTATEMENT UPON RETURN FROM LEAVE	46
10.	REQUIRED FORMS.....	47
L.	PREGNANCY DISABILITY LEAVE	47
1.	ELIGIBILITY.....	47
2.	REASONS FOR LEAVE	47
3.	AMOUNT OF LEAVE.....	47
4.	BENEFITS WHILE ON LEAVE	48

5.	SUBSTITUTION OF PAID ACCRUED LEAVES.....	48
6.	EMPLOYEE NOTICE OF LEAVE	48
7.	MEDICAL CERTIFICATION.....	48
8.	REINSTATEMENT UPON RETURN FROM LEAVE	48
9.	PARENTAL LEAVE	49
M.	PAID FAMILY LEAVE.....	49
1.	ELIGIBILITY.	49
2.	REQUEST FOR LEAVE.....	49
3.	DURATION OF PAID FAMILY LEAVE	50
4.	COMPENSATION DURING LEAVE	50
5.	INTEGRATION OF BENEFITS.....	50
6.	WAITING PERIOD AND USE OF VACATION.....	50
N.	CATASTROPHIC LEAVE PROGRAM	50
1.	ELIGIBILITY FOR CATASTROPHIC LEAVE.....	50
2.	CONDITIONS FOR DONATING LEAVE	51
3.	PROCEDURES FOR DONATING AND RECEIVING LEAVE.....	52
O.	LEAVE OF ABSENCE WITHOUT PAY	52
1.	AUTHORIZATION PROCEDURE.....	53
2.	LENGTH OF LEAVE AND EXTENSION.....	53
3.	RETURN FROM LEAVE	53
4.	ADJUSTMENTS TO ACCRUAL OF BENEFITS.....	54
5.	ADJUSTMENTS TO DATE OF PERFORMANCE EVALUATION.....	54
VIII.	HARASSMENT AND RETALIATION	54
1.	PROHIBITION AGAINST HARASSMENT	54
2.	PROHIBITION AGAINST RETALIATION.....	54
3.	APPLICABILITY.....	54
4.	DEFINITIONS	55
5.	GUIDELINES FOR IDENTIFYING HARASSMENT	55
A.	COMPLAINT PROCEDURE FOR DISCRIMINATION, HARASSMENT, AND RETALIATION	56
1.	COMPLAINT PROCEDURE.....	56
2.	CONFIDENTIALITY	58
IX.	DRUG AND ALCOHOL ABUSE.....	58
1.	APPLICATION	58
2.	PROHIBITIONS	59
3.	ALCOHOL AND DRUG TESTING	59
4.	TESTING PROCEDURES	62
5.	CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST	62
6.	CONFIDENTIALITY	63
7.	VIOLATIONS OF POLICY	64
X.	VIOLENCE IN THE WORKPLACE	64
1.	PROCEDURES – IMMEDIATE OR ACTUAL VIOLENT ACTS.....	65

2.	PROCEDURES – FUTURE VIOLENCE.....	66
3.	POST-INCIDENT REVIEW:.....	66
XI.	USE OF INFORMATION AND ELECTRONIC SYSTEMS.....	66
1.	PUBLIC DISCLOSURE.....	66
2.	SERIAL MEETINGS	67
3.	USE DURING NORMAL BUSINESS HOURS	67
4.	ACCOUNT ACCESS	67
5.	PROHIBITED USE.....	67
6.	PUBLIC RECORDS.....	69
7.	INTELLECTUAL PROPERTY RIGHTS	69
XII.	USE OF CITY EQUIPMENT / AUTOMOBILE USE	69
1.	AUTOMOBILE USE	69
2.	USE OF VEHICLE SAFETY BELTS	70
XIII.	DISCIPLINARY ACTION	70
A.	AUTHORITY TO DISCIPLINE	70
B.	GROUND FOR DISCIPLINE	70
C.	PROCEDURES FOR DISCIPLINARY ACTION	72
1.	WRITTEN NOTICE/PRE-DISCIPLINE MEETING/FINAL ACTION	72
2.	APPEAL OF DISCIPLINARY ACTION.....	73
XIV.	GRIEVANCE PROCEDURE.....	74
A.	DEFINITION OF “GRIEVANCE”	74
B.	ELIGIBILITY TO FILE A GRIEVANCE	74
C.	EXCLUSIONS FROM THE GRIEVANCE PROCEDURE	74
D.	GRIEVANCE PROCEDURE.....	75
1.	INFORMAL GRIEVANCE PROCEDURE.....	75
2.	FORMAL GRIEVANCE PROCEDURE	75
E.	REPRESENTATION.....	76
F.	WAIVER OF GRIEVANCE	76
G.	NO RETALIATION.....	76
XV.	WORKERS’ COMPENSATION	77
A.	REPORTING PROCEDURE	77
B.	CIVILIAN EMPLOYEES	77
1.	USE OF PAID ACCRUED LEAVES.....	77
2.	BENEFITS.....	78
C.	SAFETY EMPLOYEES	78
D.	LONG-TERM ILLNESS AND LABOR CODE SECTION 4850 APPOINTMENTS ..	78
E.	MODIFIED DUTY	78
F.	CHECK-IN PROCEDURES.....	79
XVI.	MISCELLANEOUS.....	79

I. INTRODUCTION

A. ADOPTION OF PERSONNEL SYSTEM

In order to establish a uniform procedure for dealing with personnel matters, the personnel system set forth in these Rules and Regulations (hereinafter "Rules") is hereby adopted. These Rules supersede any prior rules and regulations and may be changed only upon approval of the City Council.

Where an applicable memorandum of understanding between the City and a recognized employee organization contains provisions that are inconsistent with any of these Rules, the language contained in the Memorandum of Understanding shall govern.

Each employee shall be given a copy of these Rules and is responsible for reading and complying with these Rules.

These Rules may be amended from time to time. However, in order to be effective, the amendment must be in writing and approved by City Council. Whenever such amendments affect the wages, hours or other terms or conditions of employment, they shall be subject to the meet and confer process as required by law.

The City Council may adopt, and/or the City Manager may implement, administrative policies that shall be supplemental to these Rules.

In the event of an emergency, any part or all of these Rules may be suspended by order of the City Manager and such suspension shall remain in effect until the City Manager's order is withdrawn.

B. EQUAL EMPLOYMENT OPPORTUNITY

This Equal Employment Opportunity policy applies to all applicants, officers, volunteers, and employees without exception.

The City shall not discriminate against qualified employees or applicants for employment on the basis of actual or perceived race, color, religion, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, or any other basis protected by law, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics. The City shall afford equal employment opportunity to all qualified applicants or employees with respect to compensation and all terms and conditions of employment, including hiring, training, promotion, transfer, discipline, and termination.

Employees who believe they have experienced denial of equal employment opportunity or discrimination are encouraged to report this experience immediately to their

supervisor or the Personnel Director. The City shall promptly investigate the report under the Complaint Procedure for Discrimination, Harassment and Retaliation at Rule VI.F. of these Rules.

C. APPLICABILITY OF RULES

1. The provisions of these Rules shall apply to all offices, positions and employees in the competitive service of the City, except as otherwise indicated within a specific provision of these Rules.

2. With the exception of the City's EEO policy at Rule I.B., Complaint Procedure at Rule VIII.A, and Reasonable Accommodation Policy at Rule VI.K., these Rules do not apply to the following offices and positions outside the competitive service:

- a. Elected officers;
- b. Members of appointed boards, commissions and committees;
- c. Persons engaged under contract to supply expert, professional, or technical services for a definite period of time;
- d. Volunteer personnel;
- e. City Manager;
- f. Department Heads;
- g. Hourly, temporary, provisional and seasonal employees.

D. DEFINITION OF TERMS

Words and terms used in these Rules and in any ordinance or resolution dealing with these Rules and any other personnel policies or procedures are defined in the Rule to which they apply or as follows:

1. "Acting appointment" means the appointment of an employee to a classification in the City service on an interim basis during which that person continues to occupy the position from which he/she was appointed. Acting appointments are not considered temporary appointments.

2. "Actual hours worked" means all hours in which the employee actually performed work and does not include any paid or unpaid leave time, including but not limited to vacation and sick leave.

3. "Advancement" means a salary increase within the limits of the pay range established for classifications provided by resolution.

4. "Appointing Authority" means the City Manager.
5. "Appointment" means the employment of a person in a position.
6. "At will" means the employee serves at the pleasure of the City Manager, who retains the authority to terminate any such employee at any time with or without cause. An "at will" employee has no right of appeal of discipline or termination.
7. "Base Salary" means the salary range and step established in the Compensation Plan, exclusive of any overtime, shift-differential, incentive or other excludable pay an employee may receive.
8. "Classification" means a group of positions sufficiently and substantially similar in duties, authority, responsibilities, and minimum qualifications for employment to permit combining them under a single title and the application of common standards of selection and compensation.
9. "Classification plan" means the designation by resolution of the City Council of a title for each classification together with the specifications for each classification as prepared and maintained by the Personnel Director.
10. "Compensatory time off" means paid time off from work in lieu of overtime pay.
11. "Competitive service" means employment in all positions in the City service except those specifically excluded by these Rules.
12. "Continuous Service" means employment without interruption, and includes approved leaves of absence to serve in the armed forces of the United States, as provided by Section 395 of the Military and Veterans Code, as amended.
13. "Day" means calendar day unless otherwise noted.
14. "Demotion" means the voluntary or involuntary reduction of an employee from a position in one classification to a position in another classification having a lower maximum salary rate.
15. "Discharge" means the involuntary separation of an employee from the City service.
16. "Domestic Partner" means "domestic partner" as defined in California Family Code Section 297.

17. "Eligibility list" means a list of names of persons who have successfully completed the examination process for a position in the competitive service.

18. "Employment Date" means for retirement, sick leave and other benefit purposes, the effective date of an employee's initial appointment to a full-time or permanent part-time position within the competitive service.

19. "FLSA" means the Fair Labor Standards Act.

20. "FLSA-exempt" means all employees who meet one or more of the duties test exemptions from overtime under the FLSA (e.g. executive, administrative, professional) and who are paid on a salary basis, as defined below.

21. "Full-time position" means employment in which the employee normally works at least forty (40) hours per week.

22. "Hourly basis" means compensation paid according to the number of hours that an employee actually works.

23. "Job series" means a group of job classifications with similar minimum qualifications, requirements and duties.

24. "Lay-off" means the termination of an employee from City service for reasons of economy, efficiency or other non-disciplinary reason.

25. "Management" means the group of employees comprised of the following full-time, at-will appointments (positions may be vacant and/or currently unauthorized for budgetary purposes): Assistant City Manager, Chief of Police, Director of Community Services, Director of Development Services, Director of Electric Utility, Director of Finance, Director of Planning and Building, Director of Public Works and Fire Chief.

26. "Meet and Confer Process" means the procedures established by Section 3500, et.seq., of the California Government Code, as amended.

27. "Merit salary increase" means the performance-based advancement of an employee's salary to a higher salary level within the established salary range for the employee's classification.

28. "Non-exempt" refers to employees who are entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis. Non-exempt does not include employees performing exempt duties on a primary basis under a temporary or acting appointment to an exempt-designated position.

29. "Overtime" means all actual hours worked by a non-exempt employee in

excess of forty (40) hours in the employee's designated workweek, except as otherwise designated by an applicable MOU, or as otherwise designated for employees on a flexible work schedule, or as designated under the FLSA.

30. "Position" means a combination of duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.

31. "Probationary appointment" means employment for a working test period that is part of the selection process, during which a new or promoted employee is required to demonstrate satisfactory or better performance of the position's duties.

32. "Probationary period" means a designated period of employment in a permanent classification following appointment from an approved eligibility list. The appointment may be original or promotional whereby the employee may be separated or removed without cause and without right of appeal.

33. "Promotional appointment" means the advancement of an employee from a position in one classification to a position in another classification having a higher maximum salary range.

34. "Provisional appointment" means appointment of a person possessing the minimum qualifications last established for a particular class other than eligibility by examination and who has been appointed to a position in that class in the absence of available eligible candidates.

35. "Provisional employee" means an employee appointed to fill a full time position vacancy for a limited time period when no valid employment eligibility list exists.

36. "Reclassification" means the reassignment of a position to another classification due to the material change of the job duties of a position.

37. "Recognized employee organization" means an employee organization that has been formally acknowledged by the City as the employee organization that represents the employees in an appropriate representation unit.

38. "Regular appointment" means the employment of a person in an authorized full-time position following successful completion of a probationary period in an authorized full-time position.

39. "Reinstatement" means the reappointment of an employee to a position in the same or a comparable classification within twelve (12) months of his/her separation in "good standing."

40. "Rejection" means the discharge from City employment of an employee who

has not successfully completed the initial probationary period.

41. "Resignation" means the voluntary separation of an employee from City employment.

42. "Safety sensitive" means a position or duty of a position that the City has designated as "safety sensitive" for purposes of implementing its Drug and Alcohol policy.

43. "Salary basis" means compensation in a predetermined amount that is not reduced, regardless of the quality or quantity of work actually performed, except as required by the City's principles of public accountability for partial-day absences, or as otherwise set forth by FLSA.

44. "Salary evaluation date" means the date on which a probationary or regular employee's performance is evaluated and the date upon which the employee is eligible, on the basis of job performance for a prescribed period, for a merit salary increase within the established salary range.

45. "Seniority" means the employee's number of continuous years in competitive service from the employee's service anniversary date. Seniority in classification means the number of continuous years of service in the present or higher classification.

46. "Separation" means the voluntary or involuntary termination of employment from City service.

47. "Service anniversary date" means the original date of hire as a full-time employee for purposes of accruing benefits and determining years of service with the City.

48. "Suspension" means the temporary separation without pay of an employee from the competitive service for disciplinary purposes.

49. "Temporary appointment" means an appointment to a regular position for a period of no more than six (6) months, unless extended by the City Manager.

50. "Termination" means the separation from City service with the action initiated by the City.

51. "Transfer" means the reassignment of an employee from one position to another position in the same classification or another classification having the same maximum salary range, involving the performance of basically similar duties, and requiring substantially the same minimum qualifications.

52. "Workweek" means, for purposes of overtime determination, a consecutive, seven-day period that begins at 12:00 a.m. on Sunday and ends at 11:59 p.m. on

Saturday, except as otherwise designated by an applicable MOU, or as otherwise designated for employees on a flexible workweek, or as designated under the FLSA for safety employees.

53. "Vacancy" means a duly created position which is not occupied and for which monies have been appropriated.

54. "Y-Rated" means the employee's existing salary is frozen until adjustments to the employee's salary causes it to fall within a new salary range.

E. PERSONNEL DIRECTOR

The City Manager shall appoint the Personnel Director. The City Manager may delegate to the Personnel Director any of the powers and duties conferred upon him/her under these or other City rules, regulations, resolutions or ordinances. The Personnel Director, or his/her designee, shall be responsible for administration of these Personnel Rules.

II. CLASSIFICATION PLAN AND SELECTION PROCESS

A. CLASSIFICATION PLAN

1. IMPLEMENTATION OF THE CLASSIFICATION PLAN

The Personnel Director, after consultation with the City Manager and Department Heads, shall recommend a classification plan for all classifications in the competitive service that includes but is not limited to the following for each classification:

- a. the classification title;
- b. a description of typical duties and responsibilities;
- c. the functions of the classification;
- d. a statement of the desirable training, experience and other qualifications of applicants for the classification;
- e. whether the classification or any of its duties are safety-sensitive.

The Personnel Director shall ensure that all positions within the same classification are substantially similar with respect to duties, authority, decision-making, character of work, and schedules of compensation.

2. PERIODIC UPDATES

From time to time the Personnel Director shall review the classification plan to ensure that it is accurate and make amendments to reclassify or add positions or

classifications or to make other changes as necessary or appropriate.

3. ADOPTION BY CITY COUNCIL

The classification plan shall become effective only upon adoption by resolution of the City Council. Upon adoption, the classification plan shall take immediate effect.

4. AMENDMENTS

The classification or position descriptions may be abolished or amended from time to time by the Personnel Director as deemed in the best interest of the City service. In addition, new classification or position descriptions may be added to the City's Position Classification Plan. If new positions are added to the City services, such positions shall be allocated to an appropriate class by the Personnel Director.

5. ASSIGNMENT OF CLASSIFICATIONS TO BARGAINING UNITS

Assignment or reassignment of classifications to employee units of representation shall be at the sole discretion of the City Manager and in accordance with the Employer-Employee Relations Resolution.

B. NEW POSITIONS AND VACANCIES

New positions and permanent vacancies of regular positions in the competitive service may be filled by reinstatement, transfer, demotion, or from an eligibility or promotional list, as deemed appropriate within the discretion of the Personnel Director.

C. JOB ANNOUNCEMENTS

Positions to be filled in the competitive service shall be publicized by distributing announcements to those City divisions and City or other publications as deemed advisable and appropriate within the discretion of the Personnel Director and in consultation with the Department Head. When the City seeks only promotional candidates, distributions will be limited to internal sources. Additionally, when distribution of a job announcement would detrimentally delay the filling of a position the City, in its sole discretion, may instead opt to fill the position temporarily from immediately available sources. In the event a job announcement is distributed, it will specify the:

- a. department, title and pay range of the classification for which the examination is announced;
- b. nature of the work to be performed;
- c. desired skills and experience;
- d. date, time, place and manner of making applications;
- e. closing date for receiving applications;

- f. minimum requirements for the position;
- g. manner and method by which vacancies shall be filled, including passing scores for tests, if applicable; and
- h. other pertinent information in the discretion of the City.

D. APPLICATION FORMS

Applications shall be made on forms provided by Human Resources. All applications must be signed by the person applying and must be submitted on or before the filing deadline stated in the job announcement. The Personnel Director may permit a letter, resume or other indication of interest to be accepted, pending receipt of a properly completed application.

When necessary to meet continued requirements for filling positions due to non-availability of applicants for a classification or position, or due to a high turnover rate, the closing date for any selection process may be indefinite and applicants may be tested continuously in such manner and at such times and places as may be provided by the City. Applicants who fail to achieve a passing score in such an open continuous examination may not compete again until the lapse of ninety (90) days between the first and second testing and one hundred and twenty (120) days between the second and third such testing, unless stipulated to the contrary on the job announcement. The City may exclude such applicants from further testing at its discretion.

As part of the pre-employment procedure, applicants may be required to supply references, and submit to a thorough background check by the City. In addition, all employees must be physically and mentally capable of performing the essential functions of their jobs with or without reasonable accommodation. The City shall have the right to conduct a complete and exhaustive background investigation on all applicants seeking employment with the City, including a criminal background check, where applicable, and a medical and/or psychological examination by City-retained medical practitioners, where deemed appropriate by the City. However, any medical or psychological examination shall be conducted only after a conditional job offer has been made, in accordance with applicable law.

E. DISQUALIFICATION

The Personnel Director may reject any application for a position in the competitive service for reasons including, but not limited to, the following:

- a. The applicant did not properly complete the application;
- b. The application indicates on its face that the applicant does not possess the minimum qualifications for the position;

- c. The applicant is unable to perform the essential functions of the position sought, with or without reasonable accommodations;
- d. The applicant is currently using illegal drugs;
- e. The applicant has been convicted of a crime that may have an adverse impact on the applicant's ability to perform the job for which the applicant is applying;
- f. The applicant is not legally permitted to work within the United States;
- g. The applicant has made false statement of any material fact or practiced or attempted to practice deception or fraud in making application for employment; or
- h. For any material cause which in the judgment of the Personnel Director would render the applicant unsuitable for the position, including a prior resignation from City service, termination from City service, or significant disciplinary action.

The Personnel Director shall mail a notice of any rejection to the mailing address provided by the applicant on the application. Improperly completed applications may be returned to the applicant with notice of the defect, provided the time limit for receiving applications has not expired. An applicant has no right to grieve or appeal any such actions by the City.

F. SUBJECT AND METHOD OF EXAMINATIONS

The Personnel Director, in consultation with the Department Head, will determine the manner, methods, applicant pool, how and by whom examinations shall be given. All examinations and background checks will be job-related and consistent with a business necessity.

Examinations shall be competitive and may consist of written tests, oral tests, performance tests, evaluations of prior training and performance, experience and education, interviews, style assessments, file review, or any combination thereof.

G. QUALIFYING GRADE AND RATING EXAMINATIONS

In all examinations, the minimum grade or standing for which eligibility may be earned shall be based upon all factors in the examination, including educational requirements, experience, and other qualifying elements as shown in the application of the candidate or other verified information. Failure in one part of the examination may be grounds for declaring the applicant as failing in the entire examination, or as disqualified for subsequent parts of an examination.

H. ELIGIBILITY LISTS

Eligibility lists shall be established and certified by the Personnel Director or his/her designee following all applicable examinations. The eligibility list shall consist of names of

applicants with composite scores of at least 70 percent. Those candidates qualifying for appointment shall be listed in alphabetical order. The names of candidates accepting other than regular, full time appointments shall remain on the eligibility list during the life of said list, unless removed for other reasons.

Promotional candidates shall be listed by cumulative rank order.

Eligibility lists shall be valid and in effect for a period of one (1) year. An eligibility list may be extended upon the recommendation of the Department Head and by action of the Personnel Director for additional six-month periods, but in no event shall a list remain in effect for more than two (2) years.

If less than five (5) names of qualified applicants are available for a new appointment, the Personnel Director may declare the list invalid and announce a new recruitment and examination period. If there are less than three (3) applicants on a promotional eligibility list, the Personnel Director, in consultation with the Department Head, may declare the list invalid and announce a new recruitment and examination period. In the alternative, the Personnel Director may make a temporary appointment until eligible candidates can be certified after appropriate examination.

If a vacancy exists in a classification for which there is no existing eligibility list, an appropriate eligibility list may be prepared for the classification from one or more existing related eligibility lists. For this purpose, the eligibility list may be selected from the classes for which the selection process and qualifications are comparable to or higher than those required for the class for which the vacancy exists.

I. REMOVAL OF NAMES FROM ELIGIBILITY LIST

Names may be removed from an eligibility list for any of the following reasons:

- a. If an eligible candidate requests in writing that his/her name be removed;
- b. If an eligible candidate fails to accept an offer of employment within ten (10) calendar days following the making of such offer;
- c. If an eligible candidate on a promotional list resigns from the service;
- d. If an eligible candidate is physically or mentally unable to perform the essential functions of the job, with or without reasonable accommodation;
- e. If a person on the eligibility list leaves no forwarding address;
- f. Any other lawful reasons.

J. NOTIFICATION OF RESULTS

Every applicant taking part in the examination process shall be given written notice of the results. Any claim of error in rating or grading, must be submitted to the Personnel Director no later than ten (10) days after the effective date of the eligibility list, to be considered for correction. Applicants shall be provided timely access to all information reasonably necessary to determine if an error in rating or grading has occurred. However, applicants may be prohibited from inspecting examination papers if review of such materials is prohibited by the consulting agency that prepared the examination. Applicants cannot have access to the rating sheets of the individual raters, but upon request may have access to a composite description of the rating sheets. Corrections of errors in grading shall be made within the discretion of the Personnel Director. Applicants have no further right of appeal of examination results.

K. RELATIVES WORKING FOR THE CITY

The following definitions apply to this Rule:

1. "Relative" means spouse, domestic partner, child, step-child, parent, step-parent grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law.
2. "Supervisory relationship" means one in which one person exercises the right to control, direct, reward, or discipline another person by virtue of the duties and responsibilities assigned to his or her position.

The City reserves the right not to appoint or promote a person to a position in any department in which such person's relative already holds a position, when such employment would result in any of the following:

- a. A direct supervisory relationship;
- b. The employees having job duties that require performance of shared duties on the same or related work assignment;
- c. Both employees having the same immediate supervisor.

If an existing City employee marries another existing City employee, or cohabits with another City employee in a romantic relationship, both employees shall be allowed to retain their respective positions, unless it would result in one of the following:

- a. A direct supervisory relationship between the couple;
- b. A significant and likely potential for creating an adverse impact on supervision, safety, security, morale or efficiency;

Under either of these circumstances, the Personnel Director will attempt to:

a. Redefine the duties of the employees involved to avoid a supervisory relationship or eliminate the significant and likely potential for creating an adverse impact on supervision, safety, security, morale or efficiently.

b. Transfer one spouse/domestic partner to a similar position.

However, if continuing employment of two spouses/domestic partners cannot be accommodated, then the City retains sole discretion to separate one of the spouse(s)/domestic partner(s) from employment.

III. APPOINTMENTS

A. OFFERS OF APPOINTMENT

The City Manager or his/her designee shall effect an appointment by extending a conditional offer of appointment to an applicant. If the applicant accepts the offer of appointment, the appointment shall be deemed completed, subject to examination(s) as set out in Rule III.B. If the applicant does not accept the offer of appointment within the time period designated by the City Manager or his/her designee, the offer shall expire and the offer of appointment shall be deemed declined by the applicant. However, an offer of an appointment to a City position and acceptance of that appointment does not create a contract of employment between the City and appointee. City employment is not held by contract, but rather is governed by these Rules and Council resolutions.

B. PRE-EMPLOYMENT EXAMINATIONS

As part of the pre-employment procedure, applicants shall be required to supply references and submit to a thorough background check, including Live Scan fingerprinting. Safety employees shall be subject to investigation in accordance with Department of Justice and/or Police Officer Standards and Training requirements. In the case of employees handling money or other valuables in the course of their duties, a credit check may be done in accordance with applicable law.

All offers for appointment to a position in the competitive service shall be contingent upon the appointee passing medical and/or psychological examination and testing to determine whether the appointee can perform the essential functions of the job, with or without reasonable accommodation. Such pre-employment medical examination shall also include an illegal drug screening. If the examination reveals that the appointee cannot perform the essential functions of the job, with or without reasonable accommodation, or that the person uses illegal drugs, the person may be disqualified from consideration for employment.

If an applicant is disqualified from appointment to a position for failing to meet the medical and psychological standards for the job class, the applicant may file a written

request to review the disqualification. Such request must be submitted to Personnel Director no later than five (5) working days after the postmarked date of the notification or disqualification. The applicant may submit medical evidence supporting his/her claim that he/she should not have been disqualified. Submittals shall be accepted for a period of fifteen days, commencing with the date of notification of disqualification. In case of a genuine dispute, the City may require the applicant to be examined by a physician or medical evaluator of the City's choice. Any such examination shall be paid for by the City. The City shall make the final determination based on this examination. If the disqualification is upheld, the applicant has no further right of appeal of the City's determination.

C. PROBATIONARY APPOINTMENTS

The probationary period shall be an integral part of the examination process and shall be utilized as an opportunity to observe the employee's work, to provide special training, to assist the employee in adjusting to the new position, and reject any employee whose work performance, adaptation or personal conduct fails to meet required standards. A probationary employee shall have no rights of tenure and may be terminated without cause, without notice, and without any right of appeal, except as noted in Section III.I of these Rules.

All original and promotional appointments shall be tentative and subject to successful completion of a probationary period of not less than six (6) months of actual and continuous service. The probationary period for fire employees, lateral dispatchers and lateral police employees shall not be less than one year of actual and continuous service. New dispatch and police employees shall have a probationary period of eighteen (18) months of actual and continual service after completion of safety academy training. The probationary period shall be automatically extended for all unpaid leaves of absence.

At least four (4) weeks prior to the projected completion of any probationary period, the Personnel Director shall notify the Department Head or appointing authority and the probationer concerned of the impending completion date. If the service of the probationary employee has been satisfactory, the Department Head, with approval of the appointing authority, shall file with the Personnel Director a written recommendation that the employee receive a regular appointment. Upon the recommendation of the Department Head, the Personnel Director may extend an employee's probationary period by a maximum period of six (6) months past the end of the initial probationary period. The Department Head recommending an extension must file his/her recommendation in writing with the Personnel Director prior to expiration of the probationary period. The Personnel Director shall make the final decision regarding whether the probationary period will be extended. This decision is not subject to appeal. A probationary period shall not be extended for more than one six-month term.

D. REGULAR APPOINTMENTS

Following successful completion of a probationary period in an authorized full-time

position, an employee shall be classified as a regular appointee.

E. AT WILL APPOINTMENTS

At will positions are not subject to the job protections described in these Rules, including process and rules for recruitment, discipline, termination, probationary periods, testing and appointment from eligibility lists. The employment of at will personnel may be terminated at any time, for any legal reason, and without any requirement of demonstrating “good cause.” At will employees have no right to appeal any discipline or termination.

F. MANAGEMENT APPOINTMENTS

Appointments to management positions reporting directly to the City Council or City Manager are not subject to the Rules regarding recruitment, selection, testing and eligibility lists. Management employees are so distinguished as they: 1) have as their primary duty the management of an enterprise or recognized department or subdivision; 2) have authority to hire and fire, or to render suggestions as to those decisions; 3) customarily and regularly exercise discretionary powers; 4) have as their primary duty the function as a manager, and 5) do not devote more than 20 percent of their weekly work time to non-management activities. Management appointments may be designated as “at will” positions.

G. TEMPORARY APPOINTMENTS

The City may make appointments that are temporary whenever it has a legitimate need to do so. Such appointments shall not attain permanent status and shall be deemed “at will.” All temporary appointments are subject to the following requirements:

- a. Any person appointed to temporary status must meet the minimum qualifications for the position to which he/she is being appointed.
- b. A temporary appointment shall not exceed a period of six (6) months unless an extension is authorized in writing by the City Manager. The extension shall not exceed an additional six (6) months.
- c. Temporary appointees shall be compensated at the hourly equivalent of the salary range assigned to a regular employee in the same classification. Temporary employees who are regular City employees at the time of temporary appointment are not eligible for salary increases in the temporary classification.
- d. Prior to being appointed to regular status, a temporary appointee must successfully complete the competitive recruitment process.

H. ACTING APPOINTMENTS

Whenever the needs of the City, due to vacancy, extended illness, or other extenuating circumstances require, the City may appoint, on an acting basis, a regular employee from a lower classification to perform the duties of the vacant higher position.

The affected Department Head shall indicate in writing to the Personnel Director the need for an acting appointment and any recommended employee(s) to serve in the appointment.

To be eligible for an acting appointment, the employee must possess the minimum qualifications of the higher classification.

The employee assigned to perform the duties of a higher classification, shall not serve for more than ninety (90) working days in a higher classification that is vacant without the position becoming subject to the announcement and selection process set forth in Rule II. However, the City may extend the time for the acting assignment if circumstances warrant.

If the person is subsequently promoted from acting capacity into the same position in a regular capacity, the period of time of service in the acting capacity may be credited to the required period of probation for the regular appointment.

I. PROMOTIONAL APPOINTMENTS

Promotional appointees are subject to the same application, testing and probationary employment requirements as all other regular applicants. An employee on promotional probation shall have no rights of tenure in the promotional position and may be returned to his/her former position without cause, without notice and without any right of appeal.

In the event that a promotional appointee does not pass probation, the City shall return the employee to his/her prior position, or appoint the employee to a position in the same or lower classification as the prior position. The employee shall not serve a new probationary period if returned to his/her prior position.

The effective date of a promotional appointment shall determine the employee's new salary evaluation date. Promoted employees may be evaluated after six (6) months service and shall be evaluated annually thereafter.

J. EMERGENCY APPOINTMENTS

To meet the immediate requirements of an emergency condition, such as major fire, flood, earthquake, or other public calamity that threatens public life or property, the appointing authority may employ such persons as may be needed for the duration of the emergency without regard to the personnel ordinance, these Rules, or other rules and regulations affecting appointments. Such employees serve at the will of the City Manager and may be dismissed without cause and without any right of appeal, grievance or hearing.

K. PART TIME SEASONAL AND TEMPORARY EMPLOYEES

Part time, seasonal and temporary employees are employed on an at will basis and may be terminated at any time with or without cause and without right of appeal.

All part time, seasonal and temporary employees shall be compensated on a straight hourly basis for the actual number of hours worked. The rate of pay shall be determined by the City's compensation plan and shall be within the salary range for the specified position.

No seasonal or temporary employees shall be eligible for participation in any benefit program established by the City, except as required by state and/or federal law. Part time employees who do not work for the City on a temporary basis and who work in excess of twenty one (21) hours per week on average shall be entitled to the same benefits enjoyed by regular full time employees based upon a proration of average hours worked.

Part time, seasonal and temporary employees shall work on a schedule determined by the City. These positions may be eliminated and/or replaced with full time positions as determined by the City.

No part time, seasonal or temporary employee shall be eligible for a salary adjustment except as provided in a Council approved compensation plan. In general, no part time, seasonal or temporary employee shall be eligible for a salary adjustment except upon the satisfactory completion of one of the following conditions:

- a. Completion of one thousand (1000) hours of service from date of appointment and a minimum of one year of service; or
- b. Completion of a minimum of three hundred (300) hours of continuous service on a seasonal basis and the lapse of one year from the date of appointment.

However, the City may make salary adjustments at an earlier date if circumstances warrant such adjustment.

For the purpose of calculating longevity, part time hours worked may be converted to equivalent full time hours.

L. VOLUNTEERS

The City may utilize volunteers for the delivery of City services. The use of volunteers shall be subject to approval by the City Manager. Volunteers shall not be eligible for salaries, benefits or other compensation unless specifically provided for by Resolution of the City Council. Subject to approval by the City Manager, necessary equipment or uniforms and reimbursement for approved actual expenses and mileage may be provided.

Subject to approval by the City Manager, employees may volunteer to provide services to the City outside of their normal duties, provided they are not performing the same or similar duties for which they or any other City employee are normally compensated and the responsibilities are occasional and sporadic. Employees engaging

in such volunteer assignments shall not be entitled to compensation. Volunteers may be separated from City service, at the City's sole discretion, at any time without cause and without right of appeal.

Volunteer assignments may be offered during an employee's regular work hours. In such instances the employee shall obtain the approval of his/her supervisor prior to leaving his/her regular work assignment. Employees opting for volunteer work in lieu of their regular work duties shall use accrued or unpaid leave to account for their absence from their regular job.

IV. CHANGES TO POSITIONS

A. TRANSFERS

A Department Head may, at any time and for any reason, transfer an employee from one position to another position in the same or comparable classification with the same or comparable qualifications and without loss of compensation, after notice to the Personnel Director and approval by the City Manager. Employees who desire a transfer may also submit a request for voluntary transfer to their Department Head for consideration. The Department Head may deny the transfer request in his/her sole discretion.

If an employee voluntarily transfers to another position in the same or comparable classification and is not successful, the employee may, at the discretion of the Department Head(s), return to his/her former position if that position has not been filled. The employee's salary evaluation date shall remain the same as it was before the transfer.

The City may initiate a transfer of a qualified disabled employees to another position as a reasonable accommodation for the employee's disability. Such transfers may have priority over any candidates on an existing eligibility list.

B. RECLASSIFICATION

Should the Personnel Director determine, pursuant to Rule II.A. that the job duties of a position in the competitive service have materially changed at the direction of the City, and not because the employee voluntarily assumed or declined duties, the Personnel Director, in his/her discretion, may reassign the position to another classification.

An employee may be reclassified without competitive exam if the Personnel Director determines the employee has met the minimum qualifications of the new classification and has performed the duties of the reclassified position for a minimum period of nine (9) months. Reclassification shall not be used for the purpose of avoiding competitive selection processes.

The employee's salary evaluation date shall not change as a result of the reclassification.

C. DEMOTIONS

An employee may be demoted for cause pursuant to the Disciplinary Action policy at Rule XI., or for organizational reasons, pursuant to Layoffs at Rule IV.D.

A demoted employee shall be required to serve a probationary period in the lower classification unless the lower classification is in the same job series or the employee completed probation in the lower classification. In the event the demoted employee does not pass probation, the employee shall be terminated from employment without right of appeal. The effective date of a demotion shall establish a new salary evaluation date.

An employee may request a voluntary demotion to a lower classification in which the employee meets the minimum qualifications. The request shall be in writing and submitted to the Department Head for consideration. The Department Head may approve or deny the demotion request in his/her sole discretion. If approved, the employee shall sign an acknowledgement of voluntary demotion and reduction of salary and benefits.

If an employee voluntarily demotes to another position in the same or comparable classification the employee's salary evaluation date shall remain the same as it was prior to the demotion.

D. LAYOFFS

Should the City Manager determine reductions in force to be necessary due to lack of work, reorganization or for financial reasons, he/she may initiate lay-offs. In the event of layoffs, the City shall provide effected employees with as much notice as possible.

In determining the order of lay-offs, a combination of factors shall be considered, including but not limited to: qualifications, productivity, general performance, seniority and needs of the City. Variations from the order of layoffs and recall from layoff may occur when the City deems such variations appropriate under the circumstances.

The factors the City, in its discretion, may use to determine layoffs include but are not limited to the following:

- a. An employee's last three performance evaluations;
- b. Any history of employee commendations, awards, etc.;
- c. Any history of employee disciplinary action;
- d. Attendance records, including tardiness and unexcused absences;
- e. Safety record, including personal injury and damage to City property;

f. Probationary, part time and temporary employees shall be laid off before a regular employee in the same classification;

g. Between two regular appointees in the same classification with the same skills, abilities, qualifications, merit and/or record, the employee with lesser seniority may be laid off first;

h. Between two regular appointees in the same classification, the employee with lesser skills, abilities or qualifications, may be laid off first, without regard to seniority.

E. BUMPING

“Bumping” means the displacement of an employee from his/her position by an employee in a higher classification who formerly held the same position, or a position in the same job series.

A laid-off employee shall be entitled to bump an employee in the same position previously held by the laid off employee, or a position in the same job series, in accordance with the criteria specified in paragraph 2 of this Rule. The laid off employee must be able to perform the essential job functions of the former position and possess the minimum qualifications of the position as specified by the job classification specification.

The City shall notify laid-off employees of any positions available for bumping. Following such notification, the employee must notify the Personnel Director in writing of his/her intent to exercise the bumping rights within seven (7) calendar days, and the position and classification into which he/she intends to bump. Failure to provide such notification shall be deemed a waiver of bumping rights by the employee.

Where there is more than one employee in a position available for bumping, the factors in paragraph 1 of this Rule, or the conditions set forth in a Council-approved Memorandum of Understanding, shall be used to determine which employee, if any, will be bumped.

Any displaced employee shall be considered as laid-off for the same reason as the person who displaced them and shall in the same manner be eligible to displace another employee based on the criteria specified in paragraph 2 of this Rule.

F. REINSTATEMENT FROM LAY-OFF

Following lay-off from a position or lay-off from City employment, employees may be reinstated upon the recommendation of the Department Head, the concurrence of the Personnel Director and with the approval of the City Manager, to the position from which they were laid off based on their qualifications, availability, and the needs of the City pursuant to the Reinstatement policy at Rule IV.H. of these Rules.

G. SEPARATIONS

All employees who separate from City service, that is, whose employment with the City terminates through separation for cause, layoff, resignation, or retirement must:

- a. Return all City property to the Personnel Director or the immediate supervisor prior to receiving the final paycheck.
- b. Clear any existing financial obligations with the City.
- c. If applicable, file a Form 700 with the City Clerk.

In addition, employees who resign or retire shall adhere to the following procedures before they will be deemed to have terminated in good standing:

- a. Submit a written notification stating the intent to terminate and the proposed effective date to their immediate supervisor.
- b. Provide a minimum notice of two weeks. The City encourages employees who become aware of their pending termination from the City to let the Personnel Director know as far in advance as possible.

H. REINSTATEMENT

At the recommendation of the Department Head, and with the approval of the appointing authority, employees who (1) resigned, retired, or were laid off and (2) were in good standing at the time of separation, may be reinstated within twelve (12) months, to their former position, if vacant, or to a vacant position in the same classification, without being subject to the application requirements of Rule II. Preference for reinstatement may be given to employees who were laid off.

A reinstated employee shall serve a probationary period as defined in these Rules. An individual requesting reinstatement shall be required to pass a medical and/or psychological examination and any other qualifying tests or procedures as in the case of a new employee. If reinstated, credit may be granted for prior service in terms of benefit accrual rates and seniority in the discretion of the Personnel Director in consultation with the Department Head. Employees reinstated after lay-offs shall receive credit for prior service with the City.

V. COMPENSATION

A. COMPENSATION PLAN

1. COMPENSATION SYSTEM PRINCIPLES

The City of Healdsburg is committed to maintaining fiscal integrity and high standards of accountability to the public in the expenditure of funds provided by taxpayers. Accordingly,

the City establishes its compensation system in accordance with the principles of public accountability.

2. COMPENSATION PLAN

The Personnel Director shall prepare a Compensation Plan that includes the following:

- a. the salary ranges for all classifications in the competitive service, showing the minimum and maximum rates of pay;
- b. a designation of the position as full-time, hourly, or temporary;
- c. a designation of the position as paid on an hourly or salary basis.

These rules do not preclude the creation of separate management pay plans that, if adopted by the Council, must be administered in accordance with the procedures adopted for such plan(s) by the City Council.

3. REVIEW OF COMPENSATION PLAN

On a periodic basis, but not less than every two years, the Personnel Director shall survey benchmark classifications in accordance with City Council policy. Survey results shall be considered as one of the pieces of information used as a guideline in establishing or modifying compensation for a particular position or classification.

The Personnel Director shall also determine whether any modifications are necessary due to changes to positions or classifications, including changes to exempt or non-exempt status, resulting from his/her periodic review of the Classification Plan.

The Personnel Director shall submit any modified Compensation Plan in proposed form to the City Council for adoption.

B. SALARY UPON APPOINTMENT

Initial appointments shall normally be made at the first step of the salary range for the particular classification in which the appointment is made. When, in the judgment of the Department Head, the education, training, and/or experience of a proposed employee are such that a salary in excess of the first step is justified, the City Manager may authorize an appointment to a position at a higher step in the salary range.

C. SALARY UPON HOURLY APPOINTMENT

Hourly employees receive only legally mandated benefits other than the hourly rate of pay. An hourly employee shall be compensated on an hourly basis at the hourly rate to which his/her classification has been allocated or shall be paid an hourly rate equivalent to the pro-rata share of the monthly salary to which he/she would be entitled were he/she a full-time employee.

D. SALARY UPON ACTING APPOINTMENT

Commencing thirty (30) continuous calendar days from the date of the acting appointment, the employee shall receive the salary rate of the higher classification in which the employee is performing the required duties. The employee shall receive said higher pay for the remaining duration of the acting appointment.

A person appointed in an acting capacity shall be eligible to receive merit increases in his/her regular position during the acting appointment but shall not be entitled to merit increases in the position which is held in an acting capacity.

E. SALARY UPON PROMOTION

An employee who is appointed to a position in a classification allocated to a higher salary range than the employee's present classification shall receive the next highest monthly salary which is at least five percent (5%) higher than the employee's previous base salary, but in no case more than the top step of the new salary range. Payment in such new salary range shall commence at the beginning of the pay period in which the appointment becomes effective.

F. SALARY UPON TRANSFER

An employee who is transferred from one position to another in the same classification or to another position in a classification having the same salary range shall be compensated at the same step in the salary range as previously received.

G. SALARY UPON RECLASSIFICATION

1. UPWARD RECLASSIFICATION

An employee whose position is reclassified to a job classification with a higher salary range, and who meets the qualifications and requirements for the new classification, shall be compensated at the closest step within the new salary range that will provide a minimum increase of five percent (5%). A new probationary period is not required and the performance review date shall not change.

2. DOWNWARD RECLASSIFICATION

An employee whose position is reclassified to a job classification with a lower salary range shall:

- a. retain his/her current salary if the current salary is the same as a step within the salary range of the new classification;
- b. be placed at the closest step within the salary range of the new classification that approximates the current salary if the current salary is between steps within the new salary range; or
- c. be assigned a Y-rate designation to hold the employee at the current salary

rate, without increases, until such time as the salary range for the new classification is the same or exceeds the amount of the Y-rating.

H. SALARY UPON DEMOTION

The salary of an employee who is demoted for cause to a position in a classification allocated to a lower salary range than the employee's current classification shall be reduced to a step in the salary range for the classification to which the employee has been demoted. The Department Head, with the approval of the Personnel Director, shall determine the step within the range on which the demoted employee will be placed.

An employee voluntarily demoted or demoted pursuant to a lay-off shall be compensated at the nearest lower monthly salary rate in the salary range for the classification to which he/she has been demoted to the demoted employee's salary rate prior to layoff. The effective date of a demotion shall establish a new salary evaluation date.

I. MERIT SALARY INCREASES

1. ELIGIBILITY FOR A MERIT INCREASE

Merit increases are based solely upon job performance. They are not automatic and there is no annual entitlement. Employees are eligible for a merit increase each year based upon the evaluation of their performance. Only regular appointees are eligible for merit increases, and no employees shall receive an increase that exceeds the maximum rate established for their classification. In order to receive a merit increase, employees must receive both at least a minimum rating of "Meets Expectation" or above on their job performance evaluation and a recommendation for a merit increase by the Department Head. Any such merit increase shall be applied retroactively to the employee's most recent service anniversary date.

2. POSTPONEMENT OF A MERIT INCREASE

Rather than recommend a merit increase at the time of the performance evaluation, the Department Head, in his/her discretion, may opt to postpone the decision pending further review of the employee's job performance for a period not to exceed six (6) months. The Department Head shall include the reasons for the postponement in any such recommendation. If, during or at the conclusion of the period of postponement, the Department Head recommends a merit increase, the increase shall take effect in the pay period that immediately follows the pay period in which the recommendation is made, and that date shall become the new salary evaluation date.

3. MERIT INCREASES FOR EXCEPTIONAL CIRCUMSTANCES

Upon written recommendation of a Department Head, the City Manager, in his/her sole discretion, may authorize a merit increase outside of a regularly scheduled performance evaluation if exceptional performance or other appropriate circumstance warrants such increase. An increase for exceptional performance shall not exceed the highest step in the employee's current salary range.

J. SALARY UPON SUSPENSION WITHOUT PAY

Any employee who has been suspended for disciplinary reasons shall not receive pay for the duration of the suspension, nor shall any benefits which are calculated upon hours worked be credited to the employee, including, but not limited to, sick leave, vacation, retirement, disability insurance, standby pay or overtime, during the period of suspension. Employees suspended without pay for disciplinary reasons shall not be subject to call out or eligible for call out benefits. Should such suspension be later modified or revoked, the employee shall be entitled to receive payment to compensate for loss of income and benefits during the period of suspension, excluding overtime and call out benefits.

K. OVERTIME COMPENSATION

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

1. OVERTIME COMPENSATION

As a matter of general policy, the City does not permit employees to work overtime and will provide adequate staff to handle normal operations as needed.

The City designates as “FLSA Exempt” those employees who work in professional, executive or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA. Except when necessary to address an emergency or special circumstances, employees who are entitled to overtime compensation under the law may not work outside of regularly scheduled working hours, or during unpaid meal periods, without the prior authorization of a supervisor. In any event, employees shall report overtime work as soon as possible after the work is performed. Violations of this Rule may result in discipline, up to and including termination of employment.

All overtime work must have the approval of the appropriate supervisor prior to actual performance of the work. Failure to obtain such approval in advance may result in discipline.

All non-exempt employees shall be compensated at one and one-half times their regular hourly rate for overtime hours worked, in accordance with FLSA.

Only actual hours worked shall be considered as hours worked for purposes of calculating overtime pay, unless authorized in a Memorandum of Understanding adopted by City Council. No overtime shall be recorded or reported for less than 8 minutes of work.

2. COMPENSATORY TIME-OFF

Employees may opt to accrue Compensatory Time-Off (“CTO”) in lieu of cash

payment for overtime worked if the requirements of this rule have been met.

CTO shall accrue at the rate of one and one-half (1-1/2) hours for each overtime hour worked in accordance with the FLSA. No employee may accumulate CTO in excess of eighty (80) hours unless provided by a City Council approved Memorandum of Understanding. Overtime shall be compensated in pay only after 80 hours of CTO have accumulated. Use of CTO earned shall be granted provided that: 1) its use does not unduly disrupt the operations of the City; and 2) the request is made to the employee's supervisor no later than five calendar days prior to the time when the employee desires to use the leave. If the employee does not provide five days of notice, or if the use of CTO would unduly disrupt City operations, the City shall cash out the CTO requested at the end of the current pay period in the employee's regular pay check.

L. DEDUCTIONS FROM PAY

1. DEDUCTIONS FROM SALARIES FOR PERSONAL OR SICK LEAVE

Consistent with the City's compensation system based on the principles of public accountability, all FLSA-exempt employees who are absent from work for personal reasons or because of illness for less than one workday must first exhaust any available paid accrued leave toward the absence or request. In the event the salaried employee has exhausted all available accrued leave, the City Manager may approve unpaid leave time, which shall be deducted from the employee's pay.

2. PROHIBITED DEDUCTIONS FROM SALARIES

Notwithstanding any other provision in these Rules, in no event shall the City take deductions from paychecks of FLSA-exempt employees for any of the following:

- a. Jury duty in which the employee does any work;
- b. Temporary military leave;
- c. Witness leave in which the employee does any work, except when the employee has brought the legal action; and
- d. Disciplinary action of suspensions less than one full workweek unless the discipline is based on an infraction of workplace conduct rules.

M. ERRORS IN COMPENSATION

In the event of any underpayment of which the City becomes aware, the employee shall receive any amount due him/her on the next regular pay check.

In the event of any overpayment of which the City becomes aware, the employee is required to reimburse the City for the amount of the overpayment. The City and employee shall make arrangements for the prompt reimbursement in accordance with applicable law.

Each employee shall review each of his/her paychecks to ensure the employee was paid correctly. If the employee believes an error or irregularity has occurred, the employee must immediately call it to the attention of his or her supervisor who shall in turn notify the Personnel Director or Finance Director. The City shall document all errors in compensation and the affected employees shall sign an acknowledgement for any corrections made.

VI. GENERAL EMPLOYMENT MATTERS

A. HOURS OF WORK

The basic workweek for full time employees shall be forty (40) hours per week, in a seven day period. Department Heads shall assign daily hours of work (or shifts) for employees within departments, as required to meet operational requirements, or the employees' applicable MOU. The Department Head may change an employee's work period, week, or hours at any time to meet the requirements of the City. Changes shall be made in accordance with applicable Memoranda of Understanding.

Any foreseeable absence or deviation from regular working hours desired by an employee shall be cleared in advance through the employee's supervisor, and such absences shall be noted on the employee's time sheet.

With the approval of the Department Head and concurrence of the City Manager and employee association, an employee may be assigned a flexible work schedule totaling forty (40) hours within a one-week period which may be maintained as long as the needs of the public and City are being met. The start and stop of the workweek for employees on a flexible work schedule shall be designated at the time the flexible work schedule is assigned to the employee. The Department Head, in his/her sole discretion, may decide to change the work schedule of an employee if the flexible work schedule no longer meets the needs of the City.

B. MEAL AND REST PERIODS

Employees shall receive a thirty (30) to sixty (60) minute meal period that shall not be compensated, with the exception of safety personnel such as police officers and firefighters. During the meal period, the employee shall be relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday unless the employee obtains express prior approval from his/her supervisor.

Employees shall have a fifteen (15) minute rest period for each half of their shift, as scheduled by the supervisor. The rest period may be interrupted or cancelled if necessary to complete work and shall be compensated time. The rest periods shall not be combined or used to shorten the workday.

C. TIMEKEEPING

All employees must sign and accurately record all hours worked and any leave taken on their timesheets. Employees shall submit their timesheets on a bi-weekly basis to their supervisor. Employees must immediately report any errors on a timesheet that has already been submitted to their supervisor.

D. ATTENDANCE

Employees are expected to report to work as scheduled, on time, and prepared to start work. Employees are also expected to remain at work for their entire work schedule, except when required to leave on authorized City business or some other authorized leave. All departments shall keep daily attendance records of employees, which shall be reported on the employee's timesheet.

Employees who anticipate an absence from all or a portion of their regular work schedule and wish to request a form of accrued leave time or unpaid leave time should follow the procedures provided in these Rules or Memoranda of Understanding for the particular type of leave that they are requesting.

Employees who are unexpectedly unable to report for work as scheduled on any particular day must call their immediate supervisor no later than their scheduled time to begin work for that day, or as otherwise required by the Department. If the employee's immediate supervisor is not available, then the employee must notify the Department Head or his/her designee. Employees shall inform their supervisor of the expected duration of any late arrival or absence. Employees who call later than their scheduled time to begin work for their assigned shift shall be deemed to have an unauthorized tardy or absence in violation of this attendance policy. Abuse or misrepresentation of any form of accrued or paid or unpaid leave time will be grounds for discipline.

Failure on the part of an employee, who is absent without notification or authorization, to return to duty within twenty-four (24) hours after a notice to return to duty has been delivered to their last known telephone number and/or address will constitute an automatic resignation effective as of the last day an employee worked. If, within 10 days of said notice, the employee can show good cause for the failure to return to duty, the Personnel Director, in his/her discretion may, with approval of the City Manager, reverse the resignation. In the event that an employee's absence is deemed an "automatic resignation" in accordance with this Rule, the employee shall have the same right to appeal afforded to employees who are terminated for cause under these Rules. However, an employee's absence without notification or authorization for 24 hours or more shall be deemed just cause for termination.

E. EMPLOYEE PERFORMANCE EVALUATION

Department Heads or their designees shall make a report of performance of each employee after completion of a probationary period and annually thereafter. Unless changed in accordance with these Rules and Regulations, these evaluation dates shall

constitute the employee's salary evaluation date for purposes of eligibility for a merit salary increase; provided, however, the employee shall continue to receive performance evaluations on said date even after the employee has reached the top of the applicable salary range. In addition, a performance evaluation may be prepared at any other time at the discretion of the employee's supervisor.

Each performance evaluation shall be discussed with the employee. The performance evaluation shall address areas of successful performance and areas that need improvement. The employee shall have the opportunity to comment regarding work performance, either in a written statement attached to the report or orally. The employee shall sign the performance report to acknowledge that the employee is aware of its contents and has discussed the report with the evaluator. The employee's signature does not necessarily indicate agreement with the contents of the report. In the event that an employee refuses to sign the evaluation following his/her review of the evaluation, such refusal shall be so noted by the evaluator on the evaluation form.

The employee shall receive a copy of the performance evaluation, and the original, along with any written comments submitted by the employee, shall be maintained in the employee's personnel file.

F. FITNESS FOR DUTY EXAMINATIONS

When the City determines that an employee appears to be having difficulty performing one or more of his/her essential job functions or for other good cause that is job related and consistent with business necessity, the Personnel Director may require an employee to undergo a fitness for duty examination to determine whether the employee can perform the essential functions of the job with or without accommodation. The Personnel Director may require that a City-approved physician conduct the examination. In addition, the City may require written documentation from a physician stating the employee is fit for duty. The City shall pay for fitness for duty examinations that it initiates under this Rule.

G. SMOKING

The City prohibits smoking and the use of smokeless tobacco products:

- a. In areas where fire and/or safety hazards exist;
- b. As prohibited by law;
- c. Inside any enclosed facilities that are owned and/or operated by the City of Healdsburg.
- d. In City-owned, leased and/or rented vehicles.

This policy shall be strictly enforced in order to ensure the health and safety of all

employees and the public.

H. SAFETY AND HEALTH

It is the objective of the City to ensure a safe and healthful workplace for its employees. In keeping with this goal, the City has established an Injury and Illness Prevention Program (IIPP) program to explain its safety policies and procedures, a copy of which is available in the Office of the City Clerk and each department. All employees shall comply with the City's Injury and Illness Prevention Program.

In the event of a local, regional, state, or national emergency, all employees shall be required to report for work in accordance with their department's emergency preparedness plans. Assigned duties may vary from normal duties. In such an emergency, provisions of these Rules may be expressly waived by action of the City Manager.

I. OUTSIDE EMPLOYMENT AND OFF-DUTY CONDUCT

Full-time employees are expected to devote full time to assigned duties as a City employee. An employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with City job duties, functions or responsibilities, nor shall an employee engage in any outside activity which will directly or indirectly contribute to the lessening of effectiveness as a City employee. No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly provided in these Employer-Employee Relations Rules, Memoranda of Understanding, or by law.

1. PROHIBITED OFF-DUTY CONDUCT

Employees may not engage in any employment or activities that create a conflict of interest, is unethical, or otherwise interferes with their City employment. In making a determination as to whether an activity creates a conflict or ethical question, the Personnel Director shall consider, among other pertinent factors, whether the activity involves:

a. Receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act that the employee would be required or expected to render in the regular course of City employment;

b. The performance of an act or work which may later be directly or indirectly subject to the control, inspection, review, audit or enforcement by such employee or other City employees;

c. Conditions or factors which might, directly or indirectly, lessen the efficiency of the employee in regular City employment or conditions in which there is a substantial danger of injury or illness to the employee;

d. The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or

employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon approval of the City Manager;

e. The solicitation of future employment with a business or individual doing business with the City over which the employee has some control or influence in the course of performing official duties.

2. OUTSIDE EMPLOYMENT

Employees who hold or wish to hold jobs outside their normal City employment must make a request to engage in outside employment and submit the request to the City Manager or his/her designee. Outside employment shall not be permitted if it conflicts in any manner with the employee's duties and responsibilities with the City or is prohibited by law.

J. PERSONNEL FILES

The City shall maintain an official personnel file for each of its employees. Personnel files contain such personnel records as may be deemed necessary for the administration of human resources in the City.

Personnel files shall be made available to employees for inspection within a reasonable time after an employee's request and without loss of pay, provided that employees shall make arrangements with their supervisor if the inspection occurs on duty. Upon written request, employees may obtain copies of the materials subject to inspection. The City may preclude inspection of certain information in accordance with the law, such as background and other pre-employment information and materials relating to confidential investigations.

The City maintains injury reports and confidential medical records in separate files.

K. REASONABLE ACCOMMODATION

The City shall comply with any legal obligation to reasonably accommodate any known protected disability of an employee or applicant.

1. PROCEDURE

a. An employee or applicant who desires a reasonable accommodation should make such a request in writing to the Personnel Director. The request must identify 1) the job-related functions that need accommodation; and 2) the desired reasonable accommodation.

b. Following receipt of the request, the Personnel Director or his/her designee shall respond to and, if feasible, meet with the individual. Before doing so, the Personnel Director may first require the individual to undergo a fitness for duty examination to

determine whether the individual can perform the essential functions of the job with or without accommodation. The Personnel Director may also require that a City-approved physician conduct the examination. The Personnel Director shall determine whether a reasonable accommodation can be made and what reasonable accommodation shall be provided after engaging in an interactive dialogue with the employee and in consultation with the appropriate Department Head, on a case-by-case basis.

c. An employee or applicant who believes he/she has been denied a reasonable accommodation may file a complaint with the City Manager. The City Manager's determination shall be final with respect to the City.

VII. LEAVES OF ABSENCE

A. ELIGIBILITY FOR PAID LEAVES OF ABSENCE

In order to be eligible for the paid leaves of absence outlined herein or subsequently granted by the City, an employee must be a full-time employee and either a regular appointee or a probationary appointee.

B. VACATION

Every full-time probationary and regular employee shall earn vacation leave as follows unless otherwise specified by an applicable M.O.U.:

<u>Years</u>	<u>Hours Per Year</u>
0-2	80
3-5	96
6-7	120
8-9	128
10-11	136
12-13	144
14-15	152
16-20	160
21-23	176
24-25	192
26 +	200

Vacation shall accrue daily on a pro rata basis.

1. SCHEDULING VACATIONS

After completion of six (6) months of continuous service, an employee may take vacation leave at any time, subject to approval by the employee's Department Head or his/her designee. Approvals shall be based upon work load, staffing coverage, seniority, timing of the request, and any other work-related factors appropriate for consideration by

the Department Head. Vacation shall be taken in increments of one-half (.50) hour or more. The Department Head, with concurrence of the Personnel Director, may authorize an employee to take vacation leave prior to completion of six (6) months of continuous service.

2. CAP ON ACCRUAL

Department Heads shall encourage employees to use accrued vacation leave. By November 30 of each year, any vacation that has accrued in excess of two (2) times an employee's current annual vacation entitlement shall be paid to the employee in form of cash, included in the employee's paycheck, or as allowed by a Council-approved Memorandum of Understanding.

3. EFFECTS OF SICK LEAVE ON VACATION LEAVE

In the event an employee becomes ill during a vacation period, such time shall not be charged as vacation leave if either of the following conditions are met:

a. The employee complies with the same notice requirements in Rule VII.D. (Sick Leave) as required when the employee is not on leave, including notice to the employee's supervisor no later than the start of the employee's regular work shift. If the employee becomes ill after the start of the work shift, then the employee must promptly provide notice on the same day the illness begins. Sick leave shall only be granted for those days on which notice is given pursuant to this Rule; or

b. The employee, upon return to work, submits a doctor's certificate for each day the employee was absent from work.

4. COMPENSATION FOR CITY WORK DURING VACATION PROHIBITED

No person shall be permitted to work for compensation for the City in any capacity, except compensation for mandated court appearance, call back or special duty assignments during paid vacation time. Exceptions may be made for Reserve Firefighters.

5. VACATION PAY UPON TERMINATION

Any employee separating from City service shall be paid at his/her regular rate of pay on a pro rata basis for all earned unused vacation, if any, accrued up through separation. An employee may not use vacation leave to extend retirement or separation unless specified in a Council approved MOU, or required by law.

C. HOLIDAYS

1. AUTHORIZED HOLIDAYS

Every full-time probationary and regular employee shall be entitled to the following paid holidays each calendar year and such other days as may be designated by action of the City Council:

- a. January 1 (New Year's Day)
- b. The third Monday in January (Martin Luther King Day)

- c. The third Monday in February (Presidents' Day)
- d. The last Monday in May (Memorial Day)
- e. July 4 (Independence Day)
- f. The first Monday in September (Labor Day)
- g. November 11 (Veteran's Day)
- h. Thanksgiving Day
- j. The Friday after Thanksgiving Day
- k. Christmas Eve
- l. December 25 (Christmas Day)
- m. December 31 (New Year's Eve)

If a holiday falls on Saturday, Friday shall be designated as the holiday, and if the holiday falls on Sunday, Monday shall be designated as the holiday. Employees assigned to a flexible work schedule shall be entitled to paid holidays at the hourly equivalent of their standard schedule.

2. HOLIDAYS DURING VACATION/LEAVE

Holidays occurring during an employee's vacation shall be treated as a paid holiday. In recognition of differing work schedules for safety and civilian shift work employees, holidays may be specified to occur on the actual legal date.

Employees who are absent from work on a holiday due to unpaid leave of any form shall not receive reimbursement for the missed holiday.

3. EMPLOYEE WORKING HOLIDAY

Employees working on a holiday with City approval shall be entitled to an "in lieu" holiday that may be taken on another date, within the pay period of the original holiday, subject to supervisory approval. In lieu holidays shall not be carried over to another calendar year, and shall be lost unless used prior to the end of the pay period.

D. SICK LEAVE

Full-time probationary and regular employees only are eligible to accrue eight (8) hours of sick leave with pay for each calendar month of actual continuous service dating from the employee's most recent date of hire.

An employee shall not receive payment for unused accumulated sick leave upon separation of employment or retirement (either disability or service retirement) unless specifically provided for in an applicable Memoranda of Understanding. An employee may not use sick leave to extend a retirement (either disability or service retirement) or separation date, unless specifically provided for in an applicable Memoranda of Understanding, or as required by law.

1. PROOF OF ILLNESS

The Department Head may request, in his/her discretion, that the employee

produce a certificate issued by a licensed physician or other satisfactory proof of illness before sick leave is granted. The Department Head may also direct an employee to attend a physical examination by a City-retained licensed physician, at City expense, to ascertain whether the employee is fit to perform the duties of his/her position.

2. USE OF SICK LEAVE FOR FAMILY

In cases of illness of a family member, employees are entitled to use not less than up to one-half of the employee's sick leave entitlement for the year to attend to the illness of a spouse, domestic partner, parent or child, in accordance with state law. Additional family sick leave usage for special circumstances may be granted on a case-by-case basis in the discretion of the Department Head with the concurrence of the City Manager.

3. INTEGRATION OF BENEFITS

If an employee is on sick leave and is receiving SDI payments, the employee may continue to receive full pay from the City by requesting that the maximum weekly disability benefits be supplemented by the use of sick leave benefits. To exercise this option, the employee shall tender his/her SDI payments to the City and the City shall then continue to issue paychecks and deduct the value of the difference between the SDI payments and the employee's regular pay from the employee's sick leave accruals.

E. JURY DUTY AND WITNESS LEAVE

All employees in the competitive service who are required to serve on a jury shall be entitled to regular compensation. Employees released early from jury duty shall immediately report back to their normal work assignment.

An employee who is subpoenaed to appear in court in a matter regarding an event or transaction which he/she perceived or investigated in the course of his/her employment with the City shall be allowed to do so without loss of compensation, unless it is the employee's own lawsuit.

An employee subpoenaed to appear in court in a matter unrelated to his/her official capacity, or who is appearing in court in a matter initiated by the employee, shall be permitted time off without pay, or if the employee chooses, to use accrued vacation for this purpose.

F. MILITARY LEAVE

Military leave with pay shall be granted in accordance with the provisions of the State Military and Veteran's Code of the State and applicable Federal law. An employee entitled to military leave shall give his/her Department Head an opportunity, within the limits of military regulations, to determine when such leave shall be taken. Prior to taking such leave, an employee shall present a copy of his/her military orders to the Department Head. The Department Head shall advise the Personnel Director of such military orders promptly. The employee's work schedule may be temporarily changed by the Department Head to accommodate the leave and department workloads, in accordance with applicable

law. Benefits shall continue to accrue to the employee to the extent required by law. Employees on military leave shall be granted promotional opportunities and reinstatement after return from military leave in accordance with applicable law.

G. BEREAVEMENT LEAVE

The City shall grant leaves of absence with pay in accordance with Council adopted Memoranda of Understanding when a member of the employee's or employee's spouse or domestic partner's immediate family dies. "Immediate family" means parent, current spouse or domestic partner, child, stepchild, grandparent, grandchild, brother, sister, step-sibling, mother, father, step-parent, sister, son or daughter-in-law. In the absence of Council adopted Memoranda of Understanding, the City shall grant a maximum of three (3) days of paid leave for bereavement. The City, in its discretion, may require some proof that a death in the family has occurred.

H. ADMINISTRATIVE LEAVE

The City, in its discretion, may place an employee on administrative leave with pay. Employees on such leave shall be available and are subject to the City's instructions during their normal working hours.

I. SCHOOL ACTIVITY LEAVE

Employees who are parents, guardians or grandparents of a child in kindergarten through grade 12 may take up to forty (40) hours per year, not to exceed eight (8) hours per month, to participate in the child's school activities. The employee shall use accrued vacation or compensatory time for this leave. Prior notice of the need for this leave shall be given to the supervisor.

J. VOTING LEAVE

Time off with pay to vote in any general, direct primary or presidential primary election shall be granted as provided by state law. Employees shall give their supervisors prior notice of the need to take such time off. Paid leave for the purpose of voting shall not exceed one (1) hour.

K. FAMILY AND MEDICAL LEAVE

In accordance with federal and state law and regulations, the City shall provide family and medical leave, which is unpaid leave, to eligible employees. Unless otherwise provided by these Rules, "leave" under this Rule refers to leave pursuant to the Family and Medical Leave Act of 1993 ("FMLA") and the California Family Rights Act ("CFRA"). Employees with any questions or requests for information about family and medical leave should consult the Personnel Director.

1. DEFINITIONS

a. "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken. Each time an employee takes eligible leave, the remaining leave entitlement is based on the amount of family and medical leave taken during the

immediate preceding 12 months.

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

c. "Child" means a child 1) under the age of 18 years or 18 years or older who is incapable of self-care because of a mental or physical disability; 2) for whom the employee has actual day-to-day responsibility for care; and 3) for whom the employee is a parent.

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

f. "Spouse" means a husband or wife as defined or recognized under California State law for purposes of marriage.

g. "Domestic Partner" means domestic partner as defined under California Family Code Section 297.

2. ELIGIBILITY

An employee is eligible for leave if the employee:

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

3. REASONS FOR LEAVE

Leave is only permitted for the following reasons:

- a. The birth of a child or to care for a newborn of an employee;
- b. The placement of a child with an employee in connection with the adoption or foster care of a child;
- c. Leave to care for a child, parent, domestic partner or a spouse who has a serious health condition; or
- d. Leave because of a serious health condition that makes the employee

unable to perform the functions of his/her position. "Serious health condition" means an illness, injury impairment, or physical or mental condition that involves:

1. Pregnancy or prenatal care.
2. Hospital Care — an inpatient stay at a hospital, hospice, or residential medical care facility;
3. Incapacity of three or more days and medical treatment — incapacity that lasts more than three consecutive days;
4. Incapacity plus two or more treatments - treatment of two or more times by a health care provider;
5. Incapacity plus continuing treatment - at least one treatment by a health care provider than results in a regimen of continuing treatment;
6. Incapacity from a chronic condition — incapacity from a chronic serious health condition such as asthma, diabetes, or epilepsy;
7. Incapacity from a long-term condition — incapacity from a long term or permanent condition for which treatment may not be effective, such as Alzheimer's disease; or
8. Absences for treatment -- to receive or recover from multiple treatments by a health care provider, such as chemotherapy, physical therapy, or kidney dialysis.

4. AMOUNT OF LEAVE

a. Total leave entitlement. Eligible employees are entitled to a total of 12 workweeks of leave during any rolling 12-month period. When parents are both employees of the City, the maximum collective amount of leave they may take for child-bonding is 12 weeks. An employee's entitlement to leave for the birth or placement of a child for adoption or foster care expires 12 months after birth or placement.

b. Minimum Duration of Leave

1. Serious health condition. Subject to compliance with the medical certification requirements of this Rule, there is no minimum duration for leave associated with a serious health condition of the employee or the employee's child, parent, domestic partner_or spouse.

2. Child-bonding. If leave is requested for the birth, adoption or foster care placement of a child of the employee, the minimum duration of such leave is two weeks, with the exception of up to two occasions when an employee may take less.

5. BENEFITS WHILE ON LEAVE

a. Compensation. Leave under this policy is unpaid.

b. Accrued leaves. While on unpaid leave, employees do not accrue vacation, sick, or other paid leave time, and their performance evaluation dates may be adjusted, to the same extent as any other unpaid leaves, as provided in Leaves of Absence Without Pay, Rule IX.N.

c. Health benefits. While on FMLA/CFRA leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job.

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

Employees may continue coverage on their own by payroll deductions or direct payments made to these plans. The City shall inform employees whether the premiums should be paid to the carrier or to the City. Coverage by a plan may be dropped if employees are more than 30 days late in making a premium payment. The City shall provide notice at least 15 days before coverage is to cease. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his or her leave entitlement is exhausted or expires, the City shall have the right to recover premiums through deduction from any sums due the City (e.g. unpaid wages, vacation pay, etc.) in accordance with applicable law.

6. SUBSTITUTION OF PAID ACCRUED LEAVES

Employees are required to exhaust all paid accrued leaves, including vacation leave and sick leave, concurrently with FMLA/CFRA leave with two exceptions: a) Employees are not required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and b) Employees on 4850 time shall not have such leave designated as FMLA/CFRA leaves.

7. EMPLOYEE NOTICE OF LEAVE

Employees must submit requests for leave in writing to the Personnel Director. Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days notice is required. In addition, if an employee knows that leave will be needed in the future, but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform the Personnel Director as soon as possible that such leave will be needed.

Whenever the Personnel Director is notified of a request for leave under this policy, the Personnel Director shall notify the requesting employee's Department Head or designee. The Personnel Director shall also notify the Department Head of any determination to grant or deny the request

If the Personnel Director determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the Personnel Director may delay the granting of the leave until, in his or her discretion, adequate coverage is found for the position.

8. MEDICAL CERTIFICATION

Employees who request leave for themselves, or to care for a child, parent, domestic partner or spouse, must provide written medical certification regarding the serious health condition of the eligible individual. If the leave requested is for the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position. If the leave is requested to care for an ill family member, the certification must include a statement that the employee's family member requires assistance for basic medical care, personal needs, safety, transportation or to provide psychological comfort and the employee's presence is needed to care for the family member for the duration of the requested leave.

a. Timing of Certification. Medical certification should be provided with the employee's request for leave, in accordance with the same time requirements for notice under this Rule at paragraph 7. When this is not possible, the employee must provide the requested certification to the Personnel Director within the time frame requested by the Personnel Director, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

b. Recertification. If the Personnel Director has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding.

c. Certification for Intermittent Leave or Reduced Schedule. If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

9. REINSTATEMENT UPON RETURN FROM LEAVE

a. Right To Reinstatement. Upon expiration of leave, an employee is entitled to

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

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

10. REQUIRED FORMS

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

- a. "Request For Family or Medical Leave Form;"
- b. Medical certification form either for the employee's own serious health condition or for the serious health condition of a child, parent, domestic partner or spouse;
- c. Authorization for payroll deductions for benefit plan coverage continuation;
- d. Fitness for duty to return from leave form.

L. PREGNANCY DISABILITY LEAVE

1. ELIGIBILITY

Any employee who is disabled because of pregnancy, childbirth, or a related medical condition may be entitled to pregnancy disability leave (PDL).

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

2. REASONS FOR LEAVE

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

3. AMOUNT OF LEAVE

Employees may take up to four months (or 88 workdays for a full-time employee) of PDL.

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

4. BENEFITS WHILE ON LEAVE

a. Benefits. PDL is unpaid. However, employees may use accrued leave as if on FMLA and will receive benefits pursuant to Rule VII.K. (Family and Medical Leave) up through exhaustion of the employees' available FMLA leave. Employees who are not eligible for FMLA leave or employees who continue taking PDL after they have exhausted their available FMLA leave, shall receive benefits only to the same extent as other similarly-situated employees on leave for a disability.

b. Accrued leaves. While on unpaid leave, employees do not accrue vacation, sick, or other paid leave time, and their performance evaluation dates may be adjusted, to the same extent as any other unpaid leaves, as provided in Leaves of Absence Without Pay, Rule VII.N.

5. SUBSTITUTION OF PAID ACCRUED LEAVES

Employees taking PDL shall concurrently use any available sick leave. Employees shall also use any accrued vacation or other accrued time off as a part of their PDL before taking the remainder of their leave as an unpaid leave.

6. EMPLOYEE NOTICE OF LEAVE

To the extent possible, employees requesting PDL should follow the authorization procedures for leaves of absence without pay, as provided in Leaves of Absence Without Pay, Rule IX.J.

7. MEDICAL CERTIFICATION

The City may require an employee requesting PDL or a related transfer to provide the City certification from the health care provider. The certification should include:

a. The date on which the employee became disabled due to the pregnancy or the date of the medical advisability for the transfer;

b. The probable duration of the period(s) of disability or the period(s) for the advisability of the transfer; and

c. A statement that, due to the disability, the employee is unable to work at all or to perform any one or more of the essential functions of their position without undue risk to the employee, the successful completion of the pregnancy or to other persons, or a statement that, due to the pregnancy, the transfer is medically advisable.

8. REINSTATEMENT UPON RETURN FROM LEAVE

a. Reinstatement to position. Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an

equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the PDL period.

b. Fitness for Duty Certification. As a condition of reinstatement or a retransfer, the employee may be asked to provide to the City a fitness-for-duty certification from the health care provider that the employee is able to resume work in the position sought. Failure to provide such certification may result in denial of reinstatement.

9. PARENTAL LEAVE

After the employee's pregnancy disability ends, the employee may be eligible for CFRA leave, in accordance with the Family and Medical Leave policy, to care for a newborn. The City may require that the employee provide a medical certification indicating when the pregnancy disability ended. In addition, an employee may request leave without pay to care for the newborn. Such requests may be granted within the discretion of the Personnel Director in consultation with the Department Head.

M. PAID FAMILY LEAVE

1. ELIGIBILITY.

Employees who are covered by State Disability Insurance (SDI) are eligible for Family Temporary Disability Insurance (FTDI) benefits while taking care of family member(s). These benefits are paid by the State Employment Development Department. There is no requirement that the employee have worked for the City any particular length of time before being entitled to this leave. However, no employee can receive more FTDI benefits than he or she earned in wages during the base period for calculating benefits. Employees are not eligible if they are receiving State Disability Insurance (SDI), workers' compensation or private insurance payments in lieu of such payments.

Employees are eligible for this leave under the following circumstances:

a. For the birth and care of a newborn child, or the placement and initial care of an adopted or foster care child, or

b. To care for an employee's spouse, child, parent or domestic partner with a serious health condition. However, an employee is not eligible to receive FTDI benefits for any day that another family member is able and available for the same period of time that the employee is providing care.

Definitions of all applicable terms will be in accordance with state law relating to Family Temporary Disability Insurance (California Unemployment Insurance Code section 3300 et seq.).

2. REQUEST FOR LEAVE

Requests for paid family leave must be approved in advance by the employee's

supervisor and Personnel Director. Since the need for the family leave is included within the need for Family Care and Medical Leave, the same procedures for making requests for Family Care and Medical Leave and scheduling of leave shall apply to requests for Paid Family Leave. As with Family Care and Medical Leave, the employee must submit medical certification to the City to justify the request for such leave.

3. DURATION OF PAID FAMILY LEAVE

According to law, employees are entitled to a maximum of six (6) weeks paid family leave in a twelve-(12) month period. Such leave runs concurrently with Family and Medical Leave. An employee is not entitled to more than a maximum of twelve (12) weeks leave in a twelve (12) month period to care for a family member.

4. COMPENSATION DURING LEAVE

According to law, employees are entitled to be paid FTDI benefits while on family leave, replacing approximately fifty-five percent (55%) of an employee's wages. Payment for these benefits is funded through employee contributions to SDI. The employee is solely responsible to apply for this compensation from the State Employment Development Department (EDD). The City has no obligation to ensure that employees receive FTDI payments.

5. INTEGRATION OF BENEFITS

If an employee is on Paid Family Leave and is receiving FTDI benefits, the employee may continue to receive full pay from the City by requesting that the maximum weekly FTDI benefits be supplemented by the use of accrued paid leave benefits. Under this option, the employee would tender his/her FTDI payments to the City and the City would then continue to issue paychecks and deduct the value difference between the FTDI payments and the employee's regular pay from the employee's sick leave allotment.

6. WAITING PERIOD AND USE OF VACATION

The law requires that there be a seven (7) day "waiting period" before an employee on family leave may begin receiving FTDI payments. If available, employees must use two (2) weeks of earned and unused vacation before receiving FTDI benefits. The first week of vacation shall count as the "waiting period" before the employee may begin receiving FTDI payments.

N. CATASTROPHIC LEAVE PROGRAM

This program is designed to assist regular permanent employees who have exhausted all forms of paid leave due to a serious, catastrophic illness or injury, either of their own or of an immediate family member (i.e., spouse, domestic partner, parent or child). The Catastrophic Leave Program allows other City employees to voluntarily donate accrued leave to other eligible employees so the recipient is able to remain on paid status.

1. ELIGIBILITY FOR CATASTROPHIC LEAVE

The employee must meet the following requirements to be eligible for leave under this policy:

a. The employee must have passed probation, be in a regular permanent position with the City for at least twelve (12) full months, and be considered actively employed by the City.

b. The employee, or eligible family member, must have a verifiable serious or catastrophic illness or injury that requires an extended period of treatment or recuperation. Serious or catastrophic illness or injury is one in which the employee is incapacitated and unable to work as certified by his/her physician for at least four (4) full workweeks. In addition, the employee must provide medical certification that includes a reasonable expectation that, with proper care and rehabilitation, the employee will be able to return to full duty within six (6) months of the absence from work. The employee must provide medical certification if an eligible family member is suffering from the catastrophic illness or injury.

c. The employee must have exhausted all paid leave balances.

d. The employee may not be concurrently receiving short or long-term disability, Workers' Compensation or similar benefits.

e. Requests for catastrophic leave must receive the recommendation of the Department Head and the approval of the City Manager. Such leave may initially be approved up to a maximum of three hundred twenty (320) hours. If the catastrophic condition continues, additional leave donations may be approved up to another three hundred twenty (320) hours.

2. CONDITIONS FOR DONATING LEAVE

The following are the conditions for donating leave:

a. To be eligible to donate leave, an employee must have passed probation and be in a regular permanent position with the City for at least twelve (12) full months.

b. All donations of leave are voluntary. No employee shall be required to donate leave.

c. Employees must donate in increments of whole hours. If an employee wishes to donate sick leave, he/she must have a minimum balance of three hundred (300) hours after the donation of sick accruals. If an employee wants to donate vacation leave, he/she must have a minimum balance of forty (40) hours after the donation of vacation accruals. Employees may, at their discretion, donate all of their compensatory time and/or management leave.

d. Donated leave shall be credited to the receiving employee's sick leave balance on a dollar for dollar basis and shall be paid at the rate of pay of the receiving employee.

e. Once the leave is donated and posted to the receiving employee, the employee donating such leave shall irrevocably lose all rights and privileges to the donated leave hours.

3. PROCEDURES FOR DONATING AND RECEIVING LEAVE

For donating employees:

a. A donating employee shall complete the donation form and submit it to the Personnel Director.

b. The Personnel Director shall review the request and forward to the City Manager for approval.

c. After approval by the City Manager, the Personnel Director shall submit the donation request to payroll for processing.

d. Donated leave shall be used only as needed.

e. Donated leave shall be credited to the receiving employee from the donating employee in chronological order by the date approved by the City Manager. Unused accruals shall be returned to the donor.

For receiving employees:

a. Once the receiving employee's own paid leave balances have been exhausted consistent with this policy, the employee may collect donated leave.

b. The receiving employee must be eligible for leave and willing to receive the donated leave.

c. The medical reasons for the need for the donated leave shall only be disclosed to City employees if the employee agrees to such disclosure, either verbally or in writing.

d. The receiving employee shall continue to be given City-provided health and welfare benefits consistent with the City's Family and Medical Leave Policy.

e. All donated hours must be used on a continuous and uninterrupted basis until the earliest of the following occurs: 1) All donated leave balances are exhausted; 2) the employee returns to work; 3) the employee begins receiving long-term disability; or 4) the employee's employment terminates.

O. LEAVE OF ABSENCE WITHOUT PAY

At the sole discretion of the City, an employee may be granted a leave of absence without pay upon recommendation of the Department Head and approval of the City Manager. The City may fill the position with a temporary or provisional employee during

the term of the leave of absence or undertake any other appropriate measures to address workload needs.

1. AUTHORIZATION PROCEDURE

Employees requesting a leave of absence without pay must submit the request in writing to their Department Head, and the request should state the reason for the request and the anticipated beginning and ending dates of the leave. The Department Head shall submit the request along with his or her recommendation to the City Manager. The City Manager shall make a decision and transmit in writing the decision to the employee. The decision of the City Manager shall be final and is not subject to grievance or appeal. The City Manager's determination shall include consideration of the following factors:

- a. any history of excessive unauthorized absences or leave abuse;
- b. any detrimental effect on the operation of the department/division; and
- c. the reason for the leave of absence.

Use of the leave of absence for a purpose other than that requested may be cause for forfeiture of reinstatement rights or disciplinary action, up to and including dismissal.

2. LENGTH OF LEAVE AND EXTENSION

Leaves of absence must not exceed one year, provided that under extraordinary circumstances, the City Manager may extend a leave of absence for an additional period not to exceed one year. Employees requesting a leave extension must submit a request in accordance with the procedures of paragraph 1 of this Rule no later than fourteen (14) calendar days prior to the approved expiration of the original leave of absence. Failure to submit the requested and provide information regarding the need for the leave may result in denial of the leave.

3. RETURN FROM LEAVE

When an employee intends to return from an authorized leave of absence without pay, the employee shall contact the Department Head at least fourteen (14) days prior to the planned day of return. The Department Head shall promptly notify the Personnel Director of the employee's intention. Failure of an employee to abide by this notification procedure or to report for work promptly at the date of leave expiration shall be grounds for discipline up to and including termination.

Employees returning from leave because of illness or disability must first submit to the Personnel Director a release to work from a physician that satisfactorily certifies the employee can perform the essential functions of the position to which he/he desires to return, with or without accommodation. Further, the employee may be subject to an examination by a City-approved physician.

4. ADJUSTMENTS TO ACCRUAL OF BENEFITS

Sick leave, holidays, and vacation leave shall not accrue during any unpaid leave time, unless otherwise expressly provided for in a Council-approved MOU. Employees in such status do not receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay.

5. ADJUSTMENTS TO DATE OF PERFORMANCE EVALUATION

Any unpaid leave of absence by an employee that exceeds fifteen (15) consecutive calendar days (or the prorated equivalent for part time employees) shall result in a proportionate adjustment to the employee's performance evaluation date for all purposes, including consideration of a merit salary increase.

VIII. HARASSMENT AND RETALIATION

The City is strongly committed to prohibiting: 1) harassment as defined below, and 2) retaliation against those who report or oppose harassment. This policy applies to and protects applicants for City employment, elected City officials, City officers, City employees, and those who work or have worked on City contracts.

1. PROHIBITION AGAINST HARASSMENT

It is the policy of the City to prohibit any form of harassment, as defined below. To that end, the City provides a Complaint Procedure in Rule X.A. of these Rules that applicants, officials, officers, employees and/or contractors can use to report potential violations. Disciplinary action, up to and including termination, shall be taken against an employee or officer who is found to have engaged in harassment in violation of this policy. Any elected official or contractor found to have engaged in harassment in violation of this policy shall be subject to appropriate sanctions.

2. PROHIBITION AGAINST RETALIATION

In order to deter harassment and to support the integrity of the Complaint Procedure in Rule X.A. of these Rules, the City also prohibits retaliation. Any employee found to have retaliated against an applicant, elected official, officer, employee, or contractor because of a complaint of harassment or because of participation in the Complaint Procedure, shall be subject to appropriate disciplinary action up to and including termination. Any elected official or contractor who has been found to have retaliated in violation of this policy shall be subject to appropriate sanctions.

3. APPLICABILITY

a. Protected Classifications: This policy prohibits harassment because of an individual's protected classification. "Protected classification" includes sex, race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, marital status, age, or sexual orientation.

b. Policy Coverage: This policy prohibits City officials, officers, employees, or contractors from harassing applicants, officers, officials, employees, or contractors because: 1) of an individual's protected classification; or 2) of the perception that an individual has a protected classification.

4. DEFINITIONS

Harassment:

Depending upon the circumstances, a single act of harassment, as defined below, can violate this policy:

a. Verbal Harassment — includes epithets, jokes, comments or slurs that identify a person on the basis of his or her protected classification, intimate or other nicknames, comments on appearance — including dress or physical features — or stories that tend to disparage those with a protected classification.

b. Visual Forms of Harassment — includes gestures, posters, notices, bulletins, cartoons, photography, or drawings that tend to disparage those with a protected classification.

c. Physical Harassment — includes the following conduct taken because of an individual's protected classification: assault, impeding or blocking movement, physically interfering with normal work or movement, pinching, grabbing, patting, propositioning, leering, making express or implied job threats or promises in return for submission of physical acts, mimicking, stalking, or taunting.

d. Sexual Harassment — includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that are an express or implied condition of continued employment or other term and condition of employment.

e. Retaliation – Any adverse employment action taken because an employee has reported harassment, or has participated in the Complaint Procedure described below. "Adverse employment action" includes any personnel action that has a significant affect upon the terms or conditions of employment.

5. GUIDELINES FOR IDENTIFYING HARASSMENT

To help clarify what constitutes harassment in violation of this policy, employees shall use the following guidelines:

a. Harassment includes any conduct which would be "unwelcome" to a reasonable person of the recipient's same protected classification and which is taken because of the recipient's protected classification.

b. It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons, including the

need to avoid being insubordinate or to avoid being ostracized.

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

d. Even visual, verbal, and/or physical conduct between two employees who appear to welcome it can constitute harassment of a third applicant, officer, official, employee or contractor who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.

e. Conduct can constitute harassment in violation of this policy even if the individual engaging in the conduct has no intention to harass. The City recognizes that it is legitimate for those in protected classifications to have heightened sensitivities to harassment as a result of their life experiences. Even well-intentioned conduct can violate this policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).

f. A single act can violate this policy and provide grounds for discipline or other appropriate sanctions. Therefore, if employees are in doubt as to whether any particular conduct may violate this policy, they shall not engage in the conduct, and seek guidance from a supervisor.

A. COMPLAINT PROCEDURE FOR DISCRIMINATION, HARASSMENT, AND RETALIATION

An applicant, employee, officer, official, or contractor who feels he or she has been discriminated against, harassed, or retaliated against in violation of these Rules should report the conduct immediately and according to the following procedure so that the complaint can be resolved quickly and fairly.

1. COMPLAINT PROCEDURE

a. Reporting to the Offending Individual: The City strongly encourages any individual who feels that he/she has been subjected to conduct in violation of this policy to let the offending person know immediately and firmly that the conduct at issue is unwelcome, offensive, in poor taste, and/or inappropriate and must stop.

b. Reporting to Management: If an individual who has been subjected to conduct in violation of this policy prefers not to confront the offending person, he or she need not do so. Instead, the City strongly encourages that individual to immediately report the conduct to any supervisor, department head, the City Manager, or to the Personnel

Director. The individual should provide all details of the incident or incidents, names of individuals involved, and the names of any witnesses. This report can be made orally or in writing.

c. Interim Relief: Any official, officer, supervisor or management employee who receives a complaint or learns of a potential violation of this policy must promptly report the information to the Personnel Director, or another in the chain of command, and if necessary, take action to diffuse volatile circumstances.

d. Investigation: The City Manager or his/her designee shall immediately undertake an effective, discrete, thorough and objective investigation of the allegations at issue. The City Manager, Personnel Director or City Attorney may retain an outside investigator to conduct the investigation. All complaints shall be investigated to the extent that the City deems appropriate. The investigation shall normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator shall remind all witnesses to maintain the confidentiality of the content of the interview, and that retaliation against those who report alleged conduct who participate in the complaint procedure is prohibited. The employee alleged to have engaged in misconduct may be placed on administrative leave during the course of the investigation.

e. Investigation Into Unreported Potential Violations: The City takes a proactive approach to the problem of discriminatory, harassing, or retaliatory conduct and shall conduct an investigation if its officers, officials, supervisors or managers become aware that discrimination, harassment or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

f. Remedial and Disciplinary Action: If the investigation concludes that conduct in violation of this policy has occurred, the City shall notify the offended and offending parties of the general conclusion(s) of the investigation and shall take effective remedial action that is designed to end the violation(s). Any employee or officer determined to be responsible for violating this policy shall be subject to appropriate disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this policy or otherwise fails to take appropriate action to enforce this policy. Any official or contractor found to be responsible for violating this policy shall be subject to appropriate sanctions.

g. Option to Report to Outside Administrative Agencies: Applicants, employees, officers, officials and contractors have the option to report discrimination, harassment or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process.

2. CONFIDENTIALITY

a. The City recognizes that confidentiality is important to all parties involved in an investigation under this Rule. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality shall be maintained to the extent possible.

b. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Personnel Director. Any individual who discusses the content of an investigatory interview shall be subject to discipline.

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

IX. DRUG AND ALCOHOL ABUSE

The City of Healdsburg, its employees and their representatives, and prospective employees have a vital interest in maintaining safe, healthful, and efficient working conditions. Being under the influence of a drug or alcohol on the job may pose serious safety and health risks not only to the user but to co-workers and the public. The unauthorized possession or use of alcohol while on duty, or the possession, use, or sale, or other exchange of an illegal drug poses unacceptable risks for safe, healthful, and efficient operations, and is strictly prohibited.

1. APPLICATION

a. Employees. This policy applies to all employees or applicants for positions with City, unless otherwise expressly indicated in this policy or in writing by the City Manager. Where indicated, some of the policies apply only to safety-sensitive employees. As used in this policy, a safety-sensitive employee is an employee in any position or performing any duty that the City has designated as "safety-sensitive" either in the job description for the position or in a separate policy.

b. Alcohol. This policy applies to the use of alcoholic beverages or substances, including any medication or food containing alcohol such that it is present in the body at a level in excess of that stated in the guidelines by the Department of Transportation, as amended, and currently set at a breath-alcohol concentration of .02 or as otherwise noted in this Policy. Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

c. Drugs or Controlled Substances. This policy applies to any substance that, in the opinion of competent medical professionals, causes or may cause significant

impairment of job performance or which causes or may cause behavior that is a threat to the safety of the affected employee or others. All substances listed in any federal, state or local controlled substance acts or regulations, including, but not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine, and those substances listed in Schedules I through V of Section 202 of the federal Controlled Substances Act, are covered by this policy.

2. PROHIBITIONS

All employees are prohibited from:

- a. reporting to work or performing any job duties while their ability to perform job duties is impaired due to on or off-duty alcohol or drug use;
- b. possessing, manufacturing, or using alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours, on breaks, during meal periods or at anytime while on City property;
- c. directly or through a third party selling, manufacturing, or providing drugs or alcohol to any person, including any employee, while either or both employees are on duty, or on City property;
- d. failing to notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City equipment;
- e. failing to provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name;
- f. refusing to immediately submit to any aspect of an alcohol, drug, or controlled substance test required by these Rules, or any tampering, obstruction of or interference with testing procedures;
- g. consuming alcohol, drugs, or controlled substances during the eight hours immediately following an accident in which the employee was involved, or until the employee undergoes a post-accident alcohol or drug test, whichever comes first; refusing to submit to a search of personal properties when directed by the City, upon reasonable suspicion and in accordance with Section 3309 of the Public Safety Officers Procedural Bill of Rights, where applicable.

3. ALCOHOL AND DRUG TESTING

In carrying out and enforcing this policy, the City may require the following types of testing:

a. Pre-employment Testing. Following an offer of employment, the City shall require all applicants to submit to a test for alcohol and illegal drug use as a condition of employment. Any applicant who refuses to provide consent for this test, or who receives a verified positive result may be disqualified from City employment.

Applicants to Safety-Sensitive positions or existing employees who are transferring for the first time to a Safety-Sensitive position shall also be asked to provide, by written consent, alcohol and drug testing records from prior employers for the two-year period prior to the date of application. These records shall include any alcohol test results of .04 or higher alcohol concentration; refusals to be tested; verified positive drug tests; and documentation of the successful completion of return-to-duty requirements.

The applicant/transferee must also provide information regarding whether he/she has tested positive or has refused to test on any pre-employment drug or alcohol test for any job that is related to the position applied for but not obtained during the prior two years.

b. Reasonable Suspicion Testing and Search. If a Department Head or supervisor reasonably suspects that an employee is under the influence of alcohol, drugs, or controlled substances while performing job duties or operating City equipment and, the manager or supervisor must immediately notify the Personnel Director. Upon approval by the City Manager, the employee may be required to submit to an alcohol and/or drug test. An employee's refusal to submit to such a test is cause for discipline, up to and including termination.

Moreover, the City reserves the authority to search, without employee consent and subject to Section 3309 of the Public Safety Officers Procedural Bill of Rights where applicable, all areas of City property which the City maintains control or joint control with the employee.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect 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's ability to perform his/her job safely is reduced.

Examples of indicators that can form a reasonable suspicion that an employee is under the influence of alcohol, drugs, or controlled substances include, but are not limited to, direct observation of the following:

1. slurred speech;
2. glassy or bloodshot eyes;
3. odor of alcohol;

4. unsteady walking and movement;
5. an accident involving City property, employee or client;
6. a near accident or other safety violation;
7. physical or verbal altercation;
8. possession of alcohol, drugs, controlled substances, or drug paraphernalia;
9. sleeping on the job;
10. pattern of abnormal or erratic behavior;
11. information either provided by reliable and credible sources or independently corroborated;
12. conviction for a drug-related offense;
13. tampering with a previous drug test.

c. Post-Accident Testing. Unless the City determines that the employee's performance was not a contributing factor, any employee involved in a reportable accident may be subject to an alcohol test within two hours following the accident and to a drug test within 32 hours following the accident. Not only may the operator of any involved vehicle be tested, but so may any other employee whose performance may have contributed to the accident, such as the employee who maintains the vehicle or work-site where the accident occurred.

An accident is considered reportable if it occurs while in a City vehicle, on City property, or when performing any City-related business and involves any of the following: 1) a fatality; 2) a shooting or other serious incident; or 3) the issuance of a citation by law enforcement to the employee for a moving traffic violation arising from the accident and a) bodily injury demanding immediate medical treatment away from the scene of the accident or b) vehicular damage so that the vehicle must be towed away from the scene of the accident, even after simple repairs on the scene.

d. Random Testing. All City employees in safety-sensitive positions shall be subject to random alcohol and drug testing. Depending on the random selection, some employees may be tested more than once in a year, while others are not tested at all. Testing shall take place just prior to the employee performing a safety-sensitive function, while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function.

1. Alcohol Test. The City will randomly test at least 25% of the total number of safety sensitive employees per year for alcohol.
2. Drug Test. The City will randomly test at least 50% of the total number of safety-sensitive employees per year for drugs.

e. Return-to-Duty Testing. An employee who has violated this Policy may be subject to a return-to-duty test, and up to twelve unannounced drug/alcohol tests during the first twelve months back to a safety-sensitive position. The results must indicate a blood alcohol concentration of less than .02, or in cases of a drug test, must indicate a verified negative result. This testing is separate from any random testing obligation.

4. TESTING PROCEDURES

a. Testing administrators. The drug or alcohol testing of applicants or employees shall be performed only by a laboratory and by a physician or health care professional qualified and authorized to administer and determine the meaning of any test results under Department of Transportation guidelines.

b. Testing Procedures. The procedures regarding alcohol and drug testing, including analytical urine controlled substance testing and breath testing for alcohol, will be those set out under Department of Transportation guidelines, specifically 49 CFR Part 40.1, et. seq.

c. Non Safety-Sensitive Employees. For non safety-sensitive employees, the City Manager, in his or her discretion, may authorize internal or other testing administrators and procedures, in lieu of or in addition to those provided under the Department of Transportation guidelines.

5. CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST

An employee whose alcohol test indicates an alcohol concentration level between .02 and .04 shall be removed from his/her safety-sensitive duties or position for at least 24 hours. An employee whose alcohol test indicates an alcohol concentration level greater than .04, or who has a positive drug test result shall be removed from his or her safety-sensitive duties or position for a period to be determined by the Personnel Director or the City Manager. Employees who are removed from their position under this policy shall be placed on unpaid leave. The City, in its discretion, may discipline, up to and including termination, an employee who fails, one or more times, a drug or alcohol test.

The employee shall also be evaluated by a Substance Abuse Professional (SAP). A SAP is a licensed physical psychologist, social worker, employee assistance professional, or addiction counselor with clinical experience in the diagnosis and treatment of alcohol and substance abuse related disorders.

The SAP shall evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substances abuse or misuse. Assessment by an SAP does not shield an employee from disciplinary action up to an including termination or guarantee a discharged employee reinstatement with the City.

If an employee is allowed to return to duty following a positive test result, he/she must follow the rehabilitation program prescribed by the SAP, the employee must pass return-to-duty drug and alcohol tests, and be subject to unannounced follow-up tests for a period of one to five years, to be determined by the Personnel Director or City Manager. The cost of any treatment or rehabilitation services shall be billed directly to the employee or the insurance provider. Employees shall be allowed to take unpaid leave time while participating in the prescribed rehabilitation program.

Employees who re-enter the work force must agree to a re-entry contract. That contract may include (but is not limited to):

- a. A release to work statement from an approved Substance Abuse Professional;
- b. A negative test result for drugs and/or alcohol;
- c. An agreement to unannounced frequent follow-up testing, as recommended by the Substance Abuse Professional;
- d. A statement of expected work-related behaviors; and
- e. An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination.

After the City has complied with any legal obligation to reasonably accommodate an employee's protected disability, if any, the City may terminate an employee who is unable to perform the essential functions of the job, in accordance with applicable law.

6. CONFIDENTIALITY

a. The City is obligated to maintain records of the administration, including violations, of this Policy for a period of five years. However, laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature shall be contained in a separate confidential medical file that shall be securely kept under the control of the Personnel Director.

b. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when the information:

1. Is compelled by law or by judicial or administrative process;
2. Has been placed at issue in a formal dispute between the employer and employee;
3. Is to be used in administering an employee benefit plan;
4. Is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

7. VIOLATIONS OF POLICY

a. Removal from Work Site. Employees reasonably believed to be under the influence of alcohol, drugs, or controlled substances shall be immediately prevented from engaging in further work and shall be detained for a reasonable time until they can be safely transported from the work site.

b. Discipline. All applicants and employees covered by this policy should be aware that violations of this policy may result in discipline, up to and including termination, or for applicants, not being hired. Discipline may be imposed regardless of whether or not an employee is charged with and/or convicted of any crime related to any violation of this Policy.

Any violation of this Drug and Alcohol Policy that may constitute criminal conduct or violation of the Department of Transportation regulations may be reported to the appropriate law enforcement agencies and/or subject the employee to civil penalties.

X. VIOLENCE IN THE WORKPLACE

Acts of violence, whether threatened, gestured, or carried out, shall not be tolerated in the City workplace. Anyone witnessing or becoming the subject or victim of such behavior shall immediately report it to the proper authorities for investigation. Minimizing the threat of violence is a duty of all employees to ensure a safe workplace.

It is the responsibility of all employees to notify a supervisor, the Personnel Director, or the City Manager immediately if any violent act or threat, against themselves or any other City employee occurs in the workplace or is directly associated with their employment with the City. Notification may be made to any of these persons as appropriate and shall be as soon as practicable. Retaliation or the threat of retaliation against a person who reports such an incident is prohibited and is grounds for discipline.

City employees shall not possess the following instruments at a City worksite or on City property, including City parking lots, unless there is a work-related purpose and written approval has been obtained from the employee's Department Head:

- a. Firearms;
- b. Explosives, explosive devises, fireworks or ammunition;
- c. Fixed blade knives;
- d. Folding knives with blades over 3.5 inches;
- e. Illegal weapons such as defined in Section 12020 of the California Penal Code.

The City shall take appropriate disciplinary action, up to and including termination of employment, against employees who violate this policy.

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

1. PROCEDURES – IMMEDIATE OR ACTUAL VIOLENT ACTS

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

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

Supervisor/Manager Responsibilities:

- a. Place themselves in a safe location.
- b. A supervisor or manager who is informed of a violent act or the threat of a violent act shall whenever possible ensure the immediate safety of employees and the worksite by calling 911, and notify the department manager and Personnel Director.

c. If feasible, the supervisor/manager shall have the involved individuals wait in separate rooms or locations until the police take control or remove them from the premises.

d. Obtain basic information from the employee and provide this to responding police personnel.

e. Refer media inquiries to the City Manager's Office.

2. PROCEDURES – FUTURE VIOLENCE

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

b. Employees who have a legal restraining order, temporary or permanent, against an individual due to a potential act of violence, who would be in violation of the order by coming near them at work, shall immediately supply a copy of the signed order to their supervisor and the Personnel Director.

3. POST-INCIDENT REVIEW:

The City Manager's Office, the Personnel Director and the affected Department Head shall conduct a post-incident review and use the review to evaluate this policy and procedure and determine what, if any continuing support systems are needed.

XI. USE OF INFORMATION AND ELECTRONIC SYSTEMS

For purposes of these Rules, electronic systems are defined as all hardware, software, and other electronic communication or data processing devices owned, leased, or contracted for by the City and available for official use, by the City's employees. This use includes, but is not limited to, electronic mail, voice mail, calendaring, and systems such as the internet.

1. PUBLIC DISCLOSURE

Employees who use electronic systems and/or tools provided by the City do not have a right of privacy in such uses. Under the Public Records Act, e-mail messages and information stored in computers and other electronic systems of the City are public records subject to disclosure to the public or may be subpoenaed. In addition, the City reserves the right to review, audit, and disclose all matters sent over and/or stored in the City's system at any time without advance notice. The City Manager, or his/her designee, retain the right to enter and/or retrieve an employee's electronic communication system, data files, logs and programs used on City owned electronic systems. Security features

provided by the electronic communication system, such as, passwords, access codes, or delete functions, shall not prevent authorized City personnel from accessing stored electronic communications. Deletion of e-mail messages or files may not fully eliminate the message from the system.

2. SERIAL MEETINGS

In accordance with the Brown Act (Govt. Code Section 54950 et seq.), City employees must take care to ensure that electronic systems are not used to transmit, either all-at-once or serially, City legislative officials' positions on matters of City business to a majority of any City body of elected officials.

3. USE DURING NORMAL BUSINESS HOURS

The City's electronic systems are provided for the purposes of conducting business. Except for brief, occasional, necessary or emergency use, the City's electronic systems shall not be used for personal use during normal business hours. Use of non-City business software including games or entertainment software is considered an improper use of these electronic systems. Employees shall not conduct personal or private business, including purchase of goods or services via the City's internet connection. Such uses are prohibited at all times during normal business hours or outside normal business hours.

4. ACCOUNT ACCESS

Employees shall not attempt to gain access to another City employees' personal file of electronic mail messages without the latter's express written permission or permission from the City Manager or designee.

5. PROHIBITED USE

The electronic mail and other electronic systems of the City shall not be used in a way that may be disruptive, offensive to others, harmful to morale or violate City policies and procedures or laws. These electronic systems shall not be used to solicit or proselytize others for commercial venture, religious or political causes, outside organizations, or other non-job-related solicitations. Improper use includes any display or messages that are derogatory, defamatory, obscene, violent, or offensive to employees or the public and/or any messages that are of a sexual or discriminatory nature, including, but not limited to, slurs, offensive jokes, or other offensive language of disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, or religious beliefs.

Employees are required to comply with all operational guidelines developed by the City. Such guidelines will address operational standards such as: message retention, schedule, copyright issues, use of passwords, system availability, back-up procedures, etc.

Incidental and occasional personal use of electronic mail is permitted within the City, but the messages will be treated no differently from other messages and will remain

the property of the City as to review and auditing techniques. All personal use shall be done outside of normal working hours and not during provided morning and afternoon breaks or lunch periods.

Employees who use the City's electronic mail system to send or receive personal or private messages must remove such messages from the system no later than thirty (30) days after receiving or sending. Employees have no right of privacy to any email, whether personal or business related, in City computers.

Occasional personal access to the internet may be permitted. However, such personal use shall only be permitted if it does not interfere with or delay the employee's work or interfere with regular City business and shall comply with all provisions herein. All use of the internet may be periodically reviewed by the City Manager or designee.

In addition to other prohibited uses, employees shall not: Install programs on the City computer system (including but not limited to virus checking and screen savers) without the prior written consent of the Department Head or Personnel Director, or each of their designees; copy City Programs for personal use; disclose an account password or otherwise make the account available to others; or infringe on others' access and use of the City's computers, including but not limited to:

- a. The sending of excessive messages, either locally or offsite;
- b. Unauthorized modification of system facilities, operating systems or disk partitions;
- c. Attempting to crash or tie up a City computer or network;
- d. Damaging or vandalizing City computing facilities, equipment, software, or computer files;
- e. Intentionally developing or using programs which disrupt other computer users or which access private or restriction portions of the system and/or damage the software or hardware components of the system;
- f. Installing or using a modem on City owned or leased computers without the prior written consent of the Department Head or Human Resources Office, or each of their designees;
- g. Forwarding or reproducing communications marked attorney-client privileged or confidential without the prior consent of the City Manager and/or City Attorney; or violating any federal, state or local law in the use of City information systems.

6. PUBLIC RECORDS

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

All permanent records, whether stored on paper or electronic media, shall not be destroyed unless prior written authorization is obtained pursuant to Government Code Section 34090 or applicable City resolution.

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

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

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

7. INTELLECTUAL PROPERTY RIGHTS

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

XII. USE OF CITY EQUIPMENT / AUTOMOBILE USE

No City-owned equipment, autos, trucks, instruments, tools, supplies, machines, or any other item that is the property of the City shall be used by an employee other than for City business, unless the City Manager approves in advance. No employee shall allow any unauthorized person to rent, borrow, or use any City property, except upon prior approval of the City Manager.

1. AUTOMOBILE USE

City-owned vehicles are to be used for travel on City business by City employees. City employees who utilize City-owned vehicles or their own personal vehicle in the performance of their duties must maintain a valid California driver's license at all times. In those instances where a City vehicle is not available for use and the employee is required to use his/her private vehicle on City business, employee shall be compensated for such use as provided in the relevant Wage and Compensation Plan or Memorandum of Understanding as adopted by Council resolution. Prior to using a private vehicle on City business, employee must obtain and provide the City with a Certificate of Insurance on the form provided by the City which evidences that employee has comprehensive automobile

liability insurance or business automobile liability insurance in an amount of at least \$300,000. The City may authorize exceptions for assigned take home vehicles for emergency response after business hours.

2. USE OF VEHICLE SAFETY BELTS

Motor vehicles purchased by the City for use by City personnel are equipped with safety belts. All City personnel who drive City vehicles shall use and ensure that all passengers use available safety belts in the vehicles being operated. The police department may adopt rules and regulations that supersede this provision that will govern the use of seat belts by police officers and persons taken into custody. Employees will inspect the serviceability of the safety belts at the start of each work day. Passengers shall ride only in those positions of a City vehicle designed for the carrying of passengers.

XIII. DISCIPLINARY ACTION

A. AUTHORITY TO DISCIPLINE

Employees who hold non-probationary appointments, and are not at will, shall not be disciplined without good cause. Probationary employees are subject to termination without cause. For purposes of this Article, disciplinary action shall be defined to include one or more of the following: oral warnings, written reprimands, suspensions, demotions, reductions in pay and discharge. Oral and written reprimands may be initiated at the supervisor/division manager level. Disciplinary action more serious than a written reprimand must be initiated at the Department Head level in consultation with the Personnel Director.

Any authorized supervisory employee may propose disciplinary action for cause against an employee under his/supervision in accordance with the procedures outlined in these Rules. In general, the City shall adhere to the principles of progressive discipline.

B. GROUNDS FOR DISCIPLINE

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

1. Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the City;

2. Furnishing knowingly false information in the course of the employee's duties and responsibilities;
3. Inefficiency, incompetence, carelessness or negligence in the performance of duties;
4. Violation of safety rules
5. Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, City policies, ordinances or resolutions;
6. Inattention to duty;
7. Tardiness or overstaying lunch periods;
8. Being under the influence of an intoxicating beverage or non-prescription drug or prescription drugs not authorized by the employee's physician, while on duty or on City property;
9. Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor;
10. Any violation of the City's Harassment or Retaliation Policy;
11. Unauthorized soliciting on City property;
12. Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work.
13. Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the employee's ability to perform his/her job or brings discredit to the City.(For purposes of this section, a misdemeanor conviction does not include a conviction based on a plea of nolo contendere);
14. Discourteous or offensive treatment of the public or other employees;
15. Falsifying any City document or record;
16. Misuse of City property; improper or unauthorized use of City equipment or supplies; damage to or negligence in the care and handling of City property;

17. Fighting, assault and/or battery;
18. Working overtime without authorization;
19. Theft or sabotage of City property;
20. Sleeping on the job, except as specifically authorized for twenty-four (24) hour duty personnel;
21. Accepting bribes or kickbacks;
22. Gambling;
23. Engaging in outside employment which conflicts with an employee's responsibilities;
24. Intimidation or interference with the rights of any employee;
25. Outside work or any other activity or conduct which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of the City service;
26. Abusive or intemperate language toward or in the presence of others in the work place;
27. Failure to obtain and/or maintain minimum qualifications for a position, including licenses or certificates;
28. Any other conduct of equal gravity to the reasons enumerated above as determined by the City.

C. PROCEDURES FOR DISCIPLINARY ACTION

In the absence of a process in a Memorandum of Understanding, employees shall be governed by the following provisions:

1. WRITTEN NOTICE/PRE-DISCIPLINE MEETING/FINAL ACTION

The City shall issue a written notice of discipline, describing the intended discipline, the basis for the discipline, and attaching any documents upon which the discipline is based. For discipline that is less severe than a suspension of more than five (5) working days, the City may impose the discipline immediately after issuing the written notice of discipline. In the case of a suspension of five (5) working days or less or equivalent reduction in pay, the City shall provide the employee an opportunity to respond to the disciplinary action, either orally or in writing, within a reasonable period of time after the

discipline has been imposed. If the employee chooses to respond orally, the Personnel Director shall designate a City official who shall convene a meeting to hear the employee's response. If the employee chooses to respond in writing, the written response shall be lodged in the employee's personnel file. No further appeal shall be permitted. In the case of a written reprimand or oral counseling, the employee may respond by submitting a written rebuttal to be lodged in the employee's personnel file, but no oral response or appeal is permitted.

For discipline that is greater in severity than a suspension of five (5) working days, (or the equivalent reduction in pay) the City shall issue a notice of intent to impose discipline, describing the intended discipline, the basis for the discipline and attaching any documents upon which the discipline is based. The notice shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed. The City shall set the pre-discipline meeting approximately one (1) week from the date of the notice, unless a different time and date is set by mutual agreement.

For discipline that is greater in severity than a suspension of five (5) working days, (or the equivalent reduction in pay) the Personnel Director shall designate a City official who is disinterested in the matter who shall convene a meeting to review the employee's response before imposing discipline. The employee shall be entitled to a representative of his/her choice; provided, however, that the inability of a particular representative to attend the meeting shall not be cause requiring a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the City.

At some reasonable time, but no longer than thirty (30) calendar days, after the employee has been provided an opportunity to respond to the charges, the City shall issue a final notice of discipline. The notice shall notify the employee of his/her right of appeal.

2. APPEAL OF DISCIPLINARY ACTION

For discipline that is greater in severity than a suspension of five (5) working days (or equivalent reduction in pay), employees shall have the right to appeal from the final notice of discipline. The notice of appeal must be received within seven (7) calendar days from the date of the final notice of discipline, or the right to proceed to the next appeal level under these Rules shall be forfeited and the discipline shall become final.

The appeal shall be heard by an independent hearing officer to be selected by the City in consultation with the employee or his/her representative.

The costs of the hearing officer shall be borne by the City unless the employee's union has brought the appeal on the employee's behalf, in which case the costs of the hearing officer will be shared equally by the City and the union. Either party may request that the matter be transcribed, and the requesting party shall bear the expense of the transcript and court reporter's fees. If the transcript is jointly requested by both parties,

both parties will share equally in the expense of the transcript and court reporter's fees.

The hearing officer shall have the authority to convene the hearing, receive evidence through testimony and documents and make findings of fact and conclusions about the discipline. Within two (2) months of the close of the hearing, the hearing officer shall serve a recommended decision on the City Manager and the employee. The hearing officer's decisions must contain detailed findings of fact relating to the disciplinary charges. The decision may include a recommendation regarding outcome, but the final decision regarding discipline rests with the City Manager. After consideration of the hearing officer's recommended decision, the City Manager shall issue a final decision in writing. The City Manager's decision may be reviewed by administrative writ of mandamus within the time frames established by law.

XIV. GRIEVANCE PROCEDURE

In the absence of a Council approved MOU, this grievance procedure shall apply. This procedure is intended to ensure that every reasonable effort will be made to resolve problems as near as possible to the point of origin.

A. DEFINITION OF "GRIEVANCE"

Subject to the exclusions listed in this Rule, a grievance is defined as any dispute involving the interpretation, application, or alleged violation of 1) the specific express terms of a current Memorandum of Understanding (MOU), between the City and a recognized employee organization or 2) a specific express term of these Rules.

B. ELIGIBILITY TO FILE A GRIEVANCE

Only full-time employees in regular non-probationary appointments, as defined in Rules I.D. and III.D. who are adversely affected by an act or omission of the City are eligible to file a grievance.

C. EXCLUSIONS FROM THE GRIEVANCE PROCEDURE

The following matters are excluded from the definition of a "grievance":

- a. Requests for changes in wages, hours, or working conditions;
- b. The content of employee evaluations or performance reviews, except those that result in a loss of benefits to the employee;
- c. Challenges to reclassification, layoff, transfer, denial of reinstatement;
- d. Challenges to examinations or appointment to positions;
- e. Challenges to this grievance procedure.

D. GRIEVANCE PROCEDURE

The grievance procedure shall consist of the following steps:

1. INFORMAL GRIEVANCE PROCEDURE

A grievance must be filed within thirty (30) calendar days of the act(s) or omission(s) giving rise to the grievance. Failure to file the grievance within this time period shall result in denial of the grievance as null and void. Within ten (10) working days of the act(s) or omission(s) giving rise to the grievance, the grievant must discuss the grievance with his/her immediate supervisor, who shall investigate and attempt to resolve the matter. The supervisor shall give the grievant an oral or written reply within ten (10) working days after the discussion. If the grievant is not satisfied with the reply, he/she may proceed to the Formal Grievance Procedure.

2. FORMAL GRIEVANCE PROCEDURE

a. First Level of Review

Any grievance not resolved by the Informal Grievance Procedure, may be submitted in writing by the grievant to his/her supervisor along with a copy to the Personnel Director, no later than ten (10) working days after the date of the supervisor's oral or written reply. A grievance may be submitted directly to the Personnel Director or, if the grievance started at a level above the supervisor or department, the grievance may be submitted at the higher level. The written grievance must contain the following information:

1. Name of grievant and job title;
2. Department/Section in which grievant works;
3. The specific act or omission that gave rise to the alleged violation, misinterpretation, or misapplication and the date or dates of the alleged act or omission;
4. The specific provision(s) of the Memorandum of Understanding, City Policy or Personnel Rules alleged to have been violated, misinterpreted, or misapplied;
5. A list of the documents, witnesses or other evidence that support the grievance;
6. Desired solution or remedy;
7. Name of the grievant's representative, if any;
8. Signature of the grievant or representative and date signed.

Within 10 working days thereafter, the supervisor shall schedule a meeting with the grievant to work at resolving the grievance. The supervisor shall give the grievant a written reply within 10 working days after the meeting and shall file a copy with the Personnel Director. If the grievant is not satisfied with the response, he/she may proceed to Level 2.

b. Second Level — Department Head Review

Any grievance not resolved at Level 1 may be submitted to the Department Head no later than 10 working days after the date of the supervisor's written reply. The grievant shall provide the Department Head with a copy of the Level 1 response. Within 10 working days thereafter, the Department Head shall schedule a meeting with the grievant to work at resolving the grievance. The Department Head shall give the grievant a written reply within 10 working days after the meeting and shall file a copy with the Personnel Director. If the grievant is not satisfied with the response, he/she may proceed to Level 3.

c. Third Level – City Manager Review

Any grievance not resolved at Level 2 may be submitted to the City Manager no later than ten (10) working days after the date of the Department Head's written reply. The grievant shall provide the City Manager with a copy of the Level 1 and Level 2 responses. Within ten (10) working days after receipt of the grievance and the Level 1 and Level 2 responses, the City Manager or his/her designee, at his/her discretion, may conduct an informal hearing involving the parties to the dispute. The City Manager's decision shall be final and binding.

E. REPRESENTATION

The grievant is entitled to representation of his/her choice at any point in the grievance procedure. If the representative is a fellow employee, that employee shall receive time off from his/her work assignment for the time of the grievance meeting or hearing plus reasonable travel time. The grievant must inform the Personnel Director whether he/she will be represented at any meeting regarding the grievance, along with the identity of the representative, at least forty-eight (48) hours prior to the grievance meeting.

F. WAIVER OF GRIEVANCE

Failure by the grievant to appeal his/her grievance to the next step within the specified time limits of this rule shall constitute a waiver of the right to pursue the grievance further, unless the City has granted an extension of time to a definite date. Failure by the City to respond to the grievance within any of the specified time lines shall entitle the grievant to appeal to the next level of review.

Additionally, failure on the part of an employee or his representative to appear for any scheduled meeting without notification may, in the City's discretion, result in the City's denial of the grievance.

G. NO RETALIATION

Employees shall not be penalized or retaliated against in any way for using the grievance procedures, or testifying as a witness in a grievance proceeding.

XV. WORKERS' COMPENSATION

Safety is every employee's responsibility. All employees shall use safe work practices and report any unsafe conditions that may occur. The City also recognizes its responsibility to maintain safe workplaces.

All work-related injuries shall be reported to the responsible supervisor. If there is any question regarding the appropriate supervisor, the report shall be made immediately to the Personnel Director. If a work-related injury may result in lost work time, the employee shall be provided with a workers' compensation claim form within one (1) working day of the injury. Individual departments may adopt specific safety rules applicable to their operations.

A. REPORTING PROCEDURE

1. Any employee injured while on duty must immediately report the injury to his/her supervisor, who shall in turn promptly report the same to the Personnel Director. In the event the employee is physically incapacitated in such a manner as to prevent submission of a report, the supervisor shall promptly complete and forward the required reports to the Personnel Director within twenty-four (24) hours following the injury.

2. The supervisor or Personnel Director may authorize medical treatment for the employee by a City-retained physician or clinic, the employee's personal physician (if one has been previously designated and is on file in the Personnel Office in accordance with Labor Code 4600) or, if necessary, a local emergency medical facility.

B. CIVILIAN EMPLOYEES

1. USE OF PAID ACCRUED LEAVES.

Whenever any employee is compelled by direction of the City's physician, or the employee's physician where the City has not appointed one, to be absent from duty on account of injury arising out of and in the course of City employment, the employee shall be required to use accrued leave time for compensation for the first three (3) days of time off from work.

If the employee is determined to have a work-related temporary disability and is ordered to be off work for a period of more than fourteen (14) days, in accordance with workers' compensation law, the temporary disability payment shall date back to the date of injury.

An employee may elect to apply pro-rated accrued sick leave, vacation leave, or comp-time to such absence and to receive compensation equal to the difference between the compensation to which the employee is entitled under workers' compensation law and his/her regular City salary, not to exceed the amount of earned leave time. If the employee does so elect and has applied accrued leave to such absence, then he/she shall be

entitled to receive compensation for absences following and related to the occurrence of a specific injury until sick leave is exhausted. Such compensation shall be in an amount equal to the difference between compensation to which the employee is entitled under workers' compensation law and his/her regular City salary.

2. BENEFITS.

Any employee shall continue to accrue vacation, holidays and sick leave and to earn eligibility for consideration for merit salary increases during an absence resulting from an on-the-job injury so long as the employee receives compensation payments under the provisions of the Workers' Compensation Act. A probationary employee shall be entitled to the same benefits as a regular employee, except such employee shall not continue to earn eligibility for consideration for merit salary increases or regular status. However, the City may separate an employee, or where appropriate, apply for a disability retirement for an employee, who is receiving workers' compensation benefits if the employee is unable to perform the duties of the positions, is deemed permanent and stationary, and cannot be accommodated by the City in another position.

Medical care and payments for permanent disabilities incurred in the course of employment shall be as prescribed by workers' compensation law.

C. SAFETY EMPLOYEES

Whenever a safety officer or other employee eligible under Labor Code Section 4850 sustains a work related or industrial injury while actively engaged in the performance of their job, he/she shall receive compensation as provided under the Workers' Compensation Act and/or Labor Code provided under State law. Such officer shall be placed upon leave of absence at full salary and shall be paid by the City for so long as is required by Section 4850 and related Sections of the Labor Code. During the time the City is required to pay and actually pays the employee's salary, the employee shall not be entitled to receive any temporary disability payments under the Workers' Compensation Act, and the City shall be entitled to receive all payments which would otherwise be payable to such employee for such temporary disability or upon retirement.

D. LONG-TERM ILLNESS AND LABOR CODE SECTION 4850 APPOINTMENTS

The Personnel Director may declare a position temporarily vacant due to the absence of an employee on leave pursuant to Labor Code Section 4850 or on a long-term illness leave and the position may be filled by a temporary or acting appointment. A person appointed to the position shall sign a statement acknowledging that: 1) the appointment is temporary only, with no attainment of regular status; and 2) if already employed by the City, the appointee shall revert to his/her original position and salary range upon notice from the Personnel Director.

E. MODIFIED DUTY

When a City employee is being treated for a work or non-work related injury or illness and is determined fit by the City-approved treating physician to return to work on a

temporary basis with modified duties or tasks, the City shall make every attempt to return the employee to work in a modified duty status, consistent with the City's operational needs. All such modified duty work assignments are to be within the limitations as described by the City approved physician who is qualified to render an opinion on the worker's physical abilities. However, the City is not required to create a position for an employee as an accommodation for that employee's illness or injury. Modified duty assignments are intended to be temporary and short-term. An employee's failure to comply with a modified duty assignment may result in disciplinary action.

F. CHECK-IN PROCEDURES

During the period of time that an employee is off work due to an industrial injury, the department may require the employee to check in with his/her department on a regular basis.

XVI. MISCELLANEOUS

These rules and regulations shall only become effective when they are adopted by the City Council. Upon adoption they shall supersede any and all City-wide and/or departmental personnel management policies, rules, regulations, and procedures previously adopted, except those adopted by order of a department manager which are not in conflict with these Rules.

Any and all provisions contained in a Memorandum of Understanding (MOU) in effect at the time of adoption of these Rules, and which may be in conflict with the provisions of these Rules, shall remain in effect and supersede these Rules until such time as the conflicting provisions of the MOU may be modified, through the meet and confer process, to conform to these Rules. No existing MOU shall be modified, and no new MOU shall be entered into, which would establish provisions that would be in conflict with these Rules unless expressly identified by the City Manager and recommended to the City Council for review and approval.

These Rules do not create a "contract" of employment between the City and any employee. Public employment is statutory, not contractual.

If any part of these Rules is determined to be unconstitutional or illegal, such part shall be severed from these rules and the remaining Rules shall be given full force and effect. The City shall comply with changes in state and federal law, and shall amend these Rules as necessary for consistency. The term "City" as used in these rules refers to the City of Healdsburg. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the Manager in his/her discretion.