

City of Exeter



Employee Rules & Regulations

Revised June 13, 2023

CITY OF EXETER



Vision Statement

To protect, preserve and promote the historical charm of Small Town America in a safe family friendly atmosphere surrounded by natural beauty with access to year-round outdoor activities, rich with unique traditions and high quality of life.

Mission Statement

In partnership with the community, the City of Exeter strives to protect, preserve, and promote the best quality of life enjoyed by the residents and visitors with teamwork, transparency and collaboration in a fiscally sustainable manner.

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MERIT STANDARDS SYSTEM OF RULES AND REGULATIONS

CHAPTER 1- GENERAL

SEC. 101 ADOPTION AND APPLICATION OF RULES AND REGULATIONS

The following rules and regulations have been adopted by the City Council of the City of Exeter in order to establish equitable and uniform procedures for dealing with personnel matters and to assure that appointments and promotions of employees will be based on merit standards basis which will serve to attract to municipal service the most competent persons available.

Various provisions previously contained within the Rules & Regulations are now covered by individual employee bargaining unit Memoranda of Understanding (MOU). Provisions contained within MOUs that were negotiated after the adoption of these Rules & Regulations supersede conflicting or duplicated provisions that may be contained herein. Notations immediately following Section numbers guide the reader to the appropriate Articles contained within current bargaining unit MOUs of the Exeter Police Officer's Association (Police Unit) and the Service & Maintenance employees (SERVICE AND MAINTENANCE UNIT). When a notation refers to a specific MOU article, that document should be used as the primary source of information for employees covered by that MOU.

SEC. 102 ADMINISTRATION OF THE MERIT SYSTEM

The City Administrator or their designee shall administer the merit personnel system; shall have the power to appoint all officers and employees of all City departments; to remove same for cause and to exercise general control and supervision over same subject to these rules and regulations. The City Administrator may delegate any powers and duties conferred upon them under this Chapter to any other officer or employee of the City.

SEC. 103 PURPOSE AND POLICY

The objectives of these rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. These rules set forth in detail those procedures which ensure similar treatment for those who compete for original employment and promotion and define many of the obligations relating to wages, benefits, and prohibitions placed upon all employees in the municipal service.

SEC. 104 PERSONNEL POLICY – NON-DISCRIMINATION

The City shall not discriminate against any applicant or employee on the basis of race, color, creed, age, gender, national origin, ancestry, political affiliation, domicile, marital status, physical disability, mental disability, medical condition, genetic information, gender identity, gender expression, sexual

orientation, military and veteran status, membership of an employee organization, or participation in the activities of an employee organization.

Employment application forms shall bear no coding designed to identify race, creed, color, political or religious affiliations, unless specifically identifiable as research, study projects, or information needed for meeting Affirmative Action Goals or for showing compliance with *EEOC and **OFCC Requirements.

SEC. 105 EMPLOYMENT CONSTITUTES ACCEPTANCE OF RULES

In accepting employment with the City of Exeter, each employee agrees to be governed by and to comply with the merit personnel system rules and regulations, administrative rules and regulations established by the City Administrator and directives of the department in which employed. All employees holding a position in the municipal service on the effective date of the resolution shall be subject to these rules and regulations.

SEC. 106 VIOLATION OF RULES

Violation of the provisions of these rules shall be grounds for rejection of application, disciplinary action of counseling memo, verbal reprimand, written reprimand, demotion, suspension, reduction in pay, demotion or dismissal.

SEC. 107 SEVERABILITY

If any rule, section, paragraph, sentence, clause, or phrase of these Rules is declared unconstitutional or void for any reason, such decision shall not affect the validity of the remaining portions of these Rules. The City Council hereby declares that it would have prescribed these Rules and each rule, section, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more of same be declared unconstitutional or void.

***Equal Employment Opportunity Commission**

****Office of Federal Contract Compliance**

CHAPTER 2 – DEFINITIONS

SEC. 201 DEFINITION OF TERMS

The following terms whenever used in these rules and regulations, shall be defined as follows:

Administrative Leave shall mean time off taken with or without pay, depending on circumstances.

Applicant shall mean a person who has made formal application for a position in the City service.

Classification shall mean the evaluation of the duties and responsibilities of a position and the allocation of the position to a class based on its duties and responsibilities.

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

Continuous Service shall mean employment on a regular basis which is not interrupted by terminations, or leaves of absence without pay for a period in excess of one year, other than military leave.

Compensatory Time shall mean time off taken in lieu of overtime pay.

Discharge shall mean disciplinary termination of employment from the City service by the City Administrator or their designee, pursuant to the Merit System Rules and Regulations.

Disciplinary Probation shall mean a form of disciplinary action, as distinguished from probation for new employees as set forth in SEC. 501, for a specified time not to exceed one year. Persons placed on disciplinary probation may be terminated for failure to meet requirements. Rights, benefits, and privileges shall be reduced in conformance with SEC. 1004.

Demotion shall mean the movement of an employee from one class to another class having a lower maximum rate of pay.

Eligible shall mean an applicant for an open or promotional position or class who has successfully completed the qualification process and been placed on the eligible list for that class.

Eligible List shall mean an official list of persons who have successfully participated in an open or promotional recruitment or examination process, arranged in order of scores, who are eligible for certification for a specific position in the City service.

Employee shall mean a person legally occupying a position in the service of the City.

Examination

- a. Open competitive examination shall mean an examination for a particular class, admission to the class being open to all persons meeting the minimum qualifications for the class.
- b. Promotional examination shall mean an examination for a particular class, admission to the examination being limited to regular and probationary employees of the City who meet the minimum qualifications.
- c. Continuous examination shall mean an open competitive examination which is administered periodically. As a result, names are placed on an eligible list, in rank order of final scores. Such a list shall remain in effect for one year, unless another examination for the same class shall have occurred during that year. In that case, those names remaining on the original list shall be integrated with the new list until one year from the date the original list was established. If a new examination process is utilized, those names remaining on the original list shall be given the opportunity to go through the new examination process. If they are successful, they shall be eligible to remain on the new list one year from the date of the new examination in rank order of score.

Lay Off shall mean termination of employment due to lack of work or funds (see SEC. 903 Lay-off Procedures).

Leave of Absence shall mean an authorized absence from duty for a specified period granted pursuant to the Rules and Regulations of the City of Exeter (see SEC. 801).

Management shall mean any position designated as such by the City Administrator or City Council. Generally, a position that serves as a department head (or assistant department head) and/or who reports directly to the City Administrator.

Minimum Qualifications shall mean those qualifications which are stated in the class specifications as necessary entrance requirements for a person appointed to a specific class/position.

Non-Pay Status shall mean the period in which an employee is not at work and has been granted a leave of absence without pay.

Pay Status shall mean the period in which an employee is at work, on vacation leave, sick leave, compensation leave as the result of an industrial accident, leave with pay in lieu of temporary disability benefits, compensatory time off, paid temporary military leave of absence, or on approved leave of absence with pay.

Probationary Period shall mean the period following the date of appointment to a position in the City service during which time an employee's performance is evaluated to determine suitability for continued employment and the granting of regular status for the class.

Promotion shall mean the movement of an employee from one class to another class having a higher rate of pay. A promotion, if within ninety (90) days of a scheduled step increase, shall not affect an employee's anniversary date.

Salary Range shall mean a series of progressive steps between a specific minimum and maximum rate within a specified class.

Salary Schedule shall mean the composite of all salary ranges assigned to specific positions in the City.

Shift Personnel shall include all personnel assigned to the Exeter Police Department whose schedule is controlled by the operational demands of that particular Department.

Suspension shall mean the temporary removal of an employee from a pay status for reasons of pending disciplinary action, for disciplinary action, for disciplinary reasons or for other just cause.

Termination shall mean the separation of an employee from the City's employment. Termination may be by death, discharge, reduction in force, resignation, retirement, work completion, lack of work or funds, or for non-disciplinary reasons as specified in SEC. 904.

Transfer shall mean the movement of an employee from one job classification to the same or similar job classification that is closely related to and comparable in duties, minimum qualifications, and salary to the current position held. A lateral transfer shall not affect an employee's anniversary date.

CHAPTER 3 – EMPLOYMENT

SEC. 301 CITIZENSHIP

Employment is open to qualified individuals. Police Officers shall be required to be citizens of the United States or otherwise authorized to work in the United States. All other employees must comply with the Immigration Control and Reform Act of 1986.

SEC. 302 RESIDENCE REQUIREMENTS

Employees shall not be required, as a condition of employment, to live within the Exeter City limits. However, to facilitate response during emergency situations, employees may be requested to live within a reasonable distance from the City of Exeter as established by the City Administrator and Department Head. Residence requirements for sworn police officers are described in the Department's policy manual.

SEC. 303 AGE

The following rules regulating age prior to employment with the City are subject to change as the retirement system requirements change, or requirements of the law.

- a. Sworn Police Officers shall 21 years of age or older at the time of employment; all other employees shall be a minimum age of 18 years and no maximum age is established.

If applicant is under 18 years of age, the law requires that individual to meet one of the following requirements:

- (1) High school graduate or GED; or
- (2) Possess a work permit.

SEC. 304 RECRUITMENT

Recruitment for qualified applicants will be conducted as necessary in order to ensure the City has available applications of interested, qualified persons for possible employment. There are multiple types of recruitments, which include:

1. Open Recruitment: Open recruitments are general recruitments for which any person meeting the qualifications of the position may apply.
2. Continuous Recruitment: Continuous recruitments have no fixed filing deadline; they are of sufficient duration to assure the City's applicant needs are met. They are general recruitments for which any person meeting the qualifications of the position may apply. A continuous recruitment may be closed at any time.

3. Promotional Recruitment: Promotional recruitments are limited recruitments. Applicants must be currently employed with the City. Individuals who have been laid off and whose name is on an active reemployment list are also eligible to apply.

The notices of employment opportunities shall be publicized by posting announcements in the City Hall on official bulletin boards and on the City's website for the duration of the filing period stated in the announcement. Advertisements may be made through social media, placed in newspapers and recruiter magazines or through reputable agencies offering the services which will bring response from qualified persons and by such other methods as the Human Resources Manager deems necessary.

Special recruiting shall be conducted, if necessary, to help ensure that all segments of the community are aware of the available employment opportunities. Job announcements shall be prepared and specify a title and salary range of the class for which the City is recruiting, the nature of the work of the class and the manner (filing period) of making applications, a tentative date for the selection procedure, a brief statement concerning the duties of the position, and the selection process, the knowledge, skills and other job-related requirements for the class and special conditions of employment.

If the recruitment is cancelled, a notice so indicating shall be posted on all official bulletin boards and the City's website.

SEC. 305 APPLICATION

All candidates for employment shall file an application on an official City application form and any additional official application materials for that recruitment. All applications must be signed, or digitally signed, by the person applying. The official application and materials, if any, shall be received by Human Resources on or before the date and time published in the announcement.

Completed applications shall become the property of the City. They shall not be returned to the individual. Applications filed through the competitive process may be destroyed as set forth in the City's Records and Retention Policy.

The Human Resources Manager may reject any application or may withdraw anyone from consideration whose appointment will be contrary to the best interest of the City. Reasons for removal may include but shall not be limited to the following deficiencies:

- a. Does not possess the minimum qualifications required by the position.
- b. Deception or fraud in making the application.

- c. Dismissal from any employment for cause; resigned from employment not in good standing and/or in lieu of dismissal for cause; improperly used or attempted to use any personal or political influence to further their eligibility or appointment.
- d. Request by an applicant that their name be withdrawn from consideration.
- e. Failure to reply within a reasonable time, as specified by the Human Resources Manager, to communication regarding potential availability for employment.

SEC. 306 REASONABLE ACCOMMODATION

The City will provide reasonable accommodation for qualified applicants and employees with a physical or mental disability that allows them to perform the essential functions of their jobs, unless the reasonable accommodation would cause an undue hardship for the City.

Reasonable Accommodations

Reasonable accommodation can include, but is not limited to, the following:

- Changing job duties
- Providing leave of absence
- Changing work schedules
- Relocating the work area
- Providing mechanical or electrical aids

Requesting Reasonable Accommodation

Applicants or employees with disabilities must request reasonable accommodation. Such requests should be directed to the Human Resources Manager or Personnel Officer.

Interactive Process

Once an accommodation has been requested or, if the City becomes aware of the possible need for an accommodation, the City will initiate an interactive process. The purpose of the interactive process is to identify work-related restrictions or limitations, their expected duration and potential reasonable accommodations that will allow the employee to perform the essential functions of the job.

The process requires open communication between the City and affected employee so that an individualized assessment of both the job and the specific physical or mental limitations of the individual can be completed to determine if a reasonable accommodation can be made.

SEC. 307 SELECTION PROCESS

The technique used in the selection process shall be impartial, and will use job-related material that fairly measures the relative abilities of the persons being examined to execute the duties and responsibilities of the class to which they seek to be appointed. The selection material shall be assembled and prepared under the direct supervision of the City Administrator or designee.

Upon request by the City Administrator, departmental officials and/or employees shall assist in developing selection material. Examinations shall consist of selection techniques that test fairly those qualifications of candidates such as, but not necessarily limited to, verbal tests, written tests, evaluation of daily work performance, work samples, successful completion of prescribed training, or any combination of these or other tests. Each candidate in an examination shall be given a written notice of the results thereof and, if successful, of their final earned score and rank on the eligible list. (Any candidate, on a written examination, shall have the right to inspect their answer sheet and the correct answer over-lay.) Any error in computation if called to the attention of the Human Resources Manager shall be corrected. Such correction shall not, however, invalidate appointments previously made. All candidates who successfully complete the examination process shall be ranked on the employment list and certified eligible per Section 3.10 for appointment. Selection for appointment shall be made by the appointing Department Head with the concurrence of the City Administrator, from the certified eligibility list.

Names of persons applying for City positions, their applications or the evaluation of their participation in any selection process shall not be made public.

Application forms are deemed officially received when they bear the Human Resources Department's Date Stamp.

During periods when eligible lists do not exist for any class or a need to recruit does not currently exist, persons interested in employment for any class may complete an official City interest card. Notice shall be mailed to the card addressee when recruitment starts for the class. Cards shall remain on file 6 months or until the notice is mailed, whichever comes first. The interest card filer shall be responsible for changes of address on the interest card.

SEC. 308 WRITTEN EXAMINATION PROCEDURES

Any applicants who have been authorized to participate in the examination process but who arrive ten or more minutes later than the announced time may not be allowed to participate.

Identity of the examinees will be kept confidential and will not be known by the testers until after scoring and the qualifying level is established. Numerical identification or other means will be used to maintain confidentiality.

SEC. 309 ELIGIBLE LISTS AND CERTIFICATION

Establishment of Eligible Lists. The Human Resources Manager shall establish eligible lists as a result of open or promotional examinations. They shall be confidential; names and final scores shall not be made public information.

- a. Open or promotional eligible lists shall remain in effect for a period of one year unless exhausted at an earlier date. An eligible list may be extended for a period not greater

than an additional year by the Human Resources Manager when it appears to be in the best interest of the City.

- b. The Human Resources Manager may terminate an eligible list when fewer than three names remain on the list, when a certification of active eligibles is not available or, in the opinion of the Human Resources Manager, an eligible list does not meet the needs of the City.
- c. The name of an eligible may be removed from an eligible list by the Human Resources Manager:
 - 1. If the eligible cannot be located by the postal authorities;
 - 2. On receipt of a statement from the eligible indicating no further interest in the class;
 - 3. An offer of employment has been rejected by the eligible;
 - 4. If three certifications for employment have failed to result in selection and appointment;
 - 5. Who fails to submit to, or pass the qualifying medical examination, psychological examination, or background process required by the class' or
 - 6. For any cause in these Rules and Regulations deemed sufficient for disqualification of application or dismissal from City service.
- d. Whenever a vacancy exists or a vacancy is anticipated, the Department Head shall make a written request, on the form provided by the Human Resources Manager, for approval to fill the position.

Certification is the process in which applicants on eligible lists are referred to the hiring department for hiring consideration. The Human Resources Manager will certify persons on the appropriate eligible list in accordance with these Rules and Regulations.

- a. Certification of names on an open or promotional list shall be in alphabetical order. The top five names and addresses appearing on the list shall be certified as follows: five names plus the number of vacancies. In case of tied scores, all those tied shall be certified. Where the number of eligibles is less than five, the Human Resources Manager shall certify those names remaining on the list, except when the number of eligibles is less than three (see (b) above).
- b. After receipt of certification, the Department Head shall proceed with a job-related interview with selected candidates based off certified eligible list. The Department Head may review the application forms and examination papers. Reports on file with

the Human Resources Manager and reference checks may be used prior to the actual offer of employment.

The Department Head shall write job-related comments on the certification form for each eligible interviewed.

- c. Rejection of all certified eligibles. Such action would only occur: 1) if the certified eligibles were the only remaining names certified on an eligible list; or 2) the certified eligibles did not possess specific knowledge or skills required by the department. In either case, the Department Head must submit to the Human Resources Manager, in writing, cause for rejection of each eligible. Additional certification of names to the Department Head in these situations may be approved by the City Administrator.
- d. After the appointment has been made, the selection shall become effective when a selected applicant has signed all official hiring documents required by the City. The Department Head should notify all other participants that a selection has been made.

All appointments must be approved by the City Administrator.

SEC. 310 CATEGORIES OF APPOINTMENT

Employment with the City is divided into the following categories:

- a. Regular

Regular employees are those who have been appointed to an authorized position on the Salary Schedule, who have successfully completed a probationary period. Regular employees may be appointed to full-time or part-time positions. Full-time is defined as regularly assigned to work and regularly works 30 or more hours per workweek. The City Administrator shall be considered a regular employee and shall be subject to all provisions of these rules and regulations except Chapters 10 and 11.

- b. Probationary

Probationary employees are those who have been through the regular examination process and have been appointed to an authorized position on the Salary Schedule, but have not completed the prescribed probationary period.

- c. Hourly

Hourly employees are those appointed to an extra-help position. The hourly employee is paid on an hourly basis for time actually worked. Hourly employees are not eligible for any City benefits except those mandated by State and/or Federal law.

The hourly employee or the City can, at any time, terminate the at-will employment relationship without cause or right to appeal or grievance procedures, except as otherwise provided by law.

d. At-Will/Probationary

An at-will or probationary employee is a person who is appointed to the position of City Administrator or Department Head; serves as an hourly employee or under a contract; or any other specifically designated position. Employees in this category do not hold regular status and serve at the discretion or direction of the City Council, City Administrator or Department Head, and may be demoted, reduced in pay, suspended or terminated at any time without cause or right to review or appeal, except as otherwise provided by City Ordinance 2.08.100 and 2.08.060 (C) and/or applicable law.

e. Fair Labor Standards Act Status

Exempt employees are those employees who meet at least one of the exemptions from overtime under the FLSA (e.g., executive, administrative, professional) and who meet the salary basis test. The exempt employee is compensated in a predetermined amount that is not reduced, regardless of the quality or quantity of work actually performed, except as authorized by law or City Rule or Regulation.

Non-Exempt employees are those employees in positions that do not qualify for exemption from the overtime provisions of the FLSA. Non-exempt employees are entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis. Non-exempt employees, excluding public safety employees, have a seven (7)-day, forty (40)-hour work period, and are paid overtime pursuant to the FLSA and in accordance with any applicable MOU.

SEC. 311 REAPPOINTMENT

With the approval of the appointing power and the City Administrator, a regular employee or probationary employee who has completed at least six months probationary employment and who has resigned with a good record may be reinstated within two (2) years of the effective date of resignation to a vacant position in the same or comparable class. Upon reappointment, the employee shall be subject to the probationary period described for that class. No credit for former employment shall be granted in computing salary, vacation, sick leave or other benefit except on a specific recommendation of the authority and approval of the City Administrator at the time of reappointment.

SEC. 312 CLASSIFICATION PLAN

Purpose:

The classification plan is utilized for: 1) decision-making on compensation selection (equal pay for equal work); 2) employee development; 3) career development; and 4) in a broader sense becomes the basis for many other personnel documents and personnel functions (flyers, tests, class specifications, performance evaluations, etc.).

Function:

- a. Classifications are continually reviewed on the basis of some type of job analysis. How this "analysis" comes about is detailed further on in this section.
- b. Classification of positions - Each position is allocated to a particular classification based on its job characteristics, difficulty and responsibility.
- c. New positions classified – When the City is contemplating creating a new position, the Human Resources Manager will prepare a job analysis and class specification, meet and confer when required by law and present it to Council for approval.
- d. Classification change - When changes occur within a department that significantly affect the duties and responsibilities of any position, the Department Head shall report these facts to the Human Resources Manager, who shall make a study of the duties of the position and its relationship to other classes. This study may consist of a Position Audit or a more complex Job Analysis as determined by the Human Resources Manager.
- e. Such class studies may be done once a year, every six months, quarterly, etc., as determined by the Human Resources Manager.
- f. The Human Resources Manager will then review the study and, after meeting and conferring when required by law, make recommendations to the Council.
- g. The Human Resources Manager may initiate a class study if they identify a need, but shall consult with the Department Head before doing so.
- h. Specifications - as a result of class studies and/or job analysis, each position shall have a specification written for it. The Department Head may disagree with such specification and confer with the Human Resources Manager to resolve the problem. If no solution is found, the matter may be brought to the City Council. The Council in any case shall adopt and approve each class specification.
- i. Each Specification shall include:
 1. The class title; and
 2. A brief description of the scope, nature, and responsibility of the class, a description of the task or duties generally performed in the position along with

the statement "and other related tasks as required;" a statement of the minimum qualifications, including education (or equivalent experience); other experience, knowledge, skills, physical characteristics (this doesn't have anything to do with passing a physical); and other desirable qualifications.

- j. Notwithstanding, if after a reasonable effort, qualified people cannot be recruited, the Council may, upon recommendation by the Department Head and the concurrence of the Human Resources Manager, waive any one or more of the class specification requirements with respect to any position.

SEC. 313 EMPLOYEE PERFORMANCE REPORTS

The continuation of employment of any employee of the City is entirely dependent upon the maintenance of high standards of work quality and production, good behavior, and the necessity for the performance of the work and availability of funds.

A Performance Report of each regular employee shall be made not less than once yearly by the Department Head or Supervisor on "City of Exeter Employee Performance Evaluation" forms, developed by Human Resources, and forwarded to the City Administrator's office.

This does not preclude the Supervisor/Department Head from completing a special performance evaluation report at any time during a reporting year.

SEC. 314 TRANSFER

Any employee may be transferred voluntarily or involuntarily from one department to another within the City. However, the employee to be transferred must meet the minimum requirements for the employee's new classification. A lateral transfer shall not affect an employee's anniversary date.

SEC. 315 PROMOTION

- a. It is the expressed policy of the City to encourage the advancement of personnel within the organization, and promotional examinations for vacancies will be conducted as the needs of the City require. Promotional opportunities, available to City employees, will be posted on bulletin boards selected by Human Resources at least five working days before the selection is made. A promotion, if within ninety (90) days of a scheduled step increase, shall not affect an employee's anniversary date.
- b. Police Department promotions, based on the City's unreviewable discretion, shall be on a competitive or promotional basis,.

SEC. 316 DEMOTION

A voluntary demotion is movement to a job classification with a lower maximum rate of pay based on an employee's request. Requests must be made in writing to the Human Resources Manager.

An involuntary demotion is the movement of an employee to a lower job classification as part of a reorganization, reduction in workforce, or for cause.

No employee shall be demoted to a position for which the employee does not possess the minimum qualifications.

SEC. 317 SUSPENSION OR REDUCTION IN PAY

Suspension is the removal of an employee from their duties for cause and is without pay.

A reduction in pay may take two forms: (1) a decrease in salary to a lower amount within the salary range; or (2) a decrease in salary for a fixed period of time.

SEC. 318 DRIVER'S LICENSE

All City of Exeter employees who drive as an essential job function and, as a requirement for employment, must hold a valid State of California operator's license. The City of Exeter pays any difference between the cost of a regular Class C driver's license and a commercial driver's license, provided that a commercial license is required in the performance of their duties. The City agrees to pay the full cost of the physical examination required to comply with State regulation.

SEC. 319 POLICY AGAINST HARASSMENT, DISCRIMINATION AND RETALIATION

1. PURPOSE

The City is committed to providing a professional work environment free from discrimination and harassment, including discrimination and harassment based on a protected category, and an environment free from retaliation for participating in any protected activity covered by this policy. The City is committed to providing equal employment opportunities to all employees and applicants for employment. Accordingly, we have adopted and maintain this anti-discrimination policy designed to encourage professional and respectful behavior and prevent discriminatory and harassing conduct in our workplace. We will implement appropriate corrective action(s), up to and including formal discipline, in response to misconduct--including violations of this policy--even if the violation does not rise to the level of unlawful conduct.

The City prohibits discrimination or harassment based on the following categories: race, color, religion, religious creed (including religious dress and grooming practices), national origin, ancestry, citizenship, physical or mental disability,¹ medical condition (including cancer and genetic characteristics), genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, age (40 years and over), sexual orientation, veteran and/or military status, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and any other status protected by state or federal law. In addition, the City prohibits retaliation against a person who engages in activities protected under this policy. Reporting, or assisting in reporting, suspected violations of this policy and cooperating in investigations or proceedings arising out of a violation of this policy are protected activities under this policy.

All employees are expected to assume responsibility for maintaining a work environment that is free from discrimination, harassment and retaliation. Employees are required to promptly report conduct they believe violates this policy so that we have an opportunity to address and resolve any concerns. Managers and supervisors are required to promptly report conduct that they believe violates this policy. We are committed to responding to alleged violations of this policy in a timely and fair manner and to take appropriate action aimed at ending the prohibited conduct.

2. SCOPE OF PROTECTION

This policy applies to City applicants and employees (coworkers, supervisors and managers). As used in this policy, the term “employee” includes contractors and volunteers in our workplace. In addition, this policy extends to conduct with a connection to an employee’s work, even when the conduct takes place away from the City’s premises, such as a business trip or business-related social function.

3. APPLICANT/EMPLOYEE RIGHTS

- The right to a discrimination, harassment, and retaliation-free work environment.
- The right to file a complaint of discrimination, harassment, or retaliation. Employees are expected to report inappropriate conduct immediately and, whenever possible, to put the complaint or concern in writing.
- The right to a full, impartial and prompt investigation by a City representative or designee into allegations of conduct that would violate this policy.
- The right to be timely informed of appropriate information related to the outcome of an investigation either as a complainant or a respondent in the investigation.
- The right to be represented by a person of the complainant’s choosing at each and all steps of the complaint process.
- The right to be free from retaliation or reprisal after filing a good-faith complaint or participating in the complaint process.

¹ The City recognizes and supports the obligation to reasonably accommodate employees with disabilities or religious beliefs or practices in order to allow those employees to perform the essential functions of their jobs. If an employee believes they need a reasonable accommodation based on disability or a religious belief or practice, the employee should discuss the matter with their Supervisor or the Human Resources Manager.

- The right to file a complaint directly with the California Civil Rights Department, the federal Equal Employment Opportunity Commission or other appropriate state or federal agencies, or to file a civil action in the appropriate court.

4. CONDUCT PROHIBITED BY THIS POLICY / DEFINITIONS

A. Discrimination:

As used in this policy, discrimination is defined as the unequal treatment of an employee or applicant in any aspect of employment, including discrimination based solely or in part on the employee's, or applicant's, protected category or perceived protected category. Protected categories include: race, color, religion, religious creed (including religious dress and grooming practices), national origin, ancestry, citizenship, physical or mental disability, medical condition (including cancer and genetic characteristics), genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, age (40 years and over), sexual orientation, veteran and/or military status, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and any other status protected by state or federal law.

Discrimination includes unequal treatment based upon the employee or applicant's association with a member of these protected classes.

Discrimination may include, but is not necessarily limited to: hostile or demeaning behavior towards applicants or employees because of their protected category; allowing the applicant's or employee's protected category to be a factor in hiring, promotion, compensation or other employment related decisions unless otherwise permitted by applicable law,² and providing unwarranted assistance or withholding work-related assistance, cooperation, and/or information to applicants or employees because of their protected category.

B. Harassment:

As used in this policy, harassment is defined as disrespectful or unprofessional conduct, including disrespectful or unprofessional conduct based on any of the protected categories listed above. Harassment can be verbal (such as slurs, jokes, insults, epithets, gestures, or teasing), visual (such as the posting or distribution of offensive posters, symbols, cartoons, drawings, computer displays, or emails), or physical conduct (such as physically threatening another person, blocking someone's way, making physical contact in an unwelcome manner, etc.).

C. Sexual Harassment:

As used in this policy sexual harassment is defined as harassment based on sex or conduct of a sexual nature, and includes harassment based on sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity or gender expression. It may include all of the

² For example veterans preference as permitted under Government Code 18973.1.

actions described above as harassment, as well as other unwelcome sex-based conduct, such as unwelcome or unsolicited sexual advances, requests for sexual favors, conversations regarding sexual activities, or other verbal or physical conduct of a sexual nature. Sexually harassing conduct need not be motivated by sexual desire and may include situations that began as reciprocal relationships, but that later cease to be reciprocal.

Sexual harassment is generally categorized into two types:

- (1) Quid Pro Quo Sexual Harassment (“this for that”)
 - Submission to sexual conduct is made explicitly or implicitly a term or condition of an individual's employment.
 - Submission to or rejection of the conduct by an employee is used as the basis for employment decisions affecting the employee.
- (2) Hostile Work Environment Sexual Harassment
 - Conduct of a sexual nature or on the basis of sex by any person in the workplace that unreasonably interferes with an employee’s work performance and/or creates an intimidating, hostile or otherwise offensive working environment.
 - Examples include:
 - Unwelcome sexual advances, propositions, sexually motivated contact, sexually suggestive or obscene letters, invitations, notes, emails, voicemails or gifts.
 - Sex, gender or sexual orientation-related comments, slurs, jokes, remarks or epithets.
 - Leering, obscene or vulgar gestures or making sexual gestures.
 - Displaying or distributing sexually suggestive or derogatory objects, pictures, cartoons, or posters or any such items.
 - Impeding or blocking movement, unwelcome touching or assaulting others.
 - Any sexual advances that are unwelcome as well as reprisals or threats after a negative response to sexual advances.
 - Conduct or comments consistently targeted at one gender, even if the content is not sexual.

D. Retaliation:

As used in this policy retaliation is defined as any adverse employment action taken against an employee because the employee engaged in activity protected under this policy. Protected activities may include, but are not limited to, good-faith reporting or assisting in reporting suspected violations of this policy and/or cooperating in investigations or proceedings arising out of a violation of this policy.

Adverse employment action is conduct or an action that materially affects the terms and conditions of the employee’s employment status or is reasonably likely to deter the employee from engaging in protected activity. Even actions that do not result in a direct loss of compensation may be regarded as an adverse employment action when considered in the totality of the circumstances.

Examples of retaliation under this policy include but are not limited to: demotion; suspension; reduction in pay; denial of a merit salary increase; failure to hire or consider for hire; refusing to

promote or consider for promotion because of reporting a violation of this policy; harassing another employee for filing a complaint; denying employment opportunities because of making a complaint or for cooperating in an investigation; changing someone's work assignments for identifying harassment or other forms of discrimination in the workplace; treating people differently such as denying an accommodation; or not talking to an employee when otherwise required by job duties, or otherwise excluding the employee from job-related activities because of engagement in activities protected under this policy.

5. TRAINING REQUIREMENTS

Every two years, all employees must attend Sexual Harassment Prevention and Workplace Civility training (two hours for supervisory employees; one hour for non-supervisory employees) aimed at increasing their understanding of and preventing workplace sexual harassment (including harassment on the basis of sexual orientation, gender identity, and gender expression) and their role in creating an underlying culture of mutual respect in our workplace. Specific components of the training include how to promptly and effectively respond to sexual harassment when it occurs, the effects of abusive conduct in the workplace, and ways to appropriately intervene if one witnesses behavior that is not in keeping with this policy. The training is provided by trainers who, in addition to the other requirements required by law, have the ability through training or experience to train supervisors on how to identify, investigate, report, and respond to unlawful harassment, discrimination, and retaliation in the workplace.

6. ADDRESSING AND REPORTING VIOLATIONS OF THIS POLICY

Any employee or applicant who experiences or witnesses behavior they believe violates this policy is encouraged to immediately tell the offending individual the behavior is inappropriate and, if they feel comfortable doing so, to tell the offending individual to stop the behavior. The applicant or employee must also immediately report the alleged violation to their supervisor, manager or the Equal Employment Opportunity ("EEO") Officer. There is no chain of command when contacting the EEO Officer; an individual does not need supervisor or manager approval to do this. If the alleged offender is the employee's supervisor or manager, the employee should report the conduct to any other supervisor, manager or the EEO Officer. A complaint may be brought forward verbally or in writing. Written complaints can be made using the EEO Complaint Form (attached to this policy).

Supervisors or managers who learn of any potential violation of this policy are required to immediately report the matter to the EEO Officer, and must follow that officer's instructions as to how best to proceed.

The City will promptly look into the facts and circumstances of any alleged violation, as appropriate. Even in the absence of a formal complaint, the City may initiate an investigation where it has reason to believe that conduct that violates this policy has occurred. Moreover, even where a complainant conveys a request to withdraw their initial formal complaint, the City may continue the investigation to ensure that the workplace is free from discrimination, harassment and retaliation. Anonymous complaints will also be investigated. The method will depend on the details provided in the anonymous complaint. If the complaint is sufficiently detailed, the investigation may be able to proceed in the same manner as any other complaint. If the information is more general, the City may

need to do an environmental assessment or survey to try to determine if misconduct has occurred. All investigations will be fair, impartial, timely, and completed by qualified personnel.

To the extent possible, the City will endeavor to keep the reporting of the applicant or employee's concerns confidential; however, complete confidentiality cannot be guaranteed when it interferes with the City's ability to fulfill its obligations under this policy. All employees are required to cooperate fully with any investigation. This includes, but is not limited to, maintaining an appropriate level of discretion regarding the investigation and disclosing any and all information that may be pertinent to the investigation.

Upon completion of the investigation, if misconduct is substantiated, the City will take appropriate corrective and preventive action calculated to end the conduct up to and including formal discipline where warranted.

Contact information for the City's EEO Officer is: Human Resources Manager

Email:

hr@exetercityhall.com soneal@exetercityhall.com

Phone: 559-592-9244

7. FILING OF COMPLAINTS OUTSIDE THE CITY

Employees and applicants may file formal complaints of discrimination, harassment, or retaliation with the agencies listed below. Individuals who wish to pursue filing with these agencies should contact them directly to obtain further information about their processes and time limits.

California Civil Rights Department

2218 Kausen Drive, Suite 100

Elk Grove, CA 95758

800-884-1684 (voice), 800-700-2320 (TTY) or California's Relay Service at 711

contact.center@dfeh.ca.gov

<https://calcivilrights.ca.gov>

U.S. Equal Employment Opportunity Commission

450 Golden Gate Avenue 5 West,

P.O Box 36025

San Francisco, CA 94102-3661

1-800-669-4000 or 510-735-8909 (Deaf/hard-of-hearing callers only)

<http://www.eeoc.gov/employees>

8. CORRECTIVE ACTION GUIDELINES

The City will take appropriate corrective action(s) up to and including formal discipline against any employee(s) when an investigation has found that misconduct occurred. Such corrective action(s) may include, but are not limited to, letters of reprimand, suspension, demotion, or termination.

Additionally, depending on the nature of the violation, civil liability could be imposed on the violator as well as the City.

CITY OF EXETER
POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION
ACKNOWLEDGEMENT OF RECEIPT

By signing below, I acknowledge and agree I have been provided with a copy of the Policy Against Discrimination, Harassment and Retaliation. I understand it is my responsibility to read and understand this policy and, if I have any questions, to promptly speak with a Supervisor. I also understand and agree it is my responsibility to abide by all of the terms of this policy, including promptly reporting any suspected violations of this policy to the appropriate Supervisor or City representative.

Employee Name (printed)

Date

Employee Signature

A copy of this signed acknowledgment will be placed in my personnel file.

SEC. 320 ANTI-BULLYING POLICY

A. Policy

The City is committed to providing a safe work environment. In addition to prohibiting all forms of discrimination and harassment, the City also prohibits any form of “intimidation or bullying” in the workplace or elsewhere, such as at offsite events.

B. Policy Coverage

Every employee and other individuals, such as temporary agency workers, consultants, independent contractors and visitors, have the right to be treated with respect. Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal, or physical act, when the act physically harms the individual or damages the individual’s property; has the effect of interfering with an employee’s ability to work; is severe or pervasive; and creates an intimidating or threatening environment.

Bullying comes in many shapes and sizes and can take many forms including, but not limited to, excluding, tormenting, taunting, abusive comments, using threatening gestures; pushing, shoving, punching, unwanted physical contact, or any use of violence; graffiti; name-calling, sarcasm, spreading rumors, or teasing. Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chatroom misuse, mobile threats by text messaging, or calls or misuse of cameras and video equipment.

C. Complaint Procedure

The City will not tolerate bullying in any form. Any individuals who believe they are being or have been subjected to any form of bullying should immediately report this to their Supervisor, Department Head, or the Human Resources Manager. In addition, any person who believes they have witnessed bullying and any person who has received a report of such conduct, whether the perpetrator is an employee or a non-employee, shall immediately report the conduct to their Supervisor or other appropriate person in the chain of command.

Any employee who is reported to be a perpetrator will be provided due process before any disciplinary action is taken. Individuals who violate this bullying policy are subject to disciplinary action, up to and including termination.

D. Policy Against Retaliation

No employee will be subjected to any form of retaliation for reporting an incident of bullying, or participating in an investigation by the City or its representatives into allegations of bullying. Additionally, all employees have a duty to cooperate in connection with any investigation being conducted.

SEC. 321 POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES IN DEPARTMENT OF TRANSPORTATION (DOT) COVERED POSITIONS

PURPOSE

The City recognizes the use of alcohol, drugs, and controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy, and productive work environment for all employees and the public, it is the City's objective to have a work force that is free from the influence of substance abuse.

This policy also is intended to comply with all applicable federal regulations governing workplace anti-drug programs and safety sensitive employees. The federal Drug-Free Workplace Act of 1988 and similarly, the California Drug-Free Workplace Act of 1990 requires the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the federal Department of Transportation (DOT). Also, the Federal Transportation Administration and Federal Motor Carrier Safety Administration (FMSCA) of the DOT has enacted regulations that mandate urine drug testing and breathalyzer alcohol testing for safety sensitive positions and prevent performance of safety sensitive functions where there is a positive test result. The DOT also has set standards for the collection and testing of urine and breath specimens.

Employees shall be asked to sign a statement certifying they have received a copy of this policy and understands its contents. Any questions regarding rights and obligations under this Policy shall be referred to the employee's Supervisor, Department Head, or Human Resources Manager.

This policy complies with 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. Copies of Parts 655, 382, and 40 can be found on the internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.dot.gov/odapc>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with these regulations.

COVERED EMPLOYEES

This policy applies to every person whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety-sensitive function" as defined below, and any person applying for such positions.

Under FMCSA (49 CFR Part 382), you are a covered employee if you operate (i.e., drive) a Commercial Motor (CMV) with a gross vehicle weight rating (gvwr) of 26,001 or more pounds; or is designed to transport 16 or more occupants (to include the driver); or is of any size and is used in the transport of hazardous materials that require the vehicle to be placarded.

Safety-sensitive function under Part 382 means all time from the time a driver begins to work or is required to be in readiness to work until the time they are relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- Driving a commercial motor vehicle which requires the driver to have a CDL
- Waiting to be dispatched to operate a commercial motor vehicle
- Inspecting, servicing, or conditioning any commercial motor vehicle
- Performing all other functions in or upon a commercial motor vehicle (except resting in a sleeper berth)
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

Under FTA (49 CFR Part 655), you are a covered employee if you perform any of the following safety-sensitive functions for an entity subject to Part 655:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

An employee is considered to be performing a safety sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety sensitive function, including off-site lunch periods and breaks.

PROHIBITED CONDUCT

All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in Part 40.

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.02 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time they are called to report for duty. If the on-call employee claims the ability to perform their safety-sensitive function, they must take an alcohol test prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

Being under the influence of alcohol, drugs, or any controlled substances while subject to being called to duty, including stand-by time.

Directly or through a third party, manufacturing, selling, distributing, dispensing, otherwise attempting to manufacture, sell, or distribute alcohol, drugs, or controlled substances during work hours, including rest breaks or while on City premises.

Use of City property or premises to manufacture, sell, or distribute alcohol, drugs, or controlled substances.

Absence or tardiness as a result of having been under the influence of alcohol, drugs, or controlled substances during non-work time.

CONSEQUENCES FOR VIOLATIONS

1. FTA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional. A Substance Abuse Professional (SAP) is a licensed physician, psychologist, social worker, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol, drug, and controlled substance abuse disorders.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration being less than 0.02.

2. FMCSA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional (SAP).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test. (If any other consequence, ensure bold text is used)

CIRCUMSTANCES FOR TESTING

1. Pre-Employment Testing

Pre-employment alcohol tests are conducted after making a contingent offer of employment or transfer. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40.

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before they can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

FMCSA Drug Testing Exceptions - A driver is not required to undergo a pre-employment test if:

- (1) The driver has participated in a DOT testing program within the previous 30 days; and
- (2) While participating in that program, either:
 - (i) Was drug tested within the past six months (from the date of application with [Employer]), or
 - (ii) Participated in the random drug testing program for the previous 12 months (from the date of application with [Employer]); and
- (3) [Employer] can ensure that no prior employer of the driver of whom [Employer] has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months

2. Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when the City has reasonable suspicion to believe the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained Supervisor or other trained manager based on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

Employees may not refuse to complete a drug and/or alcohol screening test.

3. Post-Accident Testing

a. FTA Procedures

Covered employees shall be subject to FTA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an incident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City using the best information available at the time of the decision, will be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident;
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, and the covered employee may have contributed to the accident; or
- (3) The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, and the covered employee may have contributed to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

b. FMCSA Procedures

Covered employees shall be subject to FMCSA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle.

Non-fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene; or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene; or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

4. Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year within each DOT agency. The current year testing rates can be viewed online at <http://www.dot.gov/odapc/random-testing-rates>. If a given driver is subject to random testing under the rules of more than one DOT agency, the driver will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the driver's function.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee will only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

Random testing under the FTA may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of a previously scheduled medical or child care commitment, for the period immediately following an employee's shift, must be provided at least four (4) hours before the end of the shift.

5. Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), and provide a negative drug and/or alcohol test result. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

6. Follow-up Testing

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five

(5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

TESTING PROCEDURES

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended. The procedures regarding alcohol and drugs testing will be provided upon employee request to the Human Resources Manager. Analytical urine controlled substance testing and breath testing for alcohol will be conducted as required under the DOT guidelines.

TEST REFUSALS

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because they have left the testing site before the testing process commenced for a pre-employment test has refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or City for drug testing.
- (7) Fail to undergo a medical evaluation as required by the Medical Review Officer (MRO) or City's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (10) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and referred to a SAP.

PRESCRIPTION DRUG USE

No prescription drug shall be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug shall be used only in the manner, combination, and quantity prescribed. An employee must advise their supervisor of the use or influence of any prescription drug prior to beginning work, when taking the medication or drug could interfere with the safe and effective performance of duties, or the operation of a City vehicle or heavy machinery, such that the employee poses a direct threat to their health and safety or others.

An employee's failure to provide this notice in a timely manner can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

NOTIFYING THE CITY OF ANY CRIMINAL DRUG STATUTE CONVICTION

In accordance with the Drug-Free Workplace Act of 1988, an employee must immediately notify the City of any criminal drug statute conviction of a violation that occurred in the workplace no later than five days after such conviction. Any employee who fails to provide this notice will be subject to discipline, up to and including termination.

CONSEQUENCES FOR VIOLATION OF THIS POLICY

1. Discipline

Any violation of this Policy may result in discipline, up to, and including termination. Discipline may be imposed regardless of whether or not an employee is convicted of any crime related to any violation of this Policy.

Any violation of this Policy that may constitute criminal conduct or violation of the DOT regulations may be reported to the appropriate law enforcement agencies and/or subject the employee to civil penalties. In addition, the City is obligated to report the violation to the federal Clearinghouse.

2. 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.

3. Removal of Safety Sensitive Functions

An employee whose alcohol test indicates an alcohol concentration level between .02 and .04 will be removed from his/her safety sensitive position for at least 24 hours. An employee whose alcohol test indicates an alcohol concentration level greater than .04 will be removed from his or her safety

sensitive position for a period to be determined by the Department Head, or Human Resources Manager.

If an employee tests positive for drugs or controlled substances, the employee may not perform safety sensitive functions until satisfying the following requirements:

- a. The employee must be retested and receive a verified negative result; and
- b. When referred to a Substance Abuse Professional, the employee must complete any course of rehabilitation and submit to a return-to-duty test, as developed with the assistance of the Substance Abuse Professional. The City is not required to pay for this type of treatment.

4. Termination for Inability to Perform Essential Functions

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

RECORDS KEEPING AND CONFIDENTIALITY

The City is obligated to maintain records of the administration, including violations, of this Policy for a period of five years.

Any laboratory reports and test results shall not appear in an employee's general personnel folder but will be contained in a separate, confidential medical folder that will be securely kept under the control of the Human Resources Manager. The report 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 under the following situations:

1. When the information is compelled by law or by judicial or administrative process;
2. When the information has been placed at issue in a formal dispute between the employer and employee;
3. When the information is to be used in administering an employee benefit plan; or
4. When the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.
5. When requested by the DOT or any state or local officials with regulatory authority over the City or any of its safety sensitive employees.

Effective January 6, 2020, the City is required to participate in The Clearinghouse, a centralized database employers use to report drug and alcohol program violations and to conduct queries, which

check that current or prospective employees are not prohibited from performing safety-sensitive functions, such as operating a commercial motor vehicle, due to an unresolved drug and alcohol program violation – that is, a violation for which the driver has not completed the return-to-duty process. Queries must be conducted as part of a pre-employment driver investigation, and at least annually for current employees. Implementation of this requirement is consistent with current law and regulations. All applicants and existing employees subject to this provision must complete and submit the General Consent form that follows.

REHABILITATION

The City encourages employees to use City-sponsored employee assistance programs voluntarily to assist them in resolving any alcohol, drug, or controlled substance abuse problems. Employees should contact their Supervisor, Department Head, or Human Resources Manager for additional information, including further information concerning the dangerous effects of alcohol misuse and drug use on an employee's health, work, and personal life. The City is committed to providing reasonable accommodation to those employees whose alcohol or drug abuse problem classifies them as disabled under federal and/or state law.

While the City will be supportive of those who seek help voluntarily, the City will be firm in identifying and disciplining those who are substance abusers and who do not seek help or who continue substance abuse even while enrolled in counseling or rehabilitation programs. Therefore, the City may require employees to use employee assistance programs, and in addition to mandatory referrals to a Substance Abuse Professional where applicable.

**General Consent for Limited Queries of the Federal Motor Carrier Safety
Administration (FMCSA) Drug and Alcohol Clearinghouse**

I, _____, hereby provide consent to the City of Exeter to conduct a limited query of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exists in the Clearinghouse.

I understand my consent shall remain in full force and effect for the duration of my employment. The City of Exeter will conduct a limited query on not less than an annual basis.

I understand that if the limited query conducted by the City of Exeter indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the City of Exeter without first obtaining additional specific consent from me.

I further understand that if I refuse to provide consent for the City of Exeter to conduct a limited query of the Clearinghouse, the City of Exeter must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA's drug and alcohol program regulations.

Employee Signature

Date

CHAPTER 4 – COMPENSATION AND HOURS

SEC. 401 EMPLOYEE COMPENSATION PLAN

An employee Compensation Plan shall be established to provide salary schedules, salary rates, salary ranges and steps. Each class in the City Compensation Plan shall be assigned a salary range or a rate established in the Compensation Plan. All persons employed by the City shall be compensated in accordance with the Compensation Plan in effect.

SEC. 402 ADMINISTRATION & REVIEW OF EMPLOYEE COMPENSATION PLAN

The City Council approves and adopts a pay schedule for every employee position, as required by the California Public Employee's Retirement System (CalPERS). City Council shall administer the employee Compensation Plan for the City Administrator. The City Administrator shall administer a Compensation Plan for all other employees.

SEC. 403 APPLICATION OF SALARY RANGES AND RATES

a. Appointment (Classified/Service & Maintenance)

All initial appointments to classes assigned to pay range in the City Compensation Plan shall be at the first step of the salary range, provided, however, the City Administrator may make an appointment to a position at a higher salary step when, in the Administrator's opinion, it is difficult to obtain qualified personnel at the starting salary or when it appears that the education or experience of proposed employee is substantially superior to that required of the class and justifies a beginning salary in excess of the first step.

Appointment (Police Officers, Sergeants, Lieutenants)

Initial appointments to the pay range in the City Compensation Plan for Police Officers, Sergeants, or Lieutenant, is at the discretion of the Chief of Police with the approval of the City Administrator.

b. Promotion

Any employee receiving a promotion shall start at the first step of the salary range of the class to which the employee is promoted and be eligible for merit increases as elsewhere provided, unless the employee's present salary is equal to or exceeds the first step or the class to which said employee is promoted.

In that event, the employee shall be assigned to the step in the salary range to which said employee is promoted, that is the equivalent of at least 5% increase in salary. A promotion, if within ninety (90) days of a scheduled step increase, shall not affect an

employee's anniversary date. An employee's vacation accrual rate is not affected by a promotion and is based on years of service with the City.

When the promotion includes the assignment of the responsibility for supervision over others, the salary level shall be increased by assigning the promoted employee to a higher step within the salary of those the promoted employee supervises.

c. Transfer

A transfer does not affect an employee's salary level. A lateral transfer shall not affect an employee's anniversary date.

SEC. 404 ADVANCEMENT WITHIN SALARY RANGE

An employee shall be considered for salary advancement, as a general rule, according to the following general plan, which general plan may be modified by the City Administrator in their sole and unreviewable discretion:

a. All employees are placed in a five-step salary plan:

1. The letters A, B, C, D, and E respectively denote the various steps in the pay range.
2. Salary Step "A" shall be paid upon initial employment and for a period of one (1) year.
3. Salary Step "B" will be based upon completion of one (1) year of employment where the employee has demonstrated satisfactory job progress and normally increasing productivity.
4. Salary Step "C" will be based upon completion of one (1) additional year of employment (two (2) years total) where the employee has demonstrated satisfactory job progress and normally increasing productivity.
5. Salary Step "D" will be based upon completion of one (1) additional year of employment (three (3) years total) where the employee has demonstrated satisfactory job progress and normally increasing productivity.
6. Salary Step "E" will be based upon completion of one (1) additional year of employment (four (4) years total) where the employee has demonstrated satisfactory job progress and normally increasing productivity and upon approval of the Department Head and City Administrator.

SEC. 405 REDUCTION IN CLASSIFICATION

An employee may receive a reduction in classification upon recommendation of the Department Head and upon approval of the City Administrator if at any time the quantity, quality, or manner of performance of services or duties justifies the reduction in classification. Such action will comply with any applicable pre-notice requirements.

SEC. 406 STANDARD WORK WEEK

POLICE UNIT MOU Article 9 & SERVICE AND MAINTENANCE UNIT MOU Article 9

A standard workweek period for City Employees shall be as follows: Monday (Midnight) till Sunday (11:59 pm.)

Unless otherwise established by MOU or necessary exception, employees shall work forty (40) hours in a standard work week,

SEC. 407 EXCEPTIONS TO STANDARD WORK WEEK

POLICE UNIT MOU Article 9 & SERVICE AND MAINTENANCE UNIT MOU Article 9

The City Administrator is hereby authorized to assign other work schedules when, in their opinion, the best interest of the City may be served by such schedules. The procedure for making adjustments in the standard work schedules in hours shall be consistent with provisions of SEC. 3504.5 of the Government Code.

SEC. 408 ATTENDANCE

All City employees are expected to report to their assigned worksite and be prepared to begin work at their scheduled start time each workday. All City employees shall notify their supervisor by telephone or other direct contact as early as possible when they expect to be, or are, tardy to any assigned shift, and/or absent from their regular or specially scheduled workday because of illness, injury, or other reason (other than scheduled and approved leave).

When an absence is scheduled and/or planned, the absent employee shall notify their respective Supervisor, at least the day prior to the expected absence.

In the event that circumstances and conditions do not permit previous notice, it shall remain the responsibility of the employee to notify the immediate Supervisor not later than one-half hour after the start of said employee's scheduled workday. If the employee is unable to contact the Supervisor, the employee shall ensure that contact is arranged with the Supervisor through a second party or that contact is made with the City's Human Resources Manager.

The failure of any employee to satisfy the requirements contained in this Section shall be construed as an unauthorized absence from work and subject to the provisions and actions as contained elsewhere in these Rules & Regulation or in the appropriate bargaining unit MOU.

In every case in which a regular employee is not present for all or a portion of their scheduled workday, the absence shall be appropriately recorded in the City's time and attendance system, and reflected on the employee's time card for that payroll period.

SEC. 409 PAY PERIODS AND PAY DAYS

POLICE UNIT MOU Article 9 & SERVICE AND MAINTENANCE UNIT MOU Article 9

As currently provided, pay periods shall be two weeks in duration, with pay day occurring every other Friday (unless the pay day Friday falls on a holiday, in which case pay shall be issued on the business day preceding the holiday). An employee leaving City employment will receive a final pay check on the regular pay day following the day of termination provided, however, that the employee has returned all City-owned tools, clothing, keys and equipment.

SEC. 410 COMPUTATION OF SALARY

Salaries for all authorized City positions are set forth in the City Salary Schedule. Conversion of monthly salaries to hourly rates shall be determined by multiplying the monthly salary by 0.005769.

SEC. 411 OVERTIME POLICY: DEFINITION

POLICE UNIT MOU Article 10 and SERVICE AND MAINTENANCE UNIT MOU Article 10

It is the policy of the City that overtime worked be kept to the minimum consistent with the protection of life, property, and the efficient operation of the department and activities of the City, and that overtime work be compensated as provided for within the appropriate MOU. Any overtime must be preapproved, in writing, by the employee's Supervisor.

SEC. 412 OVERTIME COMPENSATION

POLICE UNIT MOU Article 10 and SERVICE AND MAINTENANCE UNIT MOU Article 10

SEC. 413 OVERTIME COMPUTATION: FOR EMPLOYEES ON A STANDARD WORK WEEK

POLICE UNIT MOU Article 10 and SERVICE AND MAINTENANCE UNIT MOU Article 10

SEC. 414 STANDBY COMPENSATION

POLICE UNIT MOU Article 10 and SERVICE AND MAINTENANCE UNIT MOU Article 10

Management and unrepresented employees who are assigned, in advance, to remain on standby over a weekend or other non-scheduled work period shall be compensated as agreed by the City Administrator/Council, Department Head, and Supervisor.

Any City employee serving on standby shall be required to refrain from certain behaviors that could impair their ability to operate City vehicles or equipment or their ability to perform certain tasks. Typically prohibited behavior includes consumption of alcohol and usage of any drugs, including over-the-counter and prescription medication, which would preclude them from safely operating necessary vehicles or machinery or that could be reasonably expected to create an unsafe impairment. No employee shall report to work in a condition that could or would compromise the safety of themselves or others.

SEC. 415 OVERTIME NOT APPLICABLE

Overtime compensation shall not apply to exempt employees, including those designated as management, the City Administrator or to Council-appointed officers.

SEC. 416 OVERTIME COMPENSATION: POLICE OFFICERS

POLICE UNIT MOU Article 10

SEC. 417 OVERTIME CONDITIONS LOCAL PERIL OR DISASTER

In cases of disasters, state of extreme emergency or local peril, the overtime procedures herein established shall not be in effect and compensation procedures will be determined by the City Council at the time for such conditions.

SEC. 418 DEDUCTIONS

SERVICE AND MAINTENANCE UNIT MOU Article 11 and POLICE UNIT MOU Article 12

Deductions from employee's pay shall be made in accordance with existing laws, contracts, MOUs, and administrative rules and procedures established by the City Administrator.

SEC. 419 PAID HOLIDAYS

SERVICE AND MAINTENANCE UNIT MOU Article 20 and POLICE UNIT MOU Article 21

a. Regular Holiday For Pay Purposes

Effective July 1, 1974, with the exception hereinafter stated, holidays for all officers and employees of the City not covered by the MOUs as noted above, shall be as follows. Unless otherwise stated, if a holiday falls on a Saturday, then it will be recognized by the City on the preceding Friday; if a holiday falls on a Sunday, it will be recognized by the City on the following Monday, all days are based on an 8 hour day:

1. January 1 (New Year's Day)
2. The 3rd Monday in January (Birthday of Martin Luther King, Jr.)

3. The 3rd Monday in February (Washington's Birthday)
4. The last Monday in May (Memorial Day)
5. July 4th (Independence Day)
6. The 1st Monday in September (Labor Day)
7. November 11 (Veterans' Day)
8. The 4th Thursday in November (Thanksgiving Day)
9. The 4th Friday in November (Day After Thanksgiving Day)
10. December 24 (Christmas Eve Day) shall be observed on that day when that day falls on Monday, Tuesday, Wednesday or Thursday. If the day falls on Saturday or Sunday, the previous Friday will be observed.

Christmas Eve (December 24) shall be observed on the day prior to Christmas. If as noted above the day off for Christmas occurs on a Monday, the previous Friday will be the day observed. If Christmas is "deemed" to be on Friday, then the day occurs on the preceding Thursday.

11. December 25 (Christmas Day)

If that date falls on a Saturday, the preceding Friday will be deemed to be that holiday. If that date falls on a Sunday, the following Monday will be deemed to be that holiday.

12. December 31 (New Year's Eve) shall be a four (4) hour work day when December 31 falls on Monday, Tuesday, Wednesday or Thursday. If December 31 falls on Saturday or Sunday, the previous Friday will be a four hour work day.

New Year's Eve (December 31) shall be a 4-hour work day on the day prior to New Year's Day. If as noted above the day off for New Year's Day occurs on a Monday, the previous Friday will be the 4-hour work day observed. If New Year's Day is "deemed" to be on Friday then the 4-hour day occurs on the preceding Thursday.

SEC. 420 COMPENSATION FOR WORK ON PAID HOLIDAYS

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16

Non-exempt regular and probationary employees not covered by the MOUs mentioned above assigned to work on designated holidays shall receive compensatory time off or pay in lieu of compensatory

time off as recommended by the Department Head subject to the approval of the City Administrator as per current State and Federal regulations.

SEC. 421 COMPENSATION DURING ATTENDANCE OF A TRAINING COURSE DURING VACATION, HOLIDAYS OR DAYS OFF

City employees should feel free to attend training courses that are available during their vacation, holidays or days off, if they so desire. However, compensation for attendance for training courses held during days off, weekend, vacations or holidays will be authorized where employees have been directed by the Department Head to attend such on the following basis:

a. Holidays

Employees directed to attend training will be compensated as provided in SEC. 420.

b. Vacations

Employees directed to attend training courses held during their vacations will be allowed to reschedule their vacation days.

c. Days Off Or Off-Duty Shifts

Employees directed to attend training courses on their days off or off-duty shifts will be compensated as provided in Sections 412 & 416. Whenever an employee is out of the City for a number of days on a training course, such as one-week seminars, etc., the regular working schedule has no relationship to working hours while in school or in seminars and no special compensation other than regular pay and attendance expenses will be authorized.

Under unusual circumstances, deviation from the foregoing procedure may be warranted by Department Heads, however, only after receiving approval from the City Administrator.

SEC. 422 EDUCATION INCENTIVE: SWORN POLICE

POLICE UNIT MOU Article 24

SEC. 423 BIRTHDAY HOLIDAY:

SERVICE AND MAINTENANCE UNIT MOU Article 20 POLICE UNIT MOU Article 21

For employees not covered by an MOU as noted above:

- a. Employee will be given a day off (8 hour day) for their birthday. The day off must be taken within seven (7) days prior to or seven (7) days after the employee's birthday or it is lost. The specific date to be taken will be subject to the approval of the employee's Supervisor.

- b. The birthday benefit shall not be construed to be a holiday and no monetary compensation will be paid for this benefit if not used.

SEC. 424 BILINGUAL PAY:

SERVICE AND MAINTENANCE UNIT MOU Article 23 and POLICE UNIT MOU Article 25

- a. Qualified bilingual employees in designated positions are eligible to receive a monthly allowance (currently \$50.00). Those employees must satisfactorily pass the City's designated bilingual testing exam/process.

Qualification criteria is determined by the City Administrator and based on operational needs.

SEC. 425 OUT-OF-CLASS PAY:

Out of Class work means performing the full range of duties and responsibilities allocated to an existing classification more than 50 percent of the time, and the position is not allocated to the classification in which the person has a current, legal appointment.

An employee authorized to perform and who does perform out-of-class work shall receive a five percent (5%) increase in their base salary commencing on the first pay period after the eleventh consecutive business day of performing such work in a fiscal year.

An employee can be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the Supervisor files a written statement with the Human Resources Manager certifying the additional out-of-class work is required to meet a need that cannot be met through other administrative alternatives. The out-of-class assignment is subject to termination at any time, with or without notice.

An employee can receive out-of-class pay if (1) the employee is performing duties of a higher classification; (2) the duties performed are not described in a training and development assignment or by the specification for the class to which the employee is appointed; (3) the duties as a whole are fully consistent with the types of jobs described in the specification for the higher classification; and (4) upon discretion of the Department Head and approval of the City Administrator.

SEC. 426 OUT-OF-CLASS APPOINTMENT:

When the City has a position that is vacant during recruitment for a permanent appointment, it may temporarily appoint an employee to the upgraded position or higher classification. During the temporary appointment to the upgraded position or higher classification, the employee shall be compensated at Step A on the Salary Schedule for the upgraded position or higher classification. However, if Step A is lower than the employee's current base salary, the employee shall be compensated for the upgraded position or higher classification at the step on the Salary Schedule that

would result in a temporary increase of at least five percent (5%). No employee shall serve in such out-of-class appointment for more than 960 hours per fiscal year.

CHAPTER 5 - - PROBATIONARY STATUS

SEC. 501 PROBATIONARY PERIOD

All initial appointments to regular positions shall be subject to a probationary period fixed at twelve (12) months. Promotional appointments to regular positions shall be subject to a probationary period fixed at six (6) months, provided the promoting employee has completed the initial probationary period of twelve (12) months; in situations where that has not occurred, the promoting employee shall serve the remainder of the twelve (12) month probationary period, or an additional six (6) months, whichever is longer.

In the event an employee is absent and/or on leave for a period of two or more cumulative weeks during the probationary period, the probationary period shall be extended in length to ensure performance can be evaluated for the full period of probation.

This does not affect the probationary period for Police Officers, which is governed by the regulatory manual for that department subject to the approval of the Human Resources Manager and Chief of Police.

SEC. 502 OBJECTIVE OF PROBATIONARY PERIOD

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

SEC. 503 PROBATIONARY EMPLOYEE PERFORMANCE REPORTS

A performance report of each probationary employee shall be made by the Department Head or Supervisor or his/her Designee on City of Exeter Employee Performance Evaluation Forms, according to the directions thereon and forwarded to the Human Resources Manager. The Employee Performance Evaluation Form shall be filed by the Department Head or Supervisor or his/her Designee upon the completion of the employee's sixth and twelfth months of service with the City. This does not preclude a Department Head and/or Supervisor from submitting a special report if necessary.

SEC. 504 REJECTION OF PROBATIONARY EMPLOYEE

During the initial probationary period an employee may be suspended, demoted or terminated at any time by the Department Head without cause and without the right of appeal or to submit a grievance. If rejection of probationary employees results in a stigmatizing charge, the employee denies the charge or contests its accuracy, and there is a public disclosure of the charge, the employee has a right to a

name-clearing hearing, which shall be conducted as a *Skelly* conference and shall not be subject to review.

CHAPTERS 6 – ANNUAL VACATION LEAVE

SEC. 601 PURPOSE OF ANNUAL VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16

The purpose of annual vacation is to allow an employee time to both mentally and physically refresh themselves in order that they be better able to carry out the duties of their position. To achieve this goal, it is the intention of the City to have an employee schedule a vacation for periods of at least one week.

SEC. 602 ELIGIBILITY FOR ANNUAL VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16

a. Regular Employees

All regular employees, upon the completion of six months of continuous service, shall be eligible to take any vacation leave already accrued. Under the discretion of the Department Head and approval of the City Administrator, an employee may use vacation time prior to completion of the first six months of service. The amount of time available for an employee's vacation shall be accumulated through the month immediately preceding the month in which the employee's vacation falls.

b. Hourly, temporary or contract personnel shall not be eligible for annual vacation leave.

SEC. 603 ACCRUAL OF ANNUAL VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16

Vacation leave shall be accrued and credited each pay period by all regular employees who are on a pay status. Those employees eligible for vacation as defined in SEC. 602 and not covered by the MOUs noted above shall accrue vacation at the following rate:

NON-EXEMPT EMPLOYEES

<u>Years of Service</u>	<u>Annual Accrual (up to)</u>	<u>Monthly Accrual (up to)</u>
1-2	12 Working Days	8 hrs.
3-4	13 Working Days	8 1/3 hrs.
5-6	14 Working Days	9 1/3 hrs.
7-8	15 Working Days	10 hrs.
9-10	16 Working Days	10 2/3 hrs.
11-12	17 Working Days	11 1/3 hrs.

13-14	18 Working Days	12 hours
15-16	19 Working Days	12 2/3 hours
17-19	20 Working Days	13 1/3 hours
20 and Up	21 Working Days	14 hours

EXEMPT EMPLOYEES

<u>Years of Service</u>	<u>Annual Accrual (up to)</u>	<u>Monthly Accrual (up to)</u>
1-2	16 Working Days	10 2/3 hrs.
3-4	17 Working Days	11 1/3 hrs.
5-6	18 Working Days	12 hrs.
7-8	19 Working Days	12 2/3 hrs.
9-10	20 Working Days	13 1/3 hrs.
11-12	21 Working Days	14 hrs.
13-Up	22 Working Days	14 2/3 hrs.

SEC. 604 ACCUMULATION OF ANNUAL VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16

a. Exempt employees will be allowed to accumulate accrued vacation to a cap equal to the maximum hours eligible to be earned over a two year period - 44 days, or 352 hours, other employees shall be as stated in MOU. Upon reaching the maximum accumulation, accrual for the individual employee will cease until the leave balance drops below the maximum accrual.

b. Vacation Redemption:

SERVICE AND MAINTENANCE UNIT MOU Article 16 and POLICE UNIT MOU Article 17

Employees with 100 hours of accrued vacation (police with 140 hours of accrued vacation) may elect to take 40 hours of vacation and “cash-in” an additional 40 hours. No other time increments will be allowed. This benefit can only be used once a fiscal year.

SEC. 605 SCHEDULING OF VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16.

An employee's vacation shall be, as much as possible, scheduled for the employee's convenience; however, vacations shall be scheduled by the Department Heads, or their designee, so as to not interfere seriously with or impair departmental efficiency. In the event more than one employee in the same class or department requests the same vacation days, whenever possible, seniority will be considered first.

SEC. 606 WORKING DURING ANNUAL VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16

The City discourages any employee from working for another employer during their annual vacation. At no time will an employee be permitted to work for the City during their vacation and receive double compensation.

SEC. 607 HOLIDAYS WITHIN VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16.

When a recognized holiday falls within an employee's vacation, for which they would have been excused from work, that day shall not be charged as a day of vacation and the employee will receive holiday pay for that date.

SEC. 608 ILLNESSES WITHIN VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16

If an employee becomes ill or injured during their annual vacation leave, those days for which they were ill or injured may not be charged as annual vacation, but may, upon request of the employee, be charged to sick leave contingent upon the following conditions:

- a. Proper amount of sick leave is accrued; and
- b. Payroll period within which time the illness or injury occurred has not been posted in the computer.

SEC. 609 PAYMENT OF ANNUAL LEAVE UPON TERMINATION

SERVICE AND MAINTENANCE UNIT MOU Article 15 and POLICE UNIT MOU Article 16

Payment for accrued vacation upon termination shall be at the employee's current rate of pay.

CHAPTER 7 – SICK LEAVE

SEC. 701 STATEMENT OF POLICY

Sick leave shall not be considered as a privilege an employee may use at their own discretion, but shall be granted upon the approval of the Department Head. Sick leave shall be allowed only in case of necessity and actual personal illness or disability, medical or dental treatment or in case of illness in the immediate family. The immediate family shall be the spouse, parent, child, or brother or sister.

SEC. 702 ELIGIBILITY FOR SICK LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

a. Eligible Employees

All regular and hourly employees, upon completion of one (1) month of continuous service shall be eligible for sick leave with pay.

SEC. 703 ACCUMULATION OF SICK LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

- a. Currently sick leave is accumulated at a rate of up to 3.6923 hours per two-week pay period (up to 8 hours per calendar month), and accrues only when the employee is in paid status.
- b. For those employees not covered by MOU, sick leave may be accumulated up to 960 hours (based on an 8-hour work day). Sick leave accumulation caps may vary by bargaining unit.

SEC. 704 HOLIDAYS WITHIN SICK LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

When a recognized City holiday falls within an employee's bona fide use of sick leave for which the employee normally would have been excused from work, that day shall not be charged as a day of sick leave.

SEC. 705 ILLNESSES WITHIN VACATION LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

If an employee becomes ill or injured during their annual vacation leave, those days which they were sick or injured may not be charged as annual vacation but may, if requested by the employee, be charged as sick leave contingent upon the following (also see SEC. 608 Vacation Leave):

- a. Proper amount of sick leave is accrued; and
- b. Payroll period within which time the illness or injury occurred has not been posted in the computer.

SEC. 706 USAGE OF SICK LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

Leave under this policy may be used in connection with the diagnosis, care or treatment of an existing health condition for, or the preventive care of, an employee or an employee’s immediate family member. “Family member” for purposes of this policy includes spouses, registered domestic partners, children (regardless of age), parents (including step-parents and parents-in-law), grandparents and siblings. Leave under this policy may also be used for employees who are the victims of domestic violence, sexual assault or stalking.

Sick leave may be used as needed and approved, to the point of depletion, at which time the employee will no longer receive pay for sick leave. If sick time has been depleted and an injury or illness persists, vacation time may be utilized, only if approved in advance by the Department Head.

SEC. 707 DEDUCTION OF SICK LEAVE

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

Sick leave shall be deducted at the rate of one-hour sick leave for each hour absent.

SEC. 708 PHYSICIAN’S CERTIFICATE

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

A physician's certificate may be required after being absent three (3) days from work. A physician's certificate may be requested regardless of length of absence at the request of the Department Head or City Administrator. (Includes chiropractors licensed by the State of California.)

SEC. 709 WORKERS’ COMPENSATION

- a. Police Department Personnel POLICE UNIT MOU Article 18
- b. All Other City Employees SERVICE AND MAINTENANCE UNIT MOU Article 17
 - 1. All employees who are absent from work by reason of a work-related injury or illness shall be covered by Workers' Compensation. During the time the employee is in pay status while absent from work by reason of injury or illness covered by Workers' Compensation, the employee shall continue to accrue sick leave and vacation benefits as though they were not on a leave of absence.

SEC. 710 SICK TIME BUY OUT

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

Upon separation from employment, regular full- and regular part-time employees who leave in good standing may be paid as indicated for unused sick time hours left in their sick leave bank. Alternatively, sick leave balances may be converted to PERS service credit if allowed by the applicable PERS contract. If sick leave is to be paid to an eligible employee, the following table shall be utilized to calculate the amount to be paid out:

- | | |
|--|-----------------------------------|
| a. 0 to less than 5 years' service to City | 0% x hours x current rate of pay |
| b. 5 to less than 10 years | 15% x hours x current rate of pay |
| c. 10 to less than 15 years | 20% x hours x current rate of pay |
| d. 15 to less than 20 years | 25% x hours x current rate of pay |
| e. 20 plus years | 30% x hours x current rate of pay |

CHAPTER 8 – OTHER LEAVES OF ABSENCE

SEC. 801 LEAVE OF ABSENCE WITHOUT PAY

SERVICE AND MAINTENANCE UNIT MOU Article 19 and POLICE UNIT MOU Article 20

Leave of absence without pay may be granted in cases of emergency and where such absence would not be contrary to the best interests of the City. Such leave is not a right but a privilege. No vacation or sick leave benefits shall be used for illnesses occurring during such leave; the City will attempt to return the employee to their usual or similar position upon returning from a leave of absence. However, reinstatement is not guaranteed under this policy.

- a. Leave of absence without pay for one (1) week or less may be granted by the Department Head, depending on the circumstances of the individual case. Such leaves shall be reported to the Human Resources Manager.
- b. Leave of absence without pay in excess of one (1) week duration may be granted by the City Administrator depending on the circumstances of the case, but such leave shall not exceed twelve (12) months duration.

SEC. 802 LEAVE WITHOUT PAY

SERVICE AND MAINTENANCE UNIT MOU Article 19 and POLICE UNIT MOU Article 20

The City may grant unpaid leaves of absence to employees who have no remaining sick or vacation leave balances in certain circumstances including, but not necessarily limited to a serious health condition of the employee, the employee's spouse or registered domestic partner, child, or parent. Such unpaid leave is granted for up to 30 calendar days at the discretion of the City Administrator. You are expected to request any leave in writing as far in advance as possible; to keep in touch with your supervisor and the Human Resources Manager during your leave; and to give prompt notice if there is any change in your return date. If additional leave time is necessary, you must submit a new request to the City Administrator prior to the expiration of your initial leave. If your leave expires and you have not contacted the City Administrator or Human Resources Manager prior to the date of expiration, it will be assumed that you do not plan to return and that you have voluntarily terminated your employment. You are not guaranteed to be returned to your same or similar position upon returning from an unpaid leave of absence. Those decisions are based on the City's ongoing business needs.

SEC. 803 LEAVE OF ABSENCE: DEATH OUTSIDE THE IMMEDIATE FAMILY

SERVICE AND MAINTENANCE UNIT MOU Article 19 and POLICE UNIT MOU Article 20

Leave without pay may be granted a regular employee by the Department Head in the event of death to a family member other than one of the immediate family, such leave to be granted in accordance with SEC. 801.

SEC. 804 PERSONAL LEAVE (TAKEN FROM THE EMPLOYEE'S ACCRUED SICK LEAVE)

SERVICE AND MAINTENANCE UNIT MOU Article 14 and POLICE UNIT MOU Article 15

Employees shall “earn” the ability to take eight (8) hours per every three-month period of employment for personal leave. In other words, an employee may take personal leave in an amount up to 32 hours per year of completed employment. Time taken shall be noted as “Personal Leave” with hours deducted from the employee’s accrued sick leave bank, with the advanced, written approval of the Department Head.

Unused personal leave does not accumulate, it is simply an allowance of sick leave that may be used for personal reasons. Any unused personal leave shall revert back to sick leave.

- a. An additional day per year may be taken as a personal leave day once an employee accumulates 400 hours of sick leave. After 400 hours an employee will be allowed to utilize an extra day of personal leave for each two hundred hours accumulated, up to seven days. (These days may not carry over into the next year.)

SEC. 805 JURY DUTY

SERVICE AND MAINTENANCE UNIT MOU Article 19 and POLICE UNIT MOU Article 20

Employees who receive a summons for jury service must notify the Supervisor immediately and provide a copy of the summons. If the employee is selected for service, the employee must report to work for the remainder of the work day on any days that do not include a full day of jury service.

Employees required to report for jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided the employee remits to the City all fees received for such duties other than mileage or subsistence allowance within thirty (30) days from the termination of the jury service.

Since employees receive regular compensation and benefits while performing jury service, employees cannot receive the fee paid by the court (Ca. Code of Civil Procedures Sections 215 & 481.200).

If the employee is using their own vehicle for jury service they may receive and keep the mileage allowance paid by the court for jury service.

The employee should let the court know they are an employee of a public entity, upon roll call of the jurors, so the court waives the fee and the employee won’t be paid.

SEC. 806 SUBPOENAS:

SERVICE AND MAINTENANCE UNIT MOU Article 19 and POLICE UNIT MOU Article 20

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

SEC. 807 LEAVE FOR ATTENDANCE AT WORKERS' COMPENSATION APPEALS BOARD, OSHA/INDUSTRIAL ACCIDENT COMMISSION HEARING OR RELATED PHYSICAL EXAMINATION

SERVICE AND MAINTENANCE UNIT MOU Article 19 and POLICE UNIT MOU Article 20

Employees who have been injured in the course and scope of their employment with the City and who are required, as a result of such injury, to be absent from duty to take physical examinations required by the City's Workers' Compensation Insurer of the Industrial Accident Commission or to attend hearings of OSHA and/or the Industrial Accident Commission, may be granted leave with pay for such absence by the City Administrator, if the employee is in pay status at the time of the scheduled examination or hearing.

SEC. 808 EXECUTIVE LEAVE

Executive leave may be administratively granted by the City Administrator to exempt management and mid-management level personnel as compensation for being exempted from minimum wage and overtime provisions. In some cases this leave may be, or may have been, referred to as Administrative Leave. Executive Leave is the more specific and appropriate term and is favored.

Regular full-time exempt employees are granted Executive Leave (96 hours for City Administrator and Department Heads; and 80 hours for Middle Managers) every July 1 or as outlined in individual MOUs or agreements. An employee who is hired in an exempt position after December 31, shall be granted a prorated portion based on number of months remaining in the year of the total hours of Executive Leave for the remainder of the fiscal year.

Executive Leave must be used within the fiscal year accumulated and may not be carried over from one fiscal year to another.

SEC. 809 EDUCATION LEAVE

The City may grant to an employee an educational leave of absence not to exceed twelve (12) months for the purpose of obtaining a job-related education. Such leave shall be unpaid.

SEC. 810 FAMILY AND MEDICAL LEAVE

Eligible City employees may be entitled to leave under the California Family Rights Act (CFRA).

Eligible Employees

To be eligible for CFRA leave, an employee must have more than 12 months of service with the City and have worked at least 1,250 hours for the City in the 12-month period before the leave begins.

Reasons for Leave

An eligible employee may take job-protected leave to bond with a new child by birth, adoption, or foster care placement, within one year of the Child's birth, adoption, or foster placement.

An eligible employee may take job-protected leave to care for a designated person, child, spouse, domestic partner, parent, grandparent, grandchild, or sibling with a serious health condition.

For purposes of this policy, a "designated person" is defined as "any individual related by blood or whose association with the employee is the equivalent of a family relationship." An employee must notify Human Resources of its designated person, if any, not more than every 12 months.

CFRA leave may also be taken for the employee's own serious health condition.

An eligible employee may take job-protected leave for a qualifying exigency related to the covered active duty or call to covered active duty of a spouse, domestic partner, child, or parent in the Armed Forces of the United States.

Duration of Leave

Eligible employees may take leave of up to 12 workweeks.

Employee Obligations

Employees are required to provide 30 days' advance notice of the need for CFRA leave. When this is not possible due to the unexpected nature of the qualifying event, notice should be given as soon as practicable. Notice can be written or verbal and should include the timing and the anticipated duration of the leave, but the City does not and may not require disclosure of an underlying diagnosis. The City must respond to a leave request as soon as possible and no later than 5 business days.

The City requires written certification from the health-care provider of the individual with a serious health condition stating the reasons for the leave and the probable duration of the condition. However, the health-care provider may not disclose the underlying diagnosis without the consent of the patient.

Salary and Benefits During CFRA Leave

CFRA leave is unpaid. The City does require employees to use any accrued sick leave during their CFRA leave, and employees may, if they choose, use accrued vacation leave.

If the CFRA leave is needed to care for a seriously ill family member or to bond with a new child, the employee must use accrued vacation time or other accumulated paid leave other than sick time, unless the employee is receiving Pregnancy Leave (see below).

If the CFRA leave is for the employee's own serious health condition, the employee must use accrued sick leave and may, once sick leave has exhausted, use accrued vacation time or other accumulated paid leave.

During an approved CFRA leave, the City will continue to pay for the employee's participation in the City's group health plans, to the same extent and under the same terms and conditions as would apply had the employee continued in employment continuously for the leave period.

If the employee fails to return from the leave at the expiration of 12 workweeks for a reason other than the recurrence, continuation, or onset of a serious health condition for which leave under this policy is allowed or other circumstances beyond the employee's control, the City can recover any health plan premiums paid by the City on the employee's behalf during any periods of the leave.

Return Rights

After CFRA leave, employees are guaranteed a return to the same or comparable position and can request the guarantee in writing. If the same position is no longer available, the City must offer a position that is comparable in terms of pay, benefits, shift, schedule, geographic location, and working conditions, including privileges, perquisites, and status, unless the City can prove that no comparable position exists.

An employee is not entitled to reinstatement if the employee would have been otherwise laid off or terminated for reasons unrelated to their leave.

When the leave is for the employee's own serious health condition, the City requires such employee to provide medical certification they are released to return to work, specifying the date they are able to do so.

To File a Complaint

Any employee with questions about CFRA or to request CFRA leave should contact the Human Resources Manager.

The City complies with applicable family care, medical leave, and military family leave laws. Under the CFRA it is unlawful for any employer to: interfere with, restrain, or deny the exercise of any right provided under the CFRA; or discharge or discriminate against any person for opposing any practice made unlawful by the CFRA or for involvement in any proceeding under or relating to the CFRA.

If an employer has engaged in any unlawful activity mentioned above, an employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. The CFRA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

If you have questions, or would like further clarification about your rights under the CFRA or other types of leave, please contact the Human Resources Manager. Separately, employees may file complaints of claimed violations of CFRA with the California Civil Rights Department (CRD), which is authorized to investigate such complaints. For more information, visit the CRD's website at <http://calcivilrights.ca.gov>.

SEC. 811 PREGNANCY LEAVE

Eligibility for Leave

In addition to CFRA, the City provides job-protected leave or accommodations to employees disabled by pregnancy, childbirth, or a related medical condition. Pregnancy disability leave (PDL) is available when an employee is actually disabled, up to a total of four months. This includes time off needed for prenatal or postnatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from childbirth, loss or end of pregnancy, or any other related medical condition.

Pregnancy-related disability leaves may be taken intermittently, or on a reduced-hours schedule, as medically necessary.

Reasonable Accommodations for Pregnancy Disability

Moreover, an employee is entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions if she so requests and provides the City with medical certification from her healthcare provider. In addition to other forms of reasonable accommodation, a pregnant employee is entitled to transfer temporarily to a less strenuous or hazardous position or to less hazardous or strenuous duties if she so requests, the transfer request is supported by proper medical certification, and the transfer can be reasonably accommodated.

Employees returning from pregnancy-related disability leave generally are entitled to be reinstated to the same position, subject to certain conditions, and consistent with applicable law.

Substitution of Paid Leave for Pregnancy-Related Disability Leave

An employee taking pregnancy-related disability leave must substitute any available sick pay for her leave and may, at her option, substitute any accrued vacation time for her leave. The substitution of paid leave for pregnancy-related disability leave does not extend the total duration of the leave to which an employee is entitled.

Leave's Effect on Benefits

During a pregnancy-related disability leave, the City will continue to pay for the employee's participation in the City's group health plans, to the same extent and under the same terms and conditions as would apply had the employee continued in employment continuously for the leave period.

Thus, the employee must continue to pay their share of the health plan premiums during the leave. If paid sick leave is substituted for any portion of the leave that is unpaid leave, such payments will be

deducted from the employee's pay through the regular payroll deductions. Otherwise, the employee must make arrangements with the City for the payment of such premiums.

The City may recover from the employee the premiums the City paid to maintain coverage for the employee under the group health plan if the employee fails to return from leave after the period of leave has expired and the employee's failure to return is for a reason other than: (i) the employee is taking (i.e., has transitioned over to) leave under the California Family Rights Act, unless the employee chooses not to return after the CFRA leave, in which case the City can recover such premiums; (ii) the continuation, recurrence, or onset of a health condition that entitles the employee to Pregnancy-Related Disability Leave, unless the employee chooses not to return after the Pregnancy-Related Disability Leave, in which case the City can recover such premiums; (iii) non-pregnancy related medical conditions requiring further leave, unless the employee chooses not to return to work following the leave, in which case the City can recover such premiums, or (iv) other circumstances beyond the employee's control.

It is the City's policy that, similar to other unpaid leaves, during any unpaid portion of a Pregnancy-Disability Leave, employees will accrue employment benefits, such as sick leave, vacation leave, and seniority, only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

Employee benefits may be continued during the unpaid portion of the pregnancy-related disability leave according to the provisions of the City's various employee benefit plans.

Other Terms and Conditions of Leave

Consistent with the City's practice for other employees returning from a disability leave for reasons other than pregnancy, the City requires that an employee returning from pregnancy-related disability leave provide a release to return to work from her healthcare provider stating she is able to resume her original job or duties.

The provisions of the City's family care and medical leave policy regarding the leave's effect on pay, notice requirements, medical certification requirements, and reinstatement also apply to all pregnancy-related disability leaves. However, for pregnancy-related disabilities, there is no process for obtaining more than one medical opinion. For the purpose of applying those provisions, an employee's pregnancy-related disability is considered to be a serious health condition.

So that an employee's return to work can be properly scheduled, an employee on pregnancy-related disability leave is requested to provide the City with at least two weeks' advance notice of the date she intends to return to work.

If an employee fails to return to work promptly at the end of the pregnancy disability leave, unless other arrangements are made in advance, the City will assume the employee has voluntarily resigned.

SEC. 812 LACTATION ACCOMMODATION

The City recognizes that breast milk is the optimal food for growth and development of infants. In compliance with SB 142, this policy is to establish guidelines for promoting a breastfeeding-friendly work environment and supporting lactating employees at the City for as long as they desire to express breastmilk. The City supports the legal right and necessity of employees who choose to express milk in the workplace.

Communication

A copy of this policy will be provided to every newly hired employee and to any employee who inquires about or requests pregnancy or parental leave.

The City will respond to an employee's written request for lactation accommodation within (5) five business days.

Use of Meal and Rest Breaks

The City provides a reasonable amount of break time to accommodate an employee's need to express breast milk or accommodate any medical condition related to breast-feeding.

The break time should, if possible, be taken concurrently with other rest and meal break periods already provided.

Nonexempt employees should clock out for any time taken that does not run concurrently with normally scheduled rest periods and such time will be unpaid.

Lactation Space

The City provides breastfeeding employees with space in close proximity to the employee's work area that is shielded from view and free from intrusion from co-workers and the public, to express breastmilk. The room or location may include the place where the employee normally works if it otherwise meets the requirements of the lactation space. Restrooms are prohibited from being utilized for lactation purposes.

The lactation space will:

- Be safe, clean, and free of toxic or hazardous materials (as defined in Labor Code Section 6382);
- Contain a place to sit, a surface to place a breast pump and personal items;
- Have access to electricity;
- Have access to a sink with running water and a refrigerator in close proximity to the employee work area;
- Multi-purpose rooms may be used as lactation space if they satisfy the requirements for space; however, use of the room for lactation takes priority over other uses.

Retaliation Related to Breastfeeding or Expressing Milk is Prohibited

The City prohibits retaliation against lactating employees for exercising their rights granted by the law. This includes:

- The denial of reasonable break time or adequate space to express milk.
- An employer shall not discharge, or in any other manner discriminate or retaliate against, an employee for exercising or attempting to exercise any right protected under the law.
- An employee may report a violation of this chapter to the Labor Commissioner's field enforcement unit.

Employer Records

The City maintains a record of the written requests for Lactation Accommodation that includes the name of the employee, the date of the request, and a description of how the employer resolved the request.

If the City denies a request for Lactation Accommodation the employer must save the written denial. All written request and denial records must be maintained for (3) three years from the date of written request.

SEC. 813 OTHER DISABILITY LEAVES

In addition to medical or pregnancy-related disability leaves described in previous sections, an employee may be eligible for a temporary leave of absence consistent with the ADA or FEHA, when necessary to reasonably and temporarily accommodate work restrictions or limitations. Any leave under this section will run concurrently with any medical leave to which the employee is entitled.

SEC. 814 MILITARY LEAVE

The City will comply with all applicable laws and regulations regarding military leave. Generally, an unpaid military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Advance notice of military service is required, unless military necessity prevents such notice or it is otherwise impossible or unreasonable. Please see the Human Resources Manager as soon as you become aware of the need to take a leave. Employees returning from military leave will be reinstated into their former position or into another position of equal pay and status, consistent with applicable laws. Questions on military leave should be directed to the Human Resources Manager.

SEC. 815 VICTIMS OF DOMESTIC VIOLENCE

If an employee is the victim of domestic violence, sexual assault, stalking, or an offense listed in Labor Code section 230.5, that employee may take time off to attend necessary court hearings. The employee should notify their supervisor and the Human Resources Manager of the time needed to attend such hearings as much in advance as possible. The Human Resources Manager may require the employee provide certification as described in Labor Code sections 230 and 230.5. The City will maintain the confidentiality of any employee requesting this time off.

This leave is unpaid. However, you may use accrued paid sick leave or vacation, personal leave or other accrued leave balances. Even if you do not have paid leave, you still have the right to time off.

SEC. 816 TIME OFF FOR VOTING

In the event an employee does not have sufficient time outside of working hours to vote in a statewide election, the employee may take off enough working time to enable them to vote. Such time off shall be taken at the beginning or the end of the regular working shift, whichever allows for the most free time, and the least time off from the regular working shift. Under these circumstances an employee will be allowed a maximum of two (2) hours on the Election Day without loss of pay. Where possible, the employee shall give their supervisor at least two days' notice that time off to vote is needed.

SEC. 817 BEREAVEMENT LEAVE

An employee, who has been employed for at least 30 days prior to the commence of the leave, is eligible to take up to five (5) days of bereavement leave upon the death of a qualifying family members. For purposes of this Section, a qualifying family member includes a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law.

The leave does not need to be taken consecutively. The employee must complete the bereavement leave within three months of the family member's date of death. Three of the five days are paid. The remaining two days are unpaid. However, you may use accrued paid sick leave or vacation, personal leave or other accrued leave balances. Even if you do not have paid leave, you still have the right to time off.

SEC. 818 SCHOOL ACTIVITIES

If it becomes necessary for an employee who is the parent or guardian of a child to attend the child's school to participate in certain school-related activities with their children. Parents may: (1) participate in activities of the school or licensed child care provider of a child; (2) find, enroll, or re-enroll a child in a school or with a licensed child care provider; or (3) address a "child care provider or school emergency." The employee shall notify their supervisor as soon as possible so that alternative arrangements may be made. Employees authorized to take time off for school activities must use accrued vacation time or other available accrued paid time off. Pursuant to California Labor Code Section 230.7, no discriminatory action will be taken against the employee for taking time off for this purpose.

SEC. 819 COOL-DOWN/RECOVERY PERIOD

Employees who work outside shall be allowed and encouraged to take a cool-down rest in the shade for a period of no less than five minutes at a time when they feel the need to do so to protect themselves from overheating.

SEC. 820 BENEFITS WHILE ON LEAVE

Unless otherwise required by these Rules and Regulations, while an employee is on an authorized leave of absence, the City will continue – for up to six (6) months – to pay for the employee’s participation in the City’s group health plans to the same extent and under the same terms and conditions as would apply had the employee not taken leave.

The City will continue to deduct the employee’s portion of the health plan premium from their paycheck to the extent the employee’s leave is paid. To the extent any portion of the employee’s leave is unpaid, the employee must pay, directly to the City, their cost of the health plan premium. The City will send an invoice each month. If the employee fails or refuses to remit any payment within 30 days of the date of invoice, the City will issue a 10-day notice of cancellation. If payment is not received within this 10-day period, the City will terminate City-sponsored health benefits and provide COBRA notification to the employee.

If the employee remains on leave for greater than six (6) months, the City will terminate City-sponsored health benefits and provide COBRA notification to the employee.

CHAPTER 9 – TERMINATION OF EMPLOYMENT

SEC. 901 TERMINATION: RESIGNATION

An employee wishing to leave the service of the City in good standing either by resignation or retirement shall give the Department Head at least two (2) weeks' written notice, unless approval for a shorter notice is obtained, in writing and in advance, from the Department Head.

SEC. 902 TERMINATION: ABSENT WITHOUT LEAVE

Absence without leave, without authorization, for more than three (3) consecutive work days or shifts may be deemed to be a voluntary resignation, and may result in automatic termination of employment as provided in SEC. 1002 (g).

SEC. 903 TERMINATION: LACK OF WORK OR FUNDS

An employee may be terminated by the City Administrator because of changes in duties or organization, abolishment of position, shortage of work or funds, or completion of work. In cases involving regular employees only, a notice of such termination will be given to the employee at least two (2) weeks prior to the effective date of termination. Such terminations shall not be subject to appeal unless provided for by law, local ordinance, or established agreement.

In any such reduction in personnel caused by lack of work or funds, seniority shall be observed. The order of lay-off shall be in the reverse order of total cumulative time the employee has served.

For the purpose of determining order of lay-off, total cumulative time shall include the employee's time served in probationary and regular status (including authorized medical leaves of absence and time served on military leave of absence) while assigned to the current job classification.

SEC. 904 TERMINATION: NON DISCIPLINARY ACTION

Temporary, hourly, contract and probationary employees may be terminated by the City Administrator at any time, with or without notice for cause or for the convenience of the City. Regular employees terminated by the City Administrator for cause or for the convenience of the City shall be given a written statement of the reasons for such termination and may appeal such action in the manner provided in SEC. 1003, etc. seq. Such cause shall be other than cause for disciplinary action set forth in SEC 1002 *et seq.*, and shall include but not be limited to inefficiency, incompetency, physical disability or mental disability.

SEC. 905 TERMINATION: DISCIPLINARY ACTION

An employee may be terminated at any time as disciplinary action as provided in Chapter 10 of these Rules and Regulations.

SEC. 906 RETIREMENT: APPLICABLE REGULATIONS

SERVICE AND MAINTENANCE UNIT MOU Article 12 and POLICE UNIT MOU Article 13

Retirement from the municipal service shall be subject to the terms and conditions of the City's Retirement System. Currently, the City provides the following retirement benefits:

- a. PERS, 3% at age 55 Plan (eligible Public Safety employees).
- b. PERS, 3% at age 60 Plan (CLOCEA, Classified, Management/Mid-Management employees, City Administrator).

SEC. 907 RETIREMENT: EARLY RETIREMENT

SERVICE AND MAINTENANCE UNIT MOU Article 12 and POLICE UNIT MOU Article 13

Early retirement may be granted with reduced benefits, provided an employee has reached the minimum eligible age established by CalPERS and complies with all early retirement provisions established by CalPERS.

CHAPTER 10 – DISCIPLINARY PROCEEDINGS

Unless otherwise specified by a memorandum of understanding, the following constitutes the City's policy regarding disciplinary actions:

SEC. 1001 DISCIPLINARY PROCEEDINGS: POLICY COVERAGE

The following categories of persons can be terminated at-will and have no rights to any of the pre- or post-disciplinary processes or procedures in this Policy:

- (1) Temporary or hourly employees,
- (2) Provisional or seasonal employees,
- (3) Probationary employees,
- (4) Any person who serves pursuant to a contract, and
- (5) Any person who is designated "at-will" in any City policy, document, acknowledgement, resolution or ordinance.

In addition, any regular employee who is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) is not subject to any disciplinary penalty which is inconsistent with the FLSA overtime-exempt status.

SEC. 1002 DISCIPLINARY PROCEEDINGS: CAUSES FOR DISCIPLINE

Regular employees may be counseled, admonished, reprimanded, suspended, placed on disciplinary probation, incur a reduction in pay, demoted or discharged for, including but not limited to, any of the following causes of discipline:

1. Violation of any department rule, City policy or City regulation, ordinance or resolution;
2. Absence without authorized leave, except in emergency situations where advance contact with the City could not be made;
3. Persistent unexcused and/or unscheduled tardiness;
4. Deliberately making any false statement, omission or misrepresentation of a material fact;
5. Deliberately providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;
6. Inexcusable neglect of duties;
7. Persistent job performance below standards;
8. Malfeasance or misconduct, which shall be deemed to include, but shall not be limited to the following acts or omissions:
 - Conviction of a felony or offense involving moral turpitude. "Conviction" shall be construed to be a determination of guilt of the accused by a court, including a plea of guilty or nolo contendere, regardless of sentence, grant of probation, or otherwise.
 - The damaging of City property, equipment, or vehicles, or the waste of City supplies through negligence or misconduct.
9. Insubordination; or insulting or demeaning the authority of a supervisor or manager;
10. Dishonesty;
11. Theft;
12. Violation of the City's or a department's confidentiality policies, or disclosure of

- confidential City information to any unauthorized person or entity;
- 13. Misuse or unauthorized use of any City property, including, but not limited to: physical property, tools, equipment, City communication systems, City vehicles or Intellectual Property;
- 14. Mishandling of public funds;
- 15. Falsifying any City record;
- 16. Substantiated discourteous treatment of the public or other employees;
- 17. Failure to cooperate with employee's supervisor or fellow employees;
- 18. Willful violation of safety, endangering persons or property;
- 19. Violation of City policy against harassment, discrimination and retaliation;
- 20. Unapproved outside employment or activity that violates City policy, or other enterprise that constitutes a conflict of interest with service to the City;
- 21. Unbecoming conduct that causes discredit to the City, the employee's City employment, to the public service, or other employee's employment;
- 22. Failure to comply with OSHA Safety Standards and City safety-related policies;
- 23. Altering, falsifying, and tampering with time records, or recording time on another employee's time record;
- 24. Carrying firearms or other dangerous weapons on City premises at any time, unless authorized to do so.

SEC. 1003 DISCIPLINARY PROCEEDINGS: ADMINISTRATIVE LEAVE

A Department Head may place an employee on an administrative leave with pay pending a potential disciplinary action. Administrative leave with pay is authorized: (1) when the Department Head believes that the employee's continued presence at the work site could have detrimental consequences for City operations, or (2) pending investigation into charges of misconduct. If the charges against the employee are substantiated by the investigation, appropriate disciplinary action may be taken in accordance with these procedures.

SEC. 1004 DISCIPLINARY PROCEEDINGS: TYPES OF DISCIPLINE

The City strives to correct performance matters through corrective feedback, and does not strictly subscribe to progressive discipline. The City reserves the right to implement any level of discipline it deems appropriate under the particular set of circumstances. The types of personnel actions and/or discipline are:

1. Counseling Memo

A counseling memo shall be retained in the supervisor's working file only and until the next performance evaluation for the affected employee is completed. A counseling memo may not be appealed under this policy.

2. Verbal Admonishment or Reprimand

A verbal admonishment or reprimand will be memorialized in writing and retained in the supervisor's working file only and until the next performance evaluation for the affected employee is completed. A verbal reprimand may not be appealed under this policy.

3. Written Admonishment or Reprimand

A Department Head may reprimand an employee by furnishing a written statement of the specific reasons for reprimand. A copy of the reprimand will be retained in the employee's personnel file, and, except for sworn police officers (see below), may not be appealed. The employee has the right to have

a written rebuttal attached to the reprimand in the employee's personnel file if the rebuttal is submitted to the Personnel Department within thirty (30) working days of the date the reprimand was received.

Sworn police officers have the right to administratively appeal written reprimands. A sworn police officer who wishes to appeal a written reprimand must submit a request to the Police Chief within ten (10) days of receipt of the written reprimand. The employee will be provided with an administrative appeal consistent with the *Skelly* conference procedures described in Section 1005, paragraph 2. The decision of the Police Chief or designee to sustain, modify or dismiss the written reprimand is final. Once a sworn police officer has had an opportunity to read and initial any written reprimand prior to entering into a file, the employee shall be given an opportunity to respond in writing to any such written reprimand within thirty (30) days. Any such response shall be attached to and retained with the original reprimand.

a. Suspension Without Pay

A Department Head may suspend an employee from their position for cause. Documents related to a suspension shall become part of the employee's personnel file when the discipline is final. An employee subject to suspension will receive prior written notice and may respond as provided herein.

a. Demotion

An employee may be demoted for cause. Documents related to a demotion shall become part of the employee's personnel file when the discipline is final. An employee subject to demotion will be entitled to prior written notice and may respond as provided herein. An employee so affected may be "Y-rated".

a. Reduction in Pay

A Department Head may reduce an employee's pay for cause. A reduction in pay for disciplinary purposes may take one of two forms: (1) a decrease in salary to a lower step within the salary range, or (2) a decrease in salary paid to an employee for a fixed period of time. Documents related to a reduction in pay shall become part of the employee's personnel file when the discipline becomes final. An employee subject to a reduction in pay is entitled to prior written notice and may respond as provided herein.

a. Termination

A Department Head may terminate an employee from their position for cause. Documents related to termination shall become a part of an employee's personnel file when the discipline becomes final. A terminated employee is entitled to prior written notice and may respond as provided herein.

SEC. 1005 DISCIPLINARY PROCEEDINGS: SKELLY PROCESS

PRE-DISCIPLINARY PROCEDURE FOR SUSPENSION, DEMOTION, REDUCTION IN PAY, OR DISCHARGE

Only regular, for-cause employees have the right to respond to proposed discipline and the appeal procedures outlined in this Section.

a. Notice of Intent to Discipline

The employee will be provided a written notice of intent to discipline that contains the following in the event of a proposed suspension, demotion, reduction in pay or termination:

- The level of discipline intended to be imposed;
- The specific charges upon which the intended discipline is based;

- A summary of the facts upon which the charges are based;
- Notice the employee may receive a copy of all written materials, reports, or documents upon which the intended discipline is based;
- Notice of the employee's right to respond to the Department Head regarding the charges within seven (7) calendar days from the date of the Notice, either by requesting a conference, or by providing a written response, or both;
- Notice of the employee's right to have a representative of their choice at the conference, should they choose to respond verbally; and
- Notice that the failure to respond at the time specified shall constitute a waiver of the right to respond prior to the imposition of discipline.

2. Employee's Response and the *Skelly* Conference

a. If the employee requests a conference to respond verbally to the charge(s), the conference must take place no more than fourteen (14) calendar days after the date of the Notice. The conference will be an informal meeting with the Department Head, at which the employee has an opportunity to rebut the charges and present any mitigating circumstances. The Department Head will consider the employee's presentation before any final disciplinary action is imposed.

b. The employee's failure to make a verbal response at the arranged conference time, or the employee's failure to cause their written response to be delivered by the date and time specified in the Notice, constitutes a waiver of the employee's right to respond prior to the imposition of the discipline. In that case, the proposed disciplinary action will be imposed on the date specified in the Notice.

3. Final Notice of Discipline

a. Within five (5) calendar days of receipt of the employee's timely written response or within five (5) calendar days of the informal conference, the Department Head will;

- (1) dismiss the Notice of Intent and take no disciplinary action against the employee,
- (2) modify the intended disciplinary action, or
- (3) impose the intended disciplinary action.

In any event, the Department Head will prepare and provide the employee with a written notice that contains the following:

- The level of discipline, if any, to be imposed and the effective date of the discipline;
- The specific charges upon which the discipline is based;
- A summary of the facts upon which the charges are based;
- A copy of all written materials, reports, or documents upon which the discipline is based; and
- A statement of the nature of the employee's right to appeal, if any.

SEC. 1006 DISCIPLINARY PROCEEDINGS: EVIDENTIARY APPEAL

1. Request for Appeal Hearing

A regular, non-probationary employee may appeal from a final notice of discipline in the form of

suspension, demotion, reduction in pay that exceeds the equivalent of 40 or more hours of work, or termination, by delivering a written answer to the charges and a request for appeal to the Human Resources Manager, who will forward the appeal to the Hearing Officer designated by the City Council. The written answer and request for appeal must be received no later than ten (10) calendar days from the date of the Department Head's Final Notice of Discipline.

While such hearings are typically closed meetings, the employee may request that the meeting be open.

2. Selection of Hearing Officer; Date and Time of the Appeal Hearing

The parties shall mutually select the Hearing Officer from the Mediator Referral List posted on the Tulare County Superior Court website or the State Mediation and Conciliation Services, subject to agreement by the parties. The Hearing Officer selected shall be experienced in public employment matters, employment rules and regulations and the conduct of administrative, evidentiary hearings. If the Hearing Officer selected is not available to conduct the Hearing within the time period specified, the parties shall select another Hearing Officer.

The Hearing Officer will set a date for an appeal hearing within a reasonable time after receipt of a timely written answer and request for appeal, and in no event later than 60 days after the request for appeal. An employee who, having filed a timely written answer and request for appeal, has been notified of the time and place of the appeal hearing, and who fails to appear personally at the hearing, may be deemed to have abandoned their appeal. In such a case, the Hearing Officer may dismiss the appeal.

3. Identification of Issues, Witnesses and Evidence

No later than ten (10) calendar days prior to the appeal hearing, each party will provide the other and the Hearing Officer a statement of the issues to be decided, a list of all witnesses to be called (except rebuttal witnesses), a brief summary of the subject matter of the testimony of each witness, and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City will use numbers to identify its evidence; the employee shall use alphabet letters. Neither party will be permitted to call any witness during the hearing who has not been identified pursuant to this section, nor use any exhibit not provided pursuant to this section, unless that party can show they could not have reasonably anticipated the need for the witness or exhibit. The Hearing Officer will state at the beginning of the hearing the decision as to the precise issue(s) to be decided.

4. Conduct of the Appeal Hearing

a. Subpoenas

The City Administrator has authority to issue subpoenas in the name of the City prior to the commencement of the hearing. Each party is responsible for serving their own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they are required to be present, unless the City agrees to a different arrangement.

b. Continuances

The hearing may be continued on mutual agreement of the parties. In the absence of such agreement, the Hearing Officer may continue a scheduled hearing only upon good cause shown.

c. Record of the Proceedings

All disciplinary hearings will, upon agreement of the parties, be either recorded by a court reporter or tape recorded.

d. The Hearing Officer's Authority During the Hearing

The Hearing Officer has the authority to control the conduct of the hearing. Once the hearing has concluded, the Hearing Officer shall issue a written recommendation to the City Administrator to affirm, modify, or revoke the discipline.

e. Conduct of the Hearing

The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner the Hearing Officer decides is the most conducive to determining the truth.

Any relevant evidence may be admitted if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in civil actions. An objection is timely if made at the time the evidence is presented.

The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

The Hearing Officer shall determine relevancy, weight and credibility of testimony and evidence.

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

All witnesses shall be sworn in for the record prior to testifying at the hearing. The Hearing Officer or the court reporter shall request each witness to raise their right hand and respond to the following: "Do you swear that the testimony you are about to give at this hearing is the truth, the whole truth, and nothing but the truth?"

f. Burden of Proof at the Hearing

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

g. Right to Due Process

The employee shall have the following due process rights during the hearing:

- The right to be represented by legal counsel or another chosen representative, at their own expense;
- The right to call and examine witnesses on their behalf;
- The right to introduce evidence;
- The right to cross-examine opposing witnesses on any matter relevant to the issues;
- The right to impeach any witness regardless of which party first called them to testify; and
- The right to rebut evidence against them.

h. Hearing to be Closed to the Public

The hearing will be closed to the public unless the employee requests that it be open.

i. Presentation of the Case

The parties will address their remarks, evidence, and objections, to the Hearing Officer. The Hearing Officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. For good cause or by agreement of the parties, the Hearing Officer may alter the order of witnesses. The Hearing Officer may limit redundant or irrelevant testimony, or directly question the witness. The hearing shall proceed in the following order unless the Hearing Officer directs otherwise:

- The Department shall be permitted to make an opening statement.
- The employee shall be permitted to make an opening statement.
- The Department shall produce its evidence.
- The employee shall produce his or her evidence.
- The Department, followed by the employee, may offer rebuttal evidence.
- Closing arguments of no more than 30 minutes shall be permitted at the discretion of the Hearing Officer. The Department shall have the right to argue first, the employee may argue second, and the City may reserve a portion of its argument time for rebuttal.

j. Hearing Demeanor and Behavior

All parties and their attorneys or representatives shall, by written submission or verbal presentation, demonstrate courteous and professional behavior.

k. Written Briefs by the Parties

The Hearing Officer or the parties may request the submission of written briefs. The Hearing Officer will determine whether to allow written briefs, the deadline for submitting briefs, and the page limit for briefs.

l. Written Findings and Decision – Recommendation

The Hearing Officer shall submit their written findings and recommendations, within fourteen (14) calendar days after the hearing has been completed and the briefs, if any,

have been submitted. The Hearing Officer's advisory decision shall set forth the recommendations as to each of the charges and the reasons thereof.

The decision of the Hearing Officer is advisory only. The proposed decision shall be filed with the City Administrator, and shall set forth all findings and recommendations. Copies of the proposed decision shall also be sent to the parties or their respective legal counsel. If a dismissal is not sustained, the proposed decision shall set forth the recommended effective date the employee is to be reinstated, which may be at any time on or after the date the disciplinary action went into effect. If the substantial discipline is not sustained, the proposed decision shall set forth the recommended action.

The City Administrator shall review the proposed decision of the Hearing Officer within fourteen (14) calendar days of its receipt and shall issue a written decision within fourteen (14) calendar days. The written decision of the City Administrator may ratify, modify or reverse the proposed decision of the Hearing Officer.

m. Proof of Service of the Written Findings and Final Decision

The City Administrator shall send the written decision to the parties and/or their respective legal counsel, along with a proof of service of transmission. The decision of the City Administrator shall be a final and binding administrative decision.

n. Statute of Limitations

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

CHAPTER 11 – GRIEVANCE PROCEDURES

POLICE UNIT MOU Article 28

SEC. 1101 PURPOSE OF CHAPTER

To provide a means for expressing and seeking a solution to a dissatisfaction or complaint on the conditions or practices associated with personnel transactions, work environment, or relations with City and employee for which there is believed to be an equitable and justifiable solution. This procedure is for use of any regular, non-probationary employee of the City. The procedure's intent is to settle all grievances at the earliest possible step and is based on the cooperativeness of each person involved. The intent shall be to resolve a grievance within thirty (30) days.

For purposes of this policy, a "grievance" is defined as a dispute that: (1) is job-related; (2) is wholly or partially within the province of the City to remedy; (3) concerns terms and conditions of employment; (4) involves the interpretation, application or alleged violation of these Rules and Regulations or a current MOU; and (5) is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement. Disciplinary procedures are not subject to the grievance.

SEC. 1102 REPRESENTATION AND REGULATIONS

The processing of a grievance shall be considered as City business. The grieving employee may have one (1) representative of their choice present at all stages of the grievance procedure, except that no one may be represented by an employee they supervise, their supervisor or department head, nor an employee involved in the grievance. If the grieving employee's representative is a City employee, that employee will receive time-off from their work assignment for the time of the grievance meeting or mediation. Forty-eight (48) hours prior to any grievance meeting, the employee shall inform the immediate supervisor or Department Head whether they will be represented at the grievance meeting and shall identify the representative.

When more than one employee has a common grievance, they may initiate a single grievance proceeding to be heard by the Supervisor who has responsibility of the aggrieved. Time limits established in the grievance procedure may be extended by mutual agreement. Grievances shall be processed on the form attached to this policy, or by request of the Human Resources Manager.

SEC. 1103 EMPLOYEE GRIEVANCE PROCEDURE

STEP ONE – INFORMAL DISCUSSION: A complaint shall first be discussed with the immediate supervisor. When a complaint cannot be settled during an informal discussion between the employee and the employee's immediate supervisor, there may be a further informal discussion between the employee, the employee's supervisor and the employee's representative of the employee organization. If there is no acceptable solution reached at the Step One level, the formal grievance procedure can then be initiated at the Step Two level

STEP TWO – FORMAL GRIEVANCE: The employee must complete the first step of the grievance form, stating the problem and suggested solution. The form shall be submitted to the immediate supervisor within five (5) working days from the date of the last informal discussion with the employee and/or the employee's organization representative. The immediate supervisor shall promptly provide a copy of the grievance to the Human Resources Manager. Within five (5) working days thereafter, the immediate supervisor shall provide a written decision on the grievance form, and provide the decision to the aggrieved employee and the Human Resources Manager.

STEP THREE – DEPARTMENT HEAD REVIEW: If the grievance is not resolved at Step Two, the aggrieved employee may, within five (5) working days after receipt of the Step Two decision, appeal the immediate supervisor's decision to the Department Head. The aggrieved employee must provide the Department Head: (1) a copy of the original grievance; (2) a copy of the immediate supervisor's decision; and (3) a concise statement of the reasons supporting the Department Head's review. The Department Head shall discuss the problem with the aggrieved employee and the association representative, if any. Within five (5) working days of the Department Head's discussion with the aggrieved employee, the Department Head shall issue a written decision on the grievance form, and provide the decision to the aggrieved employee and the Human Resources Manager.

STEP FOUR – CITY ADMINISTRATOR REVIEW: If the grievance is not resolved at Step Three, the employee may, within three (3) working days after receipt of the Department Head's decision: (a) notify the Human Resources Manager they wish to have the matter mediated by the State Conciliation and Mediation Services (SCMS); or (b) appeal the Department Head's decision to the City Administrator. If the aggrieved employee elects to have the matter heard by SCMS and the matter is not resolved, then it shall proceed to the City Administrator for review. In that instance, the aggrieved employee must provide the City Administrator within three (3) working days after receipt of the SCMS decision: (1) a copy of the original grievance; (2) a copy of the immediate supervisor's decision; (3) a copy of the Department Head's decision; and (4) a concise statement of the reasons supporting the City Administrator's review. The City Administrator shall discuss the problem with the aggrieved employee and the association representative, if any. Within three (3) working days of the City Administrator's discussion with the aggrieved employee, the City Administrator shall issue a written decision on the grievance form, and provide the decision to the aggrieved employee and the Human Resources Manager. In all cases, other than dismissal, the City Administrator's decision is final.

STEP FIVE – CITY COUNCIL REVIEW: In cases involving dismissal, within ten (10) working days of receipt of the City Administrator's decision, the employee may appeal to the City Council. The employee must deliver to the Clerk of the Council: (1) a copy of the original grievance; (2) a copy of the immediate supervisor's decision; (3) a copy of the Department Head's decision; (4) a copy of the City Administrator's decision; and (5) a letter of explanation which sets forth in detail the grounds for the appeal. City Council shall hold a hearing on the matter. The hearing shall be conducted during a closed session of a regular City Council

meeting. Witnesses may be called and the employee may be represented by a person of the employee's choice. The Council shall record its decision on the grievance form at the earliest possible date after the grievance was filed with the Clerk of the Council. The Council's decision shall be final. The Clerk of the Council shall furnish a copy of the Council's decision to the appealing employee, their representative, the City Administrator, and the appointing authority concerned.

SEC. 1104 CONDUCT OF GRIEVANCE PROCEDURE

- a. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the City.
- b. The employee may request the assistance of another person of their own choosing in preparing and presenting the grievance at any level of review.
- c. Employees shall be free from reprisal for using the grievance procedure.

**CITY OF EXETER
GRIEVANCE FORM**

STEP: TWO THREE FOUR FIVE

Employee Name	
Job Title	
Supervisor	
Department	
Department Head	

Employee: For Step Two, please describe the issue you are grieving and the suggested solution. For all other Steps in the grievance process, please provide a copy of the original grievance and supervisor decision, along with a concise statement of the reasons you are requesting review at the higher Step. _____

Employee Signature: _____ Date: _____

Reviewer: I have reviewed the concerns raised on your grievance and respond as follows: _____

My specific actions or plans to take in response to this grievance are: _____

Reviewer Signature: _____ Date: _____

CHAPTER 12 – ACCIDENT PREVENTION PROGRAM

SEC. 1201 SAFETY

All employees shall abide by and adhere to all safety rules and regulations pertaining to their department and areas of work.

Appropriate action will be taken against any employee who fails to follow and abide by safety regulations established by the City or any appropriate rule, regulation, or law.

The Department Safety Representative shall prepare a summary of each accident that occurs in their departments throughout the year and will submit these summaries to the Safety Committee four times per year. Four times per year, the Safety Committee shall review the summary of all accidents and provide their findings and recommendations to the Safety Coordinator in writing not later than twenty-five (25) working days after review. Said recommendations shall be advisory to the Safety Coordinator for modifications to future training matrices.

The City shall pay the difference between the cost of normal eyeglasses and safety glasses when such safety glasses are necessary for the safe performance of employee duties. The City's expense shall not exceed \$50. The department's clothing and personal expense budget shall be used to meet the City's cost under this article. Claims filed under this article shall be limited to one per fiscal year, per individual.

Department Safety meetings shall be held not less than once per month for the purpose of informing employees of applicable safety rules and regulations pertaining to their respective departments and areas of work. A summary report of these safety meetings shall be provided by the Department Safety Representative, to the Safety Coordinator within 10 working days of the meeting. Said safety meetings shall be considered as City business.

SEC. 1202 GENERAL POLICY

The City of Exeter believes that safe working conditions for all its employees can be attained through strict compliance with safety procedures and practices, proper use of safety equipment, proper job instruction, frequent review of safe practices, and adequate supervision.

These procedures define the City of Exeter's policy with reference to safety practices, and establish responsibilities for the administration and coordination of an effective safety program as outlined below.

SEC. 1203 BASIC PRINCIPLES

To make the safety program effective, the following basic principles regarding accident prevention are presented:

- a. All accidents can and must be reduced in numbers.

- b. Prevention of accidents is an operating responsibility.
- c. It is possible to eliminate operating hazards.
- d. All employees must understand it is to their advantage as well as the City's to work safely. They are expected to cooperate to this end.
- e. Active and responsible supervision is a vital factor in carrying out a successful safety program.
- f. Accident prevention is good business as it affects humanity, efficiency and economy.

SEC. 1204 GENERAL RESPONSIBILITIES

a. City of Exeter

The City of Exeter recognizes the need for the development of safe working practices for every job. It promotes the advancement of safety in design of buildings, equipment, tools, and other work devices.

b. Safety Coordinator

Responsibility for the promotion and coordination of the accident prevention program generally throughout the City departments lies with the Safety Coordinator. The Safety Coordinator shall guide the activities of the assigned Department Safety Representatives and Safety Committee.

c. Department Responsibility

Each department shall assign a Department Safety Representative and definite safety plan by means of which safe working practices will be brought to the attention of every employee.

d. Supervisory Responsibility

All Supervisors will consider it an essential part of their job to administer the safety program.

- e. All employees are required, as a condition of their employment, to follow all established safety practices.

SEC. 1205 SAFETY COMMITTEE

1. Membership

To carry out the safety program, a Safety Committee shall be established which includes the Department Safety Representatives, with membership approved by the City Administrator and/or the Safety Coordinator.

2. Appointments

Except for the Executive Secretary who is permanently appointed, the remaining four (4) members shall serve for one (1) year. Subsequent appointees will also serve one (1) year terms, with half of the membership terminating their positions on alternate years. Those appointed members wishing to retain membership after a one (1) year term may do so upon the approval of their Department Head and only after giving first consideration to any other individual from the same department who may wish to serve on the Safety Committee. Department Safety Representatives are to be appointed by the Department Heads from the respective departments. These are Administration, Police, Public Works, and Finance Departments. The Chair is elected by Committee Members.

3. Safety Committee Coordinator

The Safety Coordinator shall coordinate all safety activities within the City, and shall keep records of all department safety meetings, Safety Committee meetings, and prepare the agendas and minutes.

4. Meetings

The Central Safety Committee shall meet bi-annually in the City Hall Council Chambers and/or other location as agreed.

5. Duties and Responsibilities

The duties and responsibilities of the Safety Committee are as follows:

- a. Conduct accident and/or injury investigation(s).
- b. Review and act upon matters referred by the City Administrator, Department Heads and employees generally.
- c. Identify and evaluate safety trends and issues within the City and recommend potential courses of action for accident prevention.
- d. Educate employees to understand safety rules by:
 - (1) Use of films on accident prevention.
 - (2) Publication of safety bulletins.
 - (3) Distribution of general topics on accident prevention.
 - (4) Evaluating standards of safe operation and coordinating all phases of accident prevention.

6. Quorum

A quorum shall consist of three (3) members present to conduct any official business.

7. Departmental Duties and Responsibilities

Every effort shall be made to resolve safety problems at the department level. In order to assure an effective accident prevention program, the following duties and responsibilities are to be assumed by the designated department:

- a. To carry out the safety program of its respective Department Safety Representative.
- b. To review all accident reports in the department for the purpose of determining causes and recommending appropriate preventive measures.
- c. To develop, in cooperation with the Safety Committee, standards of safe operation for all departments.
- d. To make suggestions and recommendations to the Safety Committee for improvements in the safety program.
- e. To provide for a Departmental Safety Representative that monthly to discusses safety with the department personnel, to take remedial action where necessary, and to forward action taken or recommendations made to the Safety Committee for its review. Such reports should be submitted at the end of each month.

CHAPTER 13 – ACCIDENT INVESTIGATION

SEC. 1301 GENERAL POLICY

As a corollary to its overall safety functions, the Safety Committee shall meet, as occasion demands, to review the circumstances of any incidents involving City-owned property, including all power driven vehicles, accidents, and/or thefts.

SEC. 1302 TYPES OF INCIDENTS

Incidents may be divided into the following categories:

1. Theft of City-owned property.
2. Personal injuries or property damage.
3. Accidents involving power driven equipment:
 - a. On the job;
 - b. Off the job involving City equipment; and/or
 - c. After regular hours of work involving City equipment.

SEC. 1303 OBJECTIVES

It shall be the Safety Committee's function to evaluate all aspects of an accident in order to:

Ascertain the facts; and

Assess responsibilities; and

Report this assessment to the Department Head and/or City Administrator; and
Provide recommendations for future loss prevention.

SEC. 1304 PROCEDURES

Upon report of an incident involving City-owned property and/or power-driven equipment, the Committee shall perform the following:

1. Review the Police Report. Accidents on public roadways involving City vehicles must be promptly reported to the Police Department or respective law enforcement agency if the accident occurs outside City limits.
2. Review the Department Head's report. Any vehicle accident involving a City employee will be reported to the Safety Committee by the Department Head concerned, in written form, stating any facts which are pertinent to the accident. The Department Head shall promptly provide a copy to the Human Resources Manager.

3. The Committee has the option of interviewing the individual(s) involved in the incident. Under such circumstances, the affected employee may have a representative of their choosing present at the interview; however, the interview is not subject to unreasonable delay to accommodate any particular representative. When the Committee determines the incident was avoidable, and the employee's conduct contributed to the incident, the employee will be advised they can request, through their Department Head, to come before the Committee and explain the incident if they do not agree with the findings.
4. Assess responsibility of the individual(s) concerned.
Based on the information obtained in steps 1, 2, and 3 above, the Safety Committee will make a determination as to whether, in their opinion, the accident was a result of:
 - a. No Negligence - Due care was exercised.
 - b. Contributory Negligence - Failure on the part of two or more parties to exercise the care that prudent persons usually exercise.
 - c. Negligence - Failure to exercise the care that a prudent person usually exercises.
 - d. Gross Negligence - Being of such a degree of negligence or carelessness as to amount to the want of slight diligence, an entire failure to exercise so slight a degree of care as to justify the belief there was entire indifference to the safety of others or the property of others and a conscious indifference to consequences. To constitute gross negligence, it is not, however, necessary there exist and be present either willfulness or wantonness.
5. Submit assessment to the Department Head and the City Administrator for any further action they may deem warranted. The Department Head then is to report back to the Safety Coordinator as to what action, if any, has been taken. This action may include changes in procedures, policies or use of equipment, and/or discipline.

SEC. 1305 FILE COPIES

When it is determined an employee's conduct contributed to an avoidable incident, copies of all written reports that pertain to the incident shall be prepared for inclusion in the personnel file of the person(s) concerned.

CHAPTER 14 – ACCIDENT REPORTING PROCEDURES

SEC. 1401 REPORTING PROCEDURES

The primary reason for specifying a precise procedure for reporting accidents is to protect the employee by ensuring they receive all available benefits under the City's Workers' Compensation Law. Failure to follow the prescribed accident reporting procedures outlined in this section may result in the employee being required to pay medical expenses which otherwise may have been covered by Workers' Compensation and/or discipline.

SEC. 1402 EMPLOYEE INJURY

When an employee becomes injured on the job it shall be their responsibility to promptly seek out adequate medical treatment as indicated by the following guidelines.

- a. Injuries of a minor nature requiring first-aid treatment only, shall be treated immediately by the employee or a fellow employee and reported to the employee's Supervisor as soon as possible. In all cases an injury of this nature must be reported to the Supervisor on the same day it occurs, no matter how minor the injury. The Supervisor and employee shall then determine whether the injury is serious enough to require medical attention from a physician.
- b. Employee involved in an accident causing a serious injury shall be referred immediately to seek appropriate medical attention.

The employee's Supervisor shall be notified as soon as possible concerning the accident and the condition of the injured employee. It shall be the Supervisor's responsibility to immediately notify the Safety Coordinator and determine whether CalOSHA must be notified of the incident and/or other action taken. The Supervisor shall record the CalOSHA contact information including date, time and CalOSHA representative badge number.

- c. Public safety employees (police officers) who develop conditions that are presumed to be caused on the job, shall notify their Supervisors immediately after receiving such a diagnosis from their physician. After receiving such notification, the Supervisor shall report the employee's condition in the same manner prescribed below.

The supervisor of an injured employee shall complete the Worker's Compensation Claim Form (DWC1) & Notice of Potential Eligibility the same day the accident is reported and provide to the employee. If the employee signs and submits the DCW1, the Supervisor should have the employee call the nurse hotline to be triage (if not an emergency) and provide the original DCW1 to Human Resources within one (1) day for processing.

To help reduce and manage risk, the Supervisor will complete the "Supervisor's Accident Investigation Report." The original will be provided to the Department Head for review and signature. The Department Head will retain a copy of their departmental file and forward the original to the

Human Resources Manager. A redacted copy of the Supervisor's Accident Investigation Report removing all personal information will be included in the quarterly Safety Committee Review File for discussion at future meetings.

Human Resources will report all injuries incurring medical cost to the Worker's Compensation Claims Adjustor by no later than two (2) working days following the employee's injury. This report will be made by completing the Employer's Report of Industrial Injury Form 5020 and providing it along with the DCW1 to the Worker's Compensation Claims Adjustor. The original DCW1, Form 5020 and Supervisor's Report of Accident will be filed in the employee's confidential section of the personnel file.

In the case of accidents which do not involve medical cost because they have been treated with first-aid by our own City staff, the Form 5020 will not be completed and forwarded to the Worker's Compensation Claims Adjustor. However, for this type of accident, the DCW1 will be filed in the Human Resources for possible future use in the event of complications.

CHAPTER – 15 AUTO ACCIDENTS

SEC. 1501 IF YOU HAVE AN AUTOMOBILE ACCIDENT

The City, through its managers, supervisors, and employees should make every effort to prevent automobile accidents. Most accidents are avoidable, but if you should be unfortunate enough to be involved in one, you should carefully observe the following:

DO:

1. In the event of personal injuries, it is your legal duty to see that the injured party receives "first-aid". This is not an admission of liability.
2. Stop immediately and get full information to assist in completing the accident report. Report carefully the position of respective cars, objects and other property; the location and length of any skid marks, the distance traveled by each car after the collision, any unusual conditions of the roadway or site of the incident, and the vicinity of the respective cars, objects or property involved. These are all important in identifying responsibility for the accident.
3. Report ALL accidents occurring on public roadways and/or off City property to the Exeter Police Department as soon as possible. If the accident occurs outside of the City of Exeter, notify the appropriate law enforcement agency for reporting purposes.
4. All accidents should also be promptly reported to your Supervisor, as well as the City of Exeter Human Resources Manager.
5. Obtain the name, address, age, and telephone number of ALL witnesses including occupants of the other car. If a name or address is refused or cannot be obtained, get the license number of their car, or if a police officer is present, obtain their contact information and, if available, the incident report number.

DO NOT:

1. Do not make an admission as to your negligence or fault for ANY accident, and under no circumstances assume liability or authorize any repairs on the other party's automobile. Such acts violate the provisions of our insurance policy. Refer all claimants to the City Administrator's office; if it is determined you are liable, their claim will be promptly taken care of.
2. Do not take part in any altercation or argument with the other party. You cannot win an argument of this kind, and it only makes it more difficult for the insurance adjuster, who has to take up the accident where you leave off.

3. Do not sign any statement or discuss the accident with an adjuster of any other insurance company, or any attorney or representative of the injured or damaged party. Refer any such person to the City Administrator's office.

CHAPTER 16 – ACTIONS ON SAFETY VIOLATIONS

SEC. 1601 POLICY FOR DISCIPLINARY ACTION ON SAFETY VIOLATIONS

The City of Exeter, in an effort to ensure compliance with safety regulations, reserves the right to take any disciplinary action it deems reasonable and appropriate under the circumstances of a particular situation.

CHAPTER 17 – SAFETY RULES AND PROCEDURES

SEC. 1701 GENERAL SAFETY RULES

1. Supervisors shall be responsible for familiarizing employees with the hazards of the job and the best way to deal with them.
2. All employees shall continuously observe their work area, equipment, and procedures for safety hazards.
3. If you are not sure how to do a job safely, ask your Supervisor.
4. Promptly report all unsafe conditions to your Supervisor and/or the Safety Coordinator.
5. Horseplay, scuffling and other distracting acts shall be prohibited.
6. No one shall be permitted or required to work while their ability or alertness is impaired by fatigue, intoxication, illness or other causes, which pose a risk of injury to themselves or others.
7. Extreme care should be used when handling flammable and/or toxic materials.
8. Do not operate equipment which is not included in your duties.
9. Always inspect equipment before using.
10. Loose or frayed clothing, dangling ties, finger rings, etc., shall not be worn around moving machinery or other sources of entanglement.
11. Soiled or saturated clothing, especially when it is flammable, shall be cleaned before being worn.
12. Machinery is not to be repaired or adjusted while in operation, nor shall oiling of moving parts be attempted, except with the use of appropriate safeguards and in accordance with manufacturer recommendations.
13. Wear approved PPE and other safety equipment at all required times.
14. When storing materials or equipment, care should be taken to prevent falling or spreading.
15. Keep floors dry and clean at all times.
16. Lift properly, seek assistance if necessary.
17. Also watch for cords – never extend across an aisle or walkway.

18. Never remove plugs by pulling cord.
19. Do not run or jump down from a height unless absolutely necessary.
20. Do not use any defective tools, machinery or equipment, report any to the Supervisor.
21. Report all accidents to your Supervisor at once.
22. Walk, don't run, and use handrails when available.
23. Encourage an active safety program - accident investigations, inspections, meetings, reports, analysis tests of equipment, physical examinations, enforcement of rules.
24. When working with chemicals and toxic materials, wash hands frequently, and before smoking and eating.
25. All flammable and toxic materials should be properly labeled.

ALL SUPERVISORS WILL CONDUCT PERIODIC INSPECTIONS OF WORK AREAS, INSTALLATIONS, EQUIPMENT, MATERIALS, AND WORKING PROCEDURES TO DETECT HAZARDOUS PHYSICAL CONDITIONS OR UNSAFE WORK PROCEDURES.

CHAPTER 18 – SAFETY PROGRAM

SEC. 1801 PURPOSE

The City of Exeter has as its primary goal the control and reduction of accidents. It is evident accidents cannot be totally eliminated, but they can and should be controlled and reduced. In order to accomplish this goal, the attention will focus on refining of operation procedures, employee training, and maintaining healthful working conditions.

The Administrative responsibility of the Safety Program must rest primarily at the departmental level. Each Department Head must assume the leadership within that department to assure accidents are controlled and reduced.

SEC. 1802 RESPONSIBILITIES – DEPARTMENT HEADS

Each Department Head must accept the responsibility for the accident record and training for their department, and should make every effort to resolve safety problems at departmental level. Each Department Head must provide the leadership, influence, and stimulus necessary to keep employees active in their accident prevention efforts.

SEC. 1803 DUTIES – DEPARTMENT HEADS (or their designee)

- a. Observe, evaluate, and counsel employee performance.
- b. Immediately correct all unsafe conditions.
- c. Schedule and give safety talks (10-15 minutes) at least monthly.
- d. Communicate management goals to employees.
- e. Schedule departmental safety inspections.
- f. Fill out and report to the Human Resources Manager all injuries and accidents.
- g. Observe and correct unsafe employee acts through training and, if necessary, disciplinary measures.
- h. Carry on a continuous Safety Training Program, including new employee orientation and retraining of regular employees.

DUTIES – EMPLOYEES

- a. Perform duties in accordance with established safety procedures, recognizing responsibility for their own safety and that of fellow employees.
- b. Report all injuries as soon as possible.
- c. Report all observed hazards.
- d. Actively participate in the Safety Program.

SEC. 1804 EQUIPMENT

- a. Always keep passenger compartment of vehicle free of loose objects, i.e., bottles, lunch boxes, unless securely fastened.
- b. Machinery or equipment shall be operated in a manner with manufacturer requirements and recommendations and shall not be operated in a manner that will endanger persons or property, nor shall the safe operating speeds or loads be exceeded.
- c. Safety equipment and clothing i.e., hard hats, gloves, approved eyewear, etc., are meant to protect you and must be worn as required by established safety protocols.
- d. Machines that are controlled automatically must be labeled as such.
- e. A pre- and post-inspection must be conducted for equipment such as trucks, tractors, etc., and the inspection must include checking for fuel, oil, water, tires, insurance information, etc. as required for the particular equipment.
- f. You must be trained in proper use and approved by your Supervisor before using any equipment.

HANDLING TOOLS AND MATERIALS

- a. Always use the proper tools for the job, examining them for flaws, correct sizes and cutting edges before using.
- b. Keep machinery and equipment clean and in good working order.
- c. Guards and safety devices should be kept in place at all times.
- d. Do not leave running machinery unattended.
- e. Materials must be placed or stored only in authorized areas.

- f. Make sure you are familiar with the Material Safety Data Sheets (MSDS) and know first aid procedures for any materials you work with.

HOUSEKEEPING

- a. Never toss tools around.
- b. Put everything back in its proper place.
- c. Any spilled oil or grease should be cleaned up immediately.
- d. Work area should be neat and free of unnecessary objects.
- e. Scrap metal and rubbish should be placed in proper containers.
- f. Any wires or lines should be kept out of walking areas.

CHAPTER 19 – MISCELLANEOUS

SEC. 1901 REPORTS OF CHANGE IN STATUS

All actions involving employment and change in status of employment shall be reported by the Department Head to the City Administrator on City of Exeter Personnel Action Forms. A copy of the completed report shall be furnished to the employee involved.

SEC. 1902 DAMAGE CLAIMS

Any employee of the City of Exeter filing suit against a third party for damages arising from occupational injury shall notify the City Administrator of the amount of damages collected from such suits in order that all expenses paid by the City may be recovered.

SEC. 1903 GRATUITIES

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

SEC. 1904 OUTSIDE EMPLOYMENT

Any regular employee desiring to engage in outside employment shall first obtain a non-City conflict approval from the Department Head. The employee shall submit a statement to the Department Head on a standard City form, naming the prospective employer, employer address and telephone number, and outline the proposed duties and the hours of work. Approval may be denied if, in the opinion of the Department Head, such outside employment is incompatible with the proper discharge of the employee's official duties. All such approvals shall be subject to review by the Human Resources Manager, and shall be re-submitted prior to July 1, each year to maintain a valid continuous authorization.

No equipment, vehicles, tools, supplies, machines, documents, computers, printers, software, data, or any other item which is the property of the City shall be used by the employee while engaged in outside employment.

Employees must in no way represent themselves as a City employee while conducting outside employment activities. The City is not liable to any employee or other individual for any loss, injury or damages that may occur as a result of performing outside employment.

SEC. 1905 EDUCATION BENEFITS

POLICE UNIT MOU Article 24 and SERVICE AND MAINTENANCE UNIT MOU Article 22

Full-time, regular City employees are eligible to receive reimbursement for tuition, books, parking, and fees for educational purposes that tend to improve their ability to accomplish their City jobs, up to an established limit and subject to the administrative rules and procedures of the City or individual bargaining unit MOU. All courses must receive prior approval of the Department Head and City

Administrator. The maximum reimbursement per fiscal/school year for full-time unrepresented employees is \$750.00.

SEC. 1906 COMPENSATION FOR USE OF PRIVATE AUTOMOBILE IN CITY BUSINESS

At times employees may be required to use their personal car for business purposes. Reimbursement for the operating expenses of the car will be calculated by multiplying the number of miles traveled by the currently approved Standard Mileage Rate published by the IRS. The costs of commuting (travel between home and the work site) will not be reimbursed.

SEC. 1907 UNIFORM ALLOWANCE AND RELATED PROVISIONS

POLICE UNIT MOU Article 23 and SERVICE AND MAINTENANCE UNIT MOU Article 21

a. Sworn, Non-Probationary Employees of the Police Department

The City shall pay a sum as established in the bargaining unit MOU, paid semi-annually to all sworn, non-probationary Police personnel. Management employees in the Police Department shall be afforded the same uniform allowance granted to sworn police employees.

SEC. 1908 POLITICAL ACTIVITIES

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

SEC. 1909 CONFLICTS OF INTEREST

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

SEC. 1910 HEALTH PLAN

POLICE UNIT MOU Article 14 and SERVICE AND MAINTENANCE UNIT MOU Article 13

The City currently retains a health program (medical/dental/vision benefits) that currently covers each full-time employee, with employee contributions established by the City Council and reflected in the appropriate MOUs. Providing employee with dependent coverage for their family, such coverage is available to the employee at a cost as agreed to in the individual bargaining unit MOU or as established by City Council. Comparable benefits shall be afforded to unrepresented/management employees.

SEC. 1911 MISCELLANEOUS PROVISIONS

The provisions of these Rules and Regulations shall not be interpreted or applied in a manner that is arbitrary, capricious, or discriminatory. Rules designed to implement these Rules and Regulations shall be uniform in application and effect.

These Rules and Regulations shall in no way affect the rights of employees and the Association to meet-and-confer on any personnel matter provided for in Section 3500 of the California Government Code.

SEC. 1912 SAFETY SHOES

SERVICE AND MAINTENANCE UNIT MOU Article 21

- a. The City may require employees to wear safety shoes based upon their job duties. Allowances or reimbursements for required safety shoes shall be provided in the appropriate MOU.

SEC. 1913 PAY PLAN

See current budget.

SEC. 1914 DISABILITY PLAN

a. Short-Term Disability Plan

The City currently provides a short-term disability plan for all eligible employees. Exeter Police Officer Association secures its own plan in coordination with the City; the City sponsors the plan for all other eligible employees. There is a 30-day waiting period for short-term disability benefits.

b. Long-Term Disability Plan

The City currently provides a long-term disability plan for all eligible employees. Employee bargaining units may choose to secure their own long-term disability coverage for their member employees and shall do so in coordination with the City.

SEC. 1915 LIFE INSURANCE PROGRAM

- a. The City currently provides all employees with a life insurance policy in the amount of three (3) times their annual salary up to a maximum of \$100,000 (per policy). The City shall comply with state and federal taxation requirements for life insurance benefits.
- b. The City currently provides \$5,000 Dependent Life Insurance coverage for each dependent of an employee.

SEC. 1916 LEAVE DONATION POLICY

1. PURPOSE:

The purpose of this policy is to allow and enable employees to assist one another who are off work due to illness or injury and who have exhausted their own personal leave banks (sick leave; vacation leave; administrative leave; etc.) until such time workers' compensation and/or disability benefits become effective.

2. POLICY

Donating Employee

- Must be a "regular" employee with full-time status;
- Donation must be no less than 8 hours;
- Must have at least 100 hours left in their sick leave bank after donation;
- Cannot donate more than 40 hours of sick time to any single co-worker within a 12 month period;
- Donations are voluntary and confidential; and
- Donations are not reversible once payroll has been processed.

Receiving Employee

- Must be a "regular" full-time employee;
- Must have exhausted all of their leave banks;
- Eligibility will depend, in part, on the determination the requesting employee has not irresponsibly or unwisely failed to accrue or otherwise used or abused their leave. This determination will be made by the Human Resources Manager after consulting with the Department Head and Leave Donation Committee.
- Must request solicitation for donation in writing to the Human Resources Manager;
- State and Federal taxes on the value of donated leave shall be deducted from the receiving employee's pay at the time of usage and will be treated as regular income;
- Donated time will be used on an hour for hour basis as needed;
- May not receive more than 160 hours of donated time in a 12 month period;
- Employees will not be eligible for the Leave Donation program if they are eligible to receive or are receiving Workers' Compensation, State Disability, Short-Term or Long-Term Disability or 4850 time or equivalent benefits.

3. PROCEDURE

- A. Request for donations must be in writing to the Human Resources Manager. Attached must be a written statement from an attending physician estimating the amount of time the employee will be off.

- B. In accordance with established guidelines, requests will be reviewed by a Leave Donation Committee consisting of the Department Head, Human Resources Manager and a representative of the requesting employee's labor organization, if any.
- C. Donating employee will submit a request in writing to the Human Resources Manager. The Human Resources Manager will verify the eligibility of the donating party and forward this to the Administrative Office for approval of the transfer of sick leave benefits.
- D. The donated leave will be placed in a Leave Donation Time Bank and disbursed as the need arises. Time is released on a pay period by pay period basis. No retroactive donations are permitted. The sale of accrued leave to any employee is prohibited.

SEC. 1917 SUBSTANCE ABUSE PREVENTION POLICY

Purpose

The City is committed to providing a safe working environment and, likewise, expects its employees to report to their jobs physically and mentally fit for work. To achieve these goals, the City takes a firm and positive stand against drug and alcohol abuse. This policy is intended to ensure a drug- and alcohol-free environment.

Application

This policy applies to all City employees. In addition to this policy, employees who perform safety sensitive functions and/or possess a Class A or Class B license as a condition of employment, are subject to SEC. 320. Please be advised SEC. 320, consistent with the regulations for safety sensitive employees and holders of a Class A or B license sets the minimum requirements for testing of those employees. The City's Substance Abuse Prevention Policy, in certain instances, may be more stringent.

Policy

It is the policy of the City to maintain a work environment free from drug and alcohol abuse. The City prohibits the unlawful manufacture, distribution, dispensation, possession, sale, offer to sell, purchase, offer to purchase and/or unlawful use of controlled substances. Controlled substances include, but are not limited to, marijuana, heroin, cocaine, LSD and amphetamines. It is also unlawful and against City policy for an employee to take prescription medication without a valid prescription and/or in an amount in excess of what has been prescribed.

Employees who have been informed or have discovered the use of a legal drug (for example, over the counter drugs and/or prescription medication) may adversely affect job performance or behavior are to immediately report such drug use and possible side effects to their Supervisor and/or Human Resources Manager.

Possession, distribution, or consumption of alcoholic beverages while on City property, while conducting any activity related to the City or while in City uniform, except as expressly authorized by the City Administrator and only to the extent it is not unlawful and does not adversely affect the reputation of the community, is strictly prohibited.

Employees must remain free from the influence of controlled substances, over the counter or prescription medication, and alcohol while on duty and while subject to duty.

Employee Responsibilities

An employee must:

- Not report to work or be subject to while their ability to perform job duties is impaired due to on- or off-duty alcohol or drug use.
- Not possess, provide, or use illegal drugs (including prescription medication without a prescription) while on duty, or subject to being called to duty or at any time when use may result in the employee being impaired while on duty.
- Not possess, provide, or use alcohol during working hours or while subject to duty, on breaks, during meal periods or at any time while in a City-operated facility or on City property; except for specific designated City functions or at the discretion of the City Administrator.
- Submit immediately to an alcohol and drug test when requested by a Department Head or Human Resources Manager.
- Notify their supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, the employee knows or should know may interfere with the safe and effective performance of duties or operation of City equipment.
- Provide within 48 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.
- An employee involved in an injury accident, who is found to be under the influence of alcohol and/or drugs, may be held personally liable for the accident and injuries, including punitive damages.
- Notify the Human Resources Manager within five (5) days after conviction (including a plea of nolo contendere) for any drug offense occurring in the workplace.

Management Responsibilities

- Supervisors are responsible for distribution and reasonable enforcement of this policy.
- Supervisors, with approval from their Department Head or Human Resources Manager, may request an employee submit to a drug and/or alcohol test when they have a reasonable suspicion

an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called.

“Reasonable suspicion” is a belief, based on objective facts, sufficient to lead a reasonably prudent Supervisor to suspect an employee is under the influence of drugs or alcohol.

- Any Supervisor requesting an employee to subject to a drug and/or alcohol test should document in writing the facts constituting reasonable suspicion the employee in question is intoxicated or under the influence of drugs.
- Any Supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy. Where there is reasonable suspicion the employee is under the influence of alcohol or drugs, the Supervisor should request the employee remain at the workplace for a reasonable time until the employee can be safely transported home.
- Supervisors shall immediately notify their Department Head and Human Resources Manager when they have reasonable suspicion to believe an employee may be in possession of alcohol and/or illegal drugs. If the Department Head and/or Human Resources Manager concur there is reasonable suspicion to believe the employee is in possession of such, the appropriate law enforcement agency shall be promptly notified, if appropriate.

Types of Testing

The City reserves the sole and absolute right to test employees under the following conditions:

1. Pre-employment/post-conditional job offer
2. Reasonable suspicion
3. Post-accident

Pre-Employment/Post-Conditional Job Offer Testing

Applicants shall be subject to a pre-employment drug and/or alcohol analysis after a conditional job offer has been made and accepted. Applicants who refuse to complete the necessary paperwork and test, or who test positive on the drug/alcohol screen will have the conditional job offer rescinded.

Reasonable Suspicion Testing

The City may require a drug/alcohol test whenever it suspects an employee’s work performance or on-the-job behavior may have been affected in any way by alcohol or drugs, or an employee has otherwise violated this Policy. An employee must complete the necessary drug/alcohol information and consent forms prior to the testing.

Reasonable suspicion includes, but is not limited to observations of slurred speech, excessive physical and verbal arguments, confusion, disorientation, personality changes, unsteady walking and movement, possession of alcohol or drugs, odor of marijuana or alcohol, or credible information obtained from other employees based on their personal observations. Reasonable suspicion can also

result when an employee has been involved in an on-the-job accident and the employee's conduct can be considered a contributing factor to the accident.

Post-Accident Testing

An employee will, at the discretion of the City, be subject to drug/alcohol testing when they are involved in an on-the-job accident resulting in property damage or personal injury requiring medical attention.

Consequences for Policy Violations

Any applicant or employee who violates this policy shall be subject to discipline, up to and including termination of employment.

Violations include, but are not limited to the following:

- Testing positive for any illegal drug (except marijuana) or prescription drug without a valid prescription;
- Testing positive for being under the influence of marijuana;
- Testing positive for alcohol;
- Failing or refusing to notify your Supervisor about any over-the-counter or prescription medication that may impact your ability to safely perform your duties;
- Possession, use, manufacture or dispensation of any illegal drug;
- Failure to appear at a collection site for any test within a reasonable time, as determined by the City;
- Failure to remain at the collection site until the testing process is complete;
- Failure to provide a specimen;
- Failure to permit a monitored or observed collection if the City ordered or if the collector required the collection to be monitored or observed;
- Failure to provide a sufficient amount of urine specimen, provided the collector finds there was no medical reason for the employee to provide insufficient amount of urine;
- Failure or declining to take an additional drug/alcohol test the City or collector has directed;
- Failure to cooperate with any part of the specimen collection process;
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process if the employee is found to have or wear a prosthetic or other device designed to carry clean urine or a urine substitute;
- Admit to the collector to having adulterated or substituted the specimen;
- Adulterate or substitute a urine specimen.

Confidentiality

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature is contained in a separate confidential medical folder securely kept under the control of the Human Resources Manager.

The reports or test results may be disclosed to the Human Resources Manager and/or Supervisor strictly on a need-to-know basis and to the tested employee, upon request. Disclosures, without patient consent, may also occur when:

- The information is compelled by law or judicial or administrative process;
- The information has been placed at issue in a formal dispute between the City and employee;
- The information is to be used in administering an employee benefit plan; and/or
- The information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

Employee Assistance

Employees who believe they may have an alcohol or drug problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program (EAP). EAP is a part of a network of professional counselors and designed to provide help for employees who, among other things, may have an alcohol or drug problem or both.

SEC. 1918 SMOKING/VAPING/TOBACCO USE PROHIBITED

Smoking, vaping and the use of any other tobacco product is prohibited by any City employee while on duty and performing any work duty(ies) and/or using any City equipment; while on City premises unless in a designated smoking area; while in any City vehicle; or while in uniform, except when the employee is on their designated rest or meal break.

SEC. 1919 ELECTRONIC COMMUNICATIONS RESOURCES

The City encourages the use of electronic communications resources to share information in support of its mission of public service and to conduct its business. This policy governs all Electronic Communications Resources including, but not limited to, the Internet, E-mail, voice-mail, cellular telephones, pagers, personal digital assistants, smartphones, Blackberry devices, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, agency hosted social media, and documentation that supports electronic communications services (“Electronic Communications Resources”). Employees have no expectation of privacy with respect to the use of any of City’s Electronic Communications Resources.

Electronic Communications. The City’s email system is an official communication tool for City business. An official email address is established and assigned by the City to each employee. All City communications sent via email will be sent to this address. City employees must use the official agency email, instead of their private email address (such as Yahoo, Gmail, etc.) when communicating City business via email.

Electronic Communications Resources must be used in compliance with applicable statutes, regulations, and the City’s policies including those that require a work environment free from discrimination and harassment. Electronic communications are expected to conform to the same standards of propriety and respect as any other verbal or written communication at the City.

Employees are expected to use common sense and judgment to avoid any communication which is disrespectful, offensive or illegal.

The City, as the provider of access to its Electronic Communications Resources, reserves the right to specify how those resources will be used and administered to comply with this policy. It is important to realize the message content sent from the City's account reflects upon the City (positively or negatively) to those who receive the message. Employees may be subject to disciplinary action for using the Electronic Communications Resources in a manner other than for their intended purposes, or in a manner that violates applicable laws, rules and policies.

Electronic communications to recipients on systems outside of the City pass through systems and networks not managed by the City. The privacy and confidentiality of these messages is, therefore, not assured. In addition, some delivery methods and networks impose legal restrictions regarding the nature of messages allowed. Users are expected to comply with all such regulations. Employees and other users of the Electronic Communications Resources may create criminal and civil liability for themselves and the City by using outside or third party systems in an offensive, defamatory or illegal manner and in such event employees and other users may be subject to disciplinary action up to and including termination.

SEC. 1920 NEPOTISM

It is the policy of the City of Exeter to recruit, hire and assign all employees on the basis of merit and fitness in accordance with all applicable rules and regulations. Nepotism is prohibited in the workplace because it is antithetical to the City's merit based system.

Nepotism is defined as the practice of an employee using their influence or power to aid or hinder another in the employment setting because of a personal relationship. Personal relationships for this purpose include *but are not limited to*, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies.

When determining how to define personal relationships within a department's policy, many include definitions that apply narrowly to relationships of blood, marriage, and adoption. It should be noted this definition may be too narrow as it fails to consider the additional types of work relationships that may apply to nepotism such as when two people live together outside of marriage, and personal friendships that may involve stronger personal commitments than family relationships. The intent of the City's policy is first and foremost to prevent favoritism or bias based on a personal relationship.

The City is committed to the policy of recruiting, hiring and assigning employees on the basis of merit.

While there may be situations where it is appropriate for two individuals who have a personal relationship to work in the same program or activity, the City is particularly cautious regarding the following potentially sensitive situations: (1) where persons who have a personal relationship work in a small unit in close association; (2) where persons who have a personal relationship work for the

same supervisor; and (3) where persons who have a personal relationship have a direct or indirect supervisor/subordinate relationship.

When evaluating the potential impact of personal relationships, the City carefully evaluates the following factors to ensure there is no adverse effect on the workplace:

- The work production of the unit;
- The safety, security, and morale of the employees in the unit; and
- The fair and impartial supervision and evaluation of employees.

While it is unlawful to discriminate on the basis of marital status, the City is permitted to make employment decisions for bona fide business reasons of supervision, safety, security or morale. (See Gov. Code § 12940 (a)(3)(A); Cal. Code Regs. tit. 2, § 11057.) In circumstances where a personal relationship has had a demonstrable adverse impact on the work of employees in the unit or the fair and impartial supervision and evaluation of the employees in the unit, the City may consider possible alternatives to ensure the workplace is fair and equitable. However, in all circumstances, there will be a legitimate, work-related basis for the City to implement a strict prohibition against personal relationships.

This policy affords the City the ability to evaluate each situation and determine whether the relationship has an adverse impact on the workplace. Strict prohibitions extend to those situations where a personal relationship between employees is likely to adversely impact an employee's ability and fitness to accomplish their specific job duties or when the relationship has an adverse impact on the workplace.

Employees who, while employed by the City, develop a personal relationship that meets the definition described herein, have an affirmative obligation to notify the Human Resources Manager so that appropriate steps can be put in place.