



City of Soledad

Personnel Rules and Regulations Manual

September 2016

Adopted: _____

City Manager's Message

A sound personnel management system assists our employees with getting the most of their employment and ensures the formation of a fair and equitable system designed to help employees deliver the best possible service to the people we serve.

One of the key goals of the City's strategic work plan is to establish a strong organizational foundation that positions the City of Soledad as the premier agency in South County. One measurable indicator to help us achieve our goal is to develop and implement a comprehensive personnel management program by adopting a personnel rules and regulations.

This Personnel Rules and Regulations document is an updated set of personnel rules and regulations to replace the Manual adopted in 2010.

These Personnel Rules and Regulations establish a clear set of procedures for dealing with a large array of personnel-related matters. They assure that appointments and promotions of persons will be based on merit and fitness, provide a reasonable degree of security for our qualified workforce and define obligations, rights, privileges, benefits, and prohibitions which are placed upon City employees.

These Personnel Rules and Regulations provide a sound personnel management system for City employees and the City organization for many years to come. I ask that you familiarize yourself with the contents of these Personnel Rules and Regulations so that you will have a basic understanding of the City of Soledad's personnel management system.

Working together to deliver the best to those we serve,

Adela P. Gonzalez, City Manager

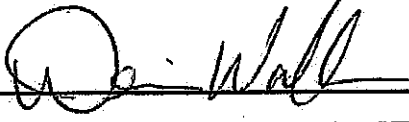
September 2016
~~June 2016~~

City of Soledad Personnel Rules and Regulations

Below is a list of recognized labor organizations for the City of Soledad as of the date these Updated Personnel Rules and Regulations were adopted by the City Council. Upon approval and adoption by resolution of these Rules and Regulations by the Council, all previous administrative orders, personnel policies, and past practices, whether in writing or oral, are superseded and become null and void. The labor organizations representatives whose signatures appear below confirm that the City of Soledad has met all obligations of the meet and confer process, as required by the Meyers-Millias-Brown Act (MMBA), Government Code Section 3500, *et. seq.*, and any applicable provisions of the State Employer-Employees Relations Act of 1978 (SEERA or Dills Act), Government Code Section 3512, *et. seq.*, and agree to the implementation of these Rules and Regulations. In the event of any conflict between these Rules and Regulations and a current ratified and approved MOU, it is understood the provisions of the MOU take precedent.

As used in these Rules and Regulations, "ratified" shall mean an initial or successor MOU ratified by a majority of employees in that bargaining unit prior to being submitted to the City Council for approval. "Approved" shall mean an initial or successor MOU approved by action of the City Council. It is understood and agreed that disputes or disagreements concerning the application and interpretation of these Rules and Regulations shall be adjudicated exclusively as an appeal to the City Manager, whose decision will be final and binding on all parties.

For the Soledad Police Officers Association:



Dennis Wallach, Labor Consultant
Mastagni Holstedt Law, APC

9/28/16

Date

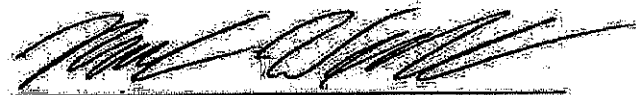
For the Mid-Managers SEIU Local 521:



Mark Weirick, SEIU Representative

Date 9/22/16

For the General Employees SEIU Local 521:



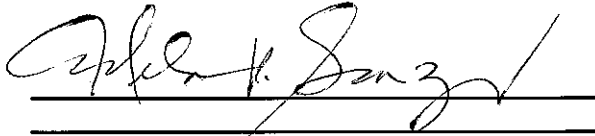
Mark Weirick, SEIU Representative

Date 9/22/16

Sept 2016
June 2016

City of Soledad Personnel Rules and Regulations

For the City of Soledad, a Municipal Corporation:

 9-27-2016

Adela P. Gonzalez, City Manager

Date

Approved as to form:

Michael F. Rodriguez, City Attorney

Date

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Section 1. Introduction and Administrative Provisions

1.01 Objective of Rules and Regulations

The objective of these Rules and Regulations is to give credit and recognition to City service, assure effective and economic service to the public, and provide a fair and equitable system of personnel management in the municipal service. These Rules and Regulations set forth procedures which assure equal treatment of employees, and define the obligations, rights, privileges, benefits, and prohibitions placed upon all employees in the municipal service. The tenure of every employee shall be conditioned on good behavior and satisfactory performance of duties. Disciplinary actions are intended to be corrective and progressive in nature with the objective of obtaining compliance with rules, orders, procedures, standards of conduct, and expected job performance.

1.02 Adoption of Rules and Regulations

These Rules and Regulations, once adopted by resolution of the City Council, establish regulations governing the Personnel System, including:

- A. Preparation, revision, and maintenance of a Classification Plan covering all positions in the Classified Service, including employment standards and qualifications for each class. See Compensation and Benefit Plan.
- B. Preparation, revision, and administration of a Compensation Plan correlated to the position Classification Plan, providing a rate or range of pay for each class. See Compensation and Benefit Plan.
- C. Announcement of all tests and acceptance of applications for employment.
- D. Preparation and conduct of tests, and the use of employment lists containing names of persons eligible for appointment.
- E. Certification and appointment of persons from employment eligibility lists, and procedures for provisional and emergency appointments.
- F. Performance evaluations of employees during probationary periods, and special evaluations at the discretion of the City Manager.
- G. Transfer, promotion, demotion, reinstatement, disciplinary action, and layoff of employees.
- H. Separation of employees from City Service.
- I. Standardization of hours of work, attendance and leave regulations, working conditions, and development of employee performance standards, welfare, and training.

- J. The establishment of access to personnel records.
- K. The establishment of grievance and appeal procedures.
- L. Other related matters deemed necessary for the proper functions of City organization and its employees.

1.03 Amendment and Revision of Rules

Unless it involves an emergency, the parties agree to meet and confer as soon as requested, on those changes to the Rules and Regulations which impact terms and conditions of employment. Proposed amendments or revisions to these Rules and Regulations subject to City Council approval shall be placed on the City Council Agenda. At the time of consideration, any interested party may appear and be heard. The City may adopt revisions to these Rules and Regulations as deemed necessary to facilitate the efficient conduct of City business.

The provisions of these sections shall not prohibit the adoption of a revision to these Rules and Regulations by emergency ordinance or resolution in compliance with current law relating to the adoption of such emergency ordinance or resolution.

1.04 Administration of the Personnel Classification Plan

The City Manager shall oversee the administration of the Classification Plan. Recommendations for removal or appointment to fill positions in various departments of the City shall be made by Department Directors to the City Manager who shall consider the recommendations. The City Manager has the power to hire, layoff and terminate employees at all levels, except the City Attorney and elected officials.

As used herein, the City Manager, Personnel Officer, Equal Employment Officer, and Employer Relations Officer are one and the same, unless modified at a later date by action of the City Council. Therefore, the words City Manager and the other noted designations are used interchangeably in these Rules and Policies Manual.

The City Manager may delegate any of the powers and duties to any other officer or confidential employee of the City, or may recommend to the City Council that such powers and duties be performed under contract. The Personnel Officer shall:

- A. Administer all the provisions of this Manual and personnel rules not specifically reserved to the City Council.
- B. Prepare and recommend to the City Council any and all revisions and amendments to these Rules and Regulations.

- C. Prepare or cause to be prepared a position Classification Plan, including class specifications and revisions to the plan. The plan, and any revisions thereof, shall become effective upon approval by the City Council.
- D. Prepare or cause to be prepared a Compensation Plan, and revisions thereof, covering all classifications in the Classified Service. The plan, and any revisions thereof, shall become effective upon approval by the City Council.
- E. When required, provide for the publishing or posting of notices of tests for positions in the competitive service; the receiving of applications thereof; the conducting and grading of tests; and the certification of the appointment to the appropriate position in the Classified Service.

1.05 Right to Contract for Special Service

The City Manager shall consider and make recommendations to the City Council regarding the extent to which the City should contract for the performance of technical or special services in connection with the operation of City as it pertains to personnel administration following notice and consultation with recognized employee groups on any items which affect terms and conditions of employment. The City Manager with City Council approval may contract with any qualified person or agency for the performance of all or any of the following responsibilities and duties:

- A. The preparation of Personnel Rules and subsequent revisions and amendments;
- B. The preparation of a position Classification Plan, and subsequent revisions and amendments;
- C. The preparation of a Compensation Plan, and subsequent revisions and amendments;
- D. The preparation, conduct and grading of competitive tests; and
- E. Special and technical services of an advisory or informational nature on matters relating to personnel administration.

1.06 Application of Rules

These rules shall apply to all departments. Any Department Director may, with the specific approval of the City Manager, establish special rules to meet the needs of that department or any of its divisions if said rules and regulations are consistent with and do not conflict with applicable legislation, the Rules and Regulations as set forth herein, or in a ratified and approved MOU then in effect.

1.07 Status of Present Employees

Any person holding a position included in the Classified Service, as referenced in Section 2.12, who, on the effective date of the adoption of these Rules and Regulations, has served continuously in such position or in some other position in the Classified Service, for a period equal to the probationary period prescribed in Section 2.29 of these Rules and Regulations for the employee's class, shall assume regular status in the Classified Service in the position held on such effective date without a qualifying test, and shall thereafter be subject in all respects to the provisions of these Rules and Regulations.

Any other employees holding positions in the Classified Service shall be regarded as probationers serving the balance of their probationary periods as prescribed in the Rules and Regulations before obtaining regular/permanent status, as referenced in Section 2.37. The probationary period in Section 2.29 shall be computed from the date of employment.

1.08 Employment Constitutes Acceptance of Rules

In accepting employment with the City of Soledad, each employee agrees to be governed by and comply with these Personnel Rules and Regulations, and administrative procedures established by the Personnel Officer, and agree that he or she has read these Rules and Regulations and understand directives of the department in which employed. The tenure and continued employment of every employee shall be conditioned on good behavior and satisfactory performance of duties. Disciplinary actions are intended to be corrective and progressive in nature with the objective of obtaining compliance with rules, orders, procedures, standards of conduct, and expected job performance.

Upon accepting employment with the City of Soledad, each employee shall be given a copy of this manual and sign a receipt. A signed receipt constitutes the employee's acceptance of these Rules and Regulations. The receipt will be made part of the personnel file of each employee.

These Rules and Regulations are the property of the City, and intended for the personal use and reference of City employees and supervisors.

1.09 Memoranda of Understanding (MOU)

Where the written provisions of a ratified and approved MOU are in conflict with these Rules and Regulations, the MOU shall prevail.

1.10 Severability

If any provision of these Rules and Regulations, or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Manual or the application of such provision to persons, or circumstance other than those as to which it is held invalid, shall not be affected.

Section 2. Definition of Terms

2.01 Alternate Employment List

An existing list of qualified candidates in a classification which has similar or equivalent skills and qualifications at an equivalent salary range.

2.02 Anniversary Date

Anniversary date means the date of hire to City classified service. Subsequent salary increases in a new classification do not alter an employee's anniversary date.

2.03 At Will

At Will employees are categorized as unclassified employees not represented by any recognized labor organization. These employees work at the pleasure of the City Manager and/or the City Council, and may be dismissed at any time without the benefit of appeal or administrative hearing, unless otherwise required by law.

2.04 Business Day

Business Day means a day in which City Hall is open and doing business with the public.

2.05 City

City means the City of Soledad, a Municipal Corporation, and, where appropriate, also refers to the City Council or any duly authorized City representative as defined in these Rules and Regulations.

2.06 City Council

City Council shall mean the City Council of the City of Soledad.

2.07 City Manager

City Manager shall mean the City Manager, Personnel Officer, Equal Employment Officer, and Employee Relations Officer of the City of Soledad.

2.08 Classification Plan

Classification Plan shall mean a list of class titles for all regular positions in the Classified Service. It shall include job descriptions, a written specification including the class title and general description of the work, a summary statement of required duties and responsibilities, desirable qualifications for appointment, and other pertinent information, as the Personnel Officer may deem necessary.

2.09 Classification Seniority

Classification seniority shall refer to the length of time an employee has been in a specific classification approved by City Council resolution, and listed in the Classification and Compensation Plan, sometimes referred to as the Classification Plan. Classification seniority is distinctly different from anniversary date, which refers to the date of hire and start of City service.

2.10 Classification and Compensation Plan

Classification and Compensation Plan shall mean a list of job classifications, salary pay rates, ranges and steps covering all classes and positions in the Classified Service not designated as unclassified employees.

2.11 Confidential Employee

Confidential employees are employees who in the course of their duties have access to confidential information related to the City's administration of employer-employee relations. Confidential positions may be added or deleted upon recommendation by the City Manager and authorization of the City Council.

2.12 Classified Service

All full-time, part-time, regular, permanent, or probationary employees of the City, except:

- A. City Manager;
- B. Assistant City Manager;
- C. City Clerk;
- D. Elective Officers, including Council Members;
- E. Department Directors, including the Fire Chief and Chief of Police;
- F. Members of appointive Boards, Commissions, and Committees;
- G. Persons engaged under contract to provide expert, professional, technical or other services;
- H. Volunteer personnel;
- I. Temporary and/or provisional positions;
- J. Other confidential, unclassified, and At Will employees;

- K. Emergency employees hired to meet the immediate requirements of an emergency condition, such as fire, flood, or earthquake which threatens life or property.

2.13 Continuous Service

Continuous Service shall mean employment on a regular basis which is not interrupted by lay-off or Military Leave for a period not to exceed one year.

2.14 Day

Day means calendar day unless expressly stated otherwise.

2.15 Eligible

A person whose name is on an Employment List.

2.16 Eligibility List

A list of eligible candidates for filling vacancies in specific classifications. An Eligibility List is typically developed following an open competitive recruitment.

2.17 Employee Relations Officer

Employee Relations Officer shall mean the City Manager or his or her designee.

2.18 Employment List

A list of eligible candidates for filling position vacancies in specific classifications. An employment List may be an Eligibility List, Re-employment List, or Promotional List.

2.19 Examination

- A. Open-competitive examination: A structured examination process for a particular position which is open to all persons meeting the qualifications for the position.
- B. Promotional examination: An examination for a particular position. Admission to the examination is limited to employees in the Classified Service meeting the qualifications for the position.

2.20 Exempt

An employee who is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA).

2.21 Full-Time Employee

An employee in the Classified Service in a regular position whose normal work hours equal or exceed forty (40) hours per week.

2.22 Non-Exempt

An employee who is subject to the overtime pay provisions of the Fair Labor Standards Act (FLSA).

2.23 Non-Pay Status

Non-Pay Status shall mean any period in which an employee is not at work and on leave of absence without pay.

2.24 Part-Time Employee

An employee in the classified service in a regular position whose normal work week is less than the standard forty-hour week, shall be entitled to participate in City-sponsored health and welfare programs. Leave benefits such as vacation, sick leave, holiday, etc. shall be prorated based on a percentage of their regular work week, unless otherwise required by law.

2.25 Pay/Paid Status

Pay Status shall mean the period in which an employee is at work, or on vacation, sick leave, leave with full pay in lieu of temporary disability benefits pursuant to Labor Code § 4850, compensatory time off, paid military leave, or on an approved leave of absence with pay.

2.26 Performance Review Date

Performance review date refers to the date on which a performance review shall be performed on the employee's anniversary date in the existing classification. Performance review dates are not to be confused with Anniversary dates, which refers to the date the employee was first hired for City service.

2.27 Personnel Officer

Personnel Officer shall mean the City Manager.

2.28 Position

A position consists of a variety of duties, responsibilities, or things to be done and assigned by a competent authority requiring the full or part-time employment of one person.

2.29 Probationary Period

An evaluation period that is considered part of the selection process during which employees are required to demonstrate satisfactory performance for the duties to which they are appointed. Employees that satisfy the requisite probationary period and are subsequently reclassified do not serve a new probationary period. Employees that are reassigned to a new assignment or position are required to serve a new probationary period.

2.30 Promotion

Promotion shall mean the movement of an employee from one classification to another classification having a higher rate of pay.

2.31 Protected Classification

Protected classification includes race, religion, religious or political affiliation or belief, color, sex, gender identity, gender expression, sexual orientation (including heterosexuality, homosexuality, and bisexuality), ethnicity, national or geographical origin, creed, ancestry, citizenship status, military or veteran status, marital or registered domestic partner status, family relationship, pregnancy, age, medical condition, genetic information, physical or mental disability (whether perceived or actual), and membership in or attitude toward any employee organization.

2.32 Provisional Appointment

An appointment of a person, not currently employed by the City, possessing desired qualifications needed for a specified period of time to perform specialized duties at the discretion of the City Manager.

2.33 Public Safety Employees

Employees who, by resolution of the City Council, are specifically designated as such; however, the term does not include clerical employees of the police and fire departments who, by resolution of the City Council, have been specifically designated as classified employees.

2.34 Reasonable Suspicion

The employee exhibits one or a combination of the following manifestations: Slurred speech, swaying with no body control, dilated pupils, bloodshot eyes, sweaty palms, drug or alcohol odor in breath.

2.35 Reassignment

A change of an employee from one position to another position with the same pay grade.

2.36 Reclassification

The duties of any position which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions. A reclassification shall become effective after approval of the City Manager.

2.37 Regular/Permanent Employee

A full-time or part-time employee in the classified service who has successfully completed the required probationary period, and has been retained as provided in these Rules and Regulations.

2.38 Reinstatement

The reinstatement of a former regular or probationary employee. The Personnel Officer may reinstate any employee for good cause and may, upon such reinstatement, compensate, in whole or in part, such employee for past tenure in the position.

2.39 Salary Steps

Salary Steps shall mean a series of progressive steps between a specific minimum and maximum rate, as approved or modified from time to time by the City Council, or ratified and approved MOU.

2.40 Seniority

Seniority are of two varieties: (1) the "anniversary date" which refers to when an employee started City service, and (2) "classification seniority" which refers to the length of time an employee has occupied a specific classification approved by City Council resolution and listed in the Classification and Compensation Plan.

2.41 Separation

The separation of a probationary employee, retirement, or resignation.

2.42 Supervisory Employee

Any employee authorized, on behalf of the City, to supervise, assign, direct, discipline, or adjust the grievances of other employees, or effectively recommend such action, if the exercise of such authority is not merely routine or clerical in nature and requires the use of independent judgment.

2.43 Suspension

Suspension shall mean the temporary removal of an employee from pay status as a result of disciplinary action.

2.44 Temporary Employee

An appointment of a person for a limited time to meet a temporary or seasonal need not to exceed one thousand (1,000) hours per fiscal year. Temporary employees do not serve a probationary period, may be terminated at any time without advance notice to the extent allowed by law, and receive no City-sponsored benefits, unless otherwise required by law. Temporary employees are not meant to be appointed indefinitely, nor shall their employment term in any way be construed to be indefinite.

2.45 Termination

Termination shall mean the separation of an employee from service. Termination may be by death, discharge, resignation, reduction in force, retirement, work completion, and /or lack of work or funds.

2.46 Volunteer

An individual who performs service for civic, charitable, or humanitarian reasons, without promise, expectation, or receipts of compensation. Reimbursement or payments for expenses and/or the granting of benefits shall not constitute compensation for the purpose of determining volunteer status. It should be specifically noted that City employees may not be asked, directed or volunteer to perform work or functions for which they would otherwise be compensated.

2.47 Y-Rating

A salary paid above the maximum established salary range for the incumbent's classification. Y-rating may occur when a position is reclassified to a lower pay grade or an employee is demoted from his/her class to a lower class. An employee whose salary is Y-rated will retain his/her current rate of pay until such time that the class has a higher maximum salary rate.

Section 3. Non-Discrimination Policy

3.01 Equal Employment Opportunity

The City is committed to a policy of equal employment opportunities for applicants and employees. The City does not discriminate against applicants or employees with respect to terms or conditions of employment on the basis of race, religion, religious or political affiliation or belief, color, sex, gender identity, gender expression, sexual orientation (including heterosexuality, homosexuality, and bisexuality), ethnicity, national or geographical origin, creed, ancestry, citizenship status, military or veteran status, marital or registered domestic partner status, family relationship, pregnancy, age, medical condition, genetic information, physical or mental disability (whether perceived or actual), or membership in or attitude toward any employee organization; nor does the City discriminate against applicants or employees who are perceived to have such characteristics or who associate with an individual having such characteristics. Every reasonable effort will be made to provide an accessible work environment for such employees and applicants.

3.02 Disabled Applicants and Employees

As used in this Section, Personnel Officer shall mean the City Manager, or any officer or employee the City Manager may delegate to perform any of the powers and duties contained herein.

The City's employment practices (e.g., hiring, training, testing, transfer, promotion, compensation, benefits, and discharge) will not discriminate against disabled employees or applicants. The City will engage in the interactive process, as defined by the Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act (FEHA), to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the City will examine possible reasonable accommodations that will make it possible for the employee or applicant to so perform.

An applicant or employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Personnel Officer. The request must identify: 1) the job-related functions at issue; and 2) the desired accommodation(s).

The City determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of reasonable accommodations(s) to provide.

Medical Examinations.

- A. Depending on the essential functions of a position, a medical examination may be required for:

1. Applicants who have received a conditional offer of employment;
 2. Employees seeking a transfer from one position requiring general physical abilities to another position requiring physical abilities of a more different nature;
 3. Employees returning to work from a medical leave of absence. The physician conducting the medical examination will be supplied with a current job description indicating the essential functions of the position; or
 4. When a supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors.
- B. The results of all medical examinations will be kept in a confidential medical file separated from the personnel file in conformity with the American Health Insurance Portability and Accountability Act of 1996 (HIPAA). No employee will hold any position in which the employee is not able to perform the essential functions of the job, with or without reasonable accommodation.

Section 4. Policy Against Harassment, Discrimination, and Retaliation

The City prohibits harassment and discrimination based on an employee's race, color, ancestry, national or geographical origin, ethnicity, sex, gender, sexual orientation (including homosexuality, heterosexuality, and bisexuality), gender identity, gender expression, age, religious or political affiliation or belief, creed, physical or mental disability, medical condition, genetic information, marital or registered domestic partner status, membership in or attitude toward any employee organization, military or veteran status, and/or any other category protected by federal and/or state law. In addition, the City prohibits retaliation because of the employee's opposition to or reporting of a practice the employee reasonably believes to constitute employment discrimination or harassment, or because of the employee's participation in an employment investigation, proceeding, or hearing.

It is the City's intent and purpose to provide all officials, employees, applicants, and contractors with an environment that is free from any form of harassment, discrimination or retaliation as defined in this Policy. It is also the policy of the City to provide a procedure for investigating alleged harassment, discrimination and retaliation in violation of this Policy.

4.01 Definitions

- A. Protected Classifications: This Policy prohibits harassment or discrimination because of an individual's protected classification(s). "Protected Classification" includes race, religion, religious or political affiliation or belief, color, sex, gender identity, gender expression, sexual orientation (including heterosexuality, homosexuality, and bisexuality), ethnicity, national or geographical origin, creed, ancestry, citizenship status, military or veteran status, marital or registered domestic partner status, family relationship, pregnancy, age, medical condition, genetic information, physical or mental disability (whether perceived or actual), and membership in or attitude toward any employee organization.
- B. Policy Coverage: This Policy prohibits City officials, officers, employees and contractors from harassing or discriminating against applicants, officers, officials, employees, and contractors because: (1) of an individual's protected classification, (2) of the perception that an individual has a protected classification, or (3) the individual associates with a person who has or is perceived to have a protected classification. In addition, this Policy prohibits retaliation because of an employee's opposition to or reporting of a practice the employee reasonably believes to constitute employment discrimination or harassment, or because of the employee's participation in an employment investigation, proceeding, or hearing to obtain a remedy for breach of this Policy.
- C. Discrimination: This Policy prohibits treating individuals differently because of the individual's protected classification as defined by this Policy.

- D. ***Harassment***: Harassment means unsolicited words or conduct which tends to annoy, alarm or abuse another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:
1. ***Verbal harassment***, such as epithets (nicknames and slang terms), derogatory or suggestive comments, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his or her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those with a protected classification.
 2. ***Visual forms of harassment***, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of a protected classification.
 3. ***Physical harassment***, such as assault, touching, impeding or blocking movement, grabbing, patting, propositioning, leering, making express or implied job-related threats in return for submission to physical acts, mimicking, taunting, or any physical conduct of a sexual nature or any physical interference with normal work or movement.
 4. ***Sexual harassment***, such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or any of the above described conduct when:
 - a. Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or
 - b. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating or offensive work environment.
- E. ***Retaliation***, against a person (and his or her associates) who reports or provides information about harassment or discrimination is strictly prohibited. Any act of reprisal violates this Policy and will result in appropriate disciplinary action. Examples of actions that might be retaliation against a complainant, witness or other participant in the complaint process include: (1) singling a person out for harsher treatment; (2) lowering a performance evaluation; (3) failing to hire, failing to promote, withholding pay increases, assigning more onerous work, abolishing a position, demotion or discharge; (4) spreading rumors about a complaint or a complainant; (5) shunning and avoiding an individual who reports harassment or discrimination; and (6) real or implied threats of

intimidation to prevent an individual from reporting harassment or discrimination.

1. Even well-intentioned attempts to insulate or protect a complainant by changing his or her work environment or schedule or duties or by transferring the complainant to another office may be retaliatory. Before a supervisor takes such action, the supervisor should contact the Personnel Officer.
2. Any act of retaliation will be treated as a separate and distinct incident, regardless of the outcome of the harassment complaint.

In order to constitute harassment, discrimination or retaliation, as defined by law, the prohibited verbal, visual or physical conduct must be directed at an individual because of the individual's protected classification or perceived classification, but the City has zero tolerance for any verbal, visual or physical conduct prohibited by this Policy. That means that conduct need not rise to the level of a violation of law in order to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions no matter what is motivating the behavior. This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training.

If you are in doubt as to whether or not any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor or the Personnel Officer.

4.02 Procedure for Reporting harassment, Discrimination, or Retaliation

An applicant, employee, officer, official or contractor who feels he or she has been harassed, discriminated against or retaliated against in violation of this Policy should report the conduct immediately as outlined below so that the complaint can be resolved quickly and fairly. A false accusation will result in appropriate disciplinary action, up to and including termination.

All employees involved in the complaint process may be represented by a person, union representative, or legal counsel of their choosing and at their own expense.

- A. *Object to the Conduct:* Sometimes an individual is unaware that his/her conduct is offensive. In these situations the offensive behavior may be eliminated by simply informing the offender that the conduct or language in question is unwelcome and offensive and request that it be discontinued immediately.

A person who believes he/she is being harassed is encouraged, but is not required to use this process. When the conduct in question continues after the offending person has been informed it is offensive, or if a person

does not feel comfortable talking to the offending person directly, the employee should make a report in accordance with paragraph #2 below or go directly to the formal reporting process.

- B. Oral Report: If a person who believes this Policy has been violated does not want to confront the offending person, he/she should report the conduct to a supervisor, department director or any City management employee. The individual may also seek the advice, assistance or consultation of a supervisor, department director, or any City management employee. Any supervisory or management employee who receives such a report must direct it to the Personnel Officer. The Personnel Officer will determine what level of investigation and response is necessary.
- C. Written Process: An individual who believes this Policy has been violated and does not feel comfortable using the process outlined above may provide a written complaint to a supervisor, department director or any management employee who, in turn, must direct the complaint to the Human Resources Division. Individuals are encouraged to use the Confidential Complaint Form for this purpose (form attached).
- D. Option to Report to Outside Administrative Agencies: Applicants, employees, officers, officials and contractors have the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the phone book as well as on posters located on City bulletin boards.

4.03 City's Response to Complaint of Harassment, Discrimination, or Retaliation

- A. Investigation: Upon receipt of a complaint of alleged harassment, discrimination or retaliation, the Personnel Officer will be responsible for coordinating a thorough investigation (unless he/she is named in the complaint). The Personnel Officer may coordinate the investigation with the complainant's department director and may hire an outside investigator if deemed appropriate. The type of investigation undertaken, and the party chosen to conduct the investigation will depend on the nature of the complaint made and shall be determined by the Personnel Officer.

The Personnel Officer may take interim action to diffuse volatile circumstances, such as placing the alleged perpetrator on paid administrative leave or temporarily transferring the alleged perpetrator. No interim action should be taken to change the complaining individual's working conditions unless the complaining individual voluntarily consents to the temporary change.

The investigator will review the complaint allegations in an objective manner and to the extent that the City deems necessary. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview and that retaliation against those who report alleged harassment or who participate in the investigation is prohibited.

The City takes a proactive approach to potential Policy violations and will conduct an investigation if its' officers, supervisors, or managers become aware that harassment, discrimination or retaliation may be occurring, regardless of whether or not the recipient of the alleged action or a third party reports a potential violation.

At the conclusion of the investigation, if it is determined that the alleged conduct did not occur or that it did not violate this Policy, the Personnel Officer will notify the complainant and the alleged perpetrator, if appropriate, of the general conclusion(s) of the investigation and whether any further action is warranted.

- B. Remedial and Disciplinary Action: If the investigation determines that the alleged conduct occurred and that the conduct violated this Policy, the City will notify the complainant and perpetrator of the general conclusion(s) of the investigation and take effective remedial action that is designed to end the violation(s). Any employee or officer determined to have violated this Policy will be subject to disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this Policy. Any official or contractor found to have violated this Policy will be subject to appropriate sanctions.
- C. Closure: At the conclusion of the investigation, the Personnel Officer shall notify the complainant in general terms of the outcome of the investigation.
- D. Confidentiality: Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate potential Policy violations and take effective remedial action. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Personnel Officer. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to

take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

4.04 Training and Policy Dissemination

Assembly Bill 1825 requires that all employees who become supervisors after July 1, 2005, must receive training within six months of assuming a supervisory position. Human Resources will track all individuals who are required to receive this mandated training and will work with department directors or their designee to ensure that training needs are met.

A. *Non-Supervisory Employees*: The Personnel Officer shall ensure that all employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed to all employees. Non-Supervisory employees may also receive training, at the discretion of the City.

B. *Supervisory Employees*:

1. All supervisors will be trained once every two years on matters relating to the prevention, reporting, and investigation of harassment, discrimination, and retaliation. Further, individuals appointed to supervisory positions from a non-supervisory position or as a new employee shall receive training within six months of their hiring or assumption of the supervisory position.
2. Supervisory training will last for a minimum of two hours.
3. Supervisory training will be conducted in a classroom or other interactive setting and will, at a minimum, cover the following topics:
 - a. Information and practical guidance regarding federal and state statutory laws about sexual harassment;
 - b. Information about the correction of sexual harassment and the remedies available to victims of sexual harassment; and
 - c. Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.
 - d. Information and practical guidance regarding the prevention of abusive conduct, which is defined as follows: conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include, but is not limited to, repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct

that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act does not constitute abusive conduct, unless especially severe and egregious.

Section 5. Whistleblowing Policy

5.01 Definition of "Whistleblowing"

- A. For purposes of this provision, "Whistleblowing" consists of disclosure of information that the employee reasonably believes constitutes a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties, when that disclosure is made to one or more of the following:
1. A government or law enforcement agency;
 2. A person with authority over the employee;
 3. Another employee who has authority to investigate, discover, or correct the violation or noncompliance; or
 4. Any public body conducting an investigation, hearing, or inquiry, including, but not limited to, information given as testimony.

5.02 Scope of Policy

The City encourages employee complaints, reports or inquiries about practices believed to be unlawful or constitute serious violation of the City policies, including illegal or improper conduct by the City itself, by its leadership, or by others on its behalf. Other subjects for which the City has existing complaint procedures shall be addressed under those other procedures. This policy is not intended to provide a means of appeal from outcomes in those other procedures.

5.03 Procedure

Complaints, reports or inquiries may be made under this policy on a confidential or anonymous basis. They should describe in detail the specific facts demonstrating the bases for the complaints, reports or inquiries. They may be directed to the Personnel Officer or City Manager, or to the City Attorney if involving the Personnel Officer or City Manager. The City will conduct a prompt, discreet, and objective review or investigation in response. However, employees must recognize that the City may be unable to fully evaluate or address a report or inquiry that is made anonymously or made in a vague or general manner.

5.04 Protection From Retaliation Because of Good Faith Complaints, Reports, or Inquiries

- A. The City prohibits retaliation by or on behalf of the City against employees for making good faith complaints, reports or inquiries under this policy or

by participating in a review or investigation under this policy. Any employee who makes a complaint using this procedure or otherwise engages in "Whistleblowing" is protected against adverse employment actions (discharge, demotion, suspension, harassment, or other forms of discrimination) taken by the City or any person acting on behalf of the City. This protection extends to those whose allegations are made in good faith but prove to be mistaken or unsubstantiated. Employees who participate or assist in an investigation will also be protected. Every reasonable effort will be made to protect the anonymity of the "whistleblowing" employee however, there may be situations where it cannot be guaranteed.

- B. The City reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

Section 6. Additional Employment Policies and Working Conditions

6.01 Personal Relationships in the Workplace

Employees at every level are cautioned that personal relationships in the workplace have the potential to go sour, with the possibility of creating a hostile work environment for the involved employees, as well as others. Therefore, the City will treat with equal vigor any false accusation of harassment motivated by retaliation as a result of a failed relationship. Employees who refuse to cooperate with the investigative process, or retaliate against the investigating authority/officer may also be subject to disciplinary action up to and including termination.

6.02 Violence in the Workplace

The City is committed to providing a safe, violence-free workplace and strictly prohibits employees, consultants, customers, visitors, or anyone else on City premises or engaging in a City related activity from behaving in a violent or threatening manner. As part of this policy, the City seeks to prevent workplace violence before it begins through the recognition of early warning signs. The City is committed to assuring that safety policies and procedures involving workplace violence are communicated and understood by all employees.

A. Workplace Violence Defined.

The three major types of workplace violence include:

1. "Type I" is violent act by an assailant with no legitimate relationship to the workplace that enters the workplace to commit a robbery or other criminal act.
2. "Type II" is a violent act by a recipient of the services provided by the City, such as a customer or another member of the public.
3. "Type III" is an event that involves a violent act by a current or former employee, including a supervisor, manager, or another person who has some employment-related relationship with the City, such as an employee's spouse or significant other; an employee's relative or friend, or another person who has a dispute with an employee or the City.

Workplace violence shall be defined as:

1. Threats of any kind;

2. Threatening remarks, including those related to gender, ethnicity, or sexual preference; physical aggressiveness, or violent behavior, such as intimidation or attempts to instill fear in others;
3. Other behavior that suggests a propensity toward violence, which can include belligerent speech, arguing or swearing, sabotage, or threats of sabotage of City property, or demonstrated pattern of refusal to follow City policies and procedures;
4. Defacing City property, sabotage of network or telephone systems, or causing physical damage to facilities; or
5. With the exception of security personnel, bringing weapons or firearms of any kind to City premises, City parking lots, or while conducting City business.

B. Reporting Requirements.

1. Any employee who observes or becomes aware of any of the listed actions or behavior by an employee, customer, consultant, visitor, or anyone else, should immediately notify their supervisor, Department Director, or Personnel Officer.
2. Employees should notify their immediate supervisor, Department Director, or Personnel Officer if any restraining order is in effect, or if a potentially violent non work-related situation exists that could result in violence in the workplace.

C. Investigation.

All reports of workplace violence will be taken seriously and promptly and thoroughly investigated. In appropriate circumstances, the City will inform the reporting individual of the results of the investigation. To the extent possible, the City will maintain confidentiality of the reporting employee and of the investigation, but may need to or be required to disclose results in appropriate circumstances to law enforcement authorities in order to protect individual safety of minors. The City will not tolerate retaliation against any employee who reports workplace violence.

D. Corrective Action and Discipline.

If the City determines that workplace violence has occurred, the City will take appropriate corrective action and impose discipline on offending employees. The appropriate discipline will depend on the particular facts, but may include an oral warning, written reprimand, transfer or reassignment, suspension, or termination. Under certain circumstances, the City may request or require that the employee participate in counseling, either voluntarily or as a condition of continued employment,

and submit written documentation of compliance and completion of this requirement. If the violent behavior is that of a non-employee, the City will take appropriate corrective action in an attempt to assure that such behavior is not repeated.

E. Employee Assistance Program.

1. Employees who believe they have a problem which could lead to violent behavior or adversely affect their work performance are encouraged to use the City's Employee Assistance Program "EAP". The EAP is a professional, confidential counseling service available to all employees and members of their household to assist in resolving emotional difficulties, marital and family conflict, stress, chemical or alcohol dependency, conflicts at work, and any other personal concerns. The EAP counselor can assist in the resolution of these issues and develop a confidential action plan, or make appropriate referrals to other professional services.
2. EAP Services are prepaid by the City, and information regarding the City's Employee Assistance Program may be obtained from Human Resources.

6.03 Alcohol and Controlled Substance Abuse

- A. The City is committed to providing a work environment that is safe, healthy and free of any adverse effects caused by the use, possession, or distribution of alcohol or controlled substances. City employees shall not be permitted to possess, distribute, or use alcohol or controlled substances while on duty for the City, on City property, or using City equipment; and are not permitted to perform services while under the influence of those substances.
- B. For the purpose of enforcing this policy and maintaining a drug and controlled substance free workplace, the City reserves the right, consistent with the Public Safety Officers Procedural Bill of Rights Act and Firefighters Procedural Bill of Rights Act, to search, with or without prior notice to the employee, all work areas and property in which the City maintains full or joint control with the employee, including but not limited to City vehicles, desks, work stations, lockers, file cabinets, and bookshelves.
- C. While the use of medically prescribed medications and drugs is not per se a violation of this policy, failure by the employee to notify a supervisor before beginning work, when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of city equipment, 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.

- D. The City may notify the appropriate law enforcement agency that an employee may have illegal drugs in his/her possession, or in an area jointly or fully controlled by the City.
- E. The City will provide reasonable accommodation to those employees whose drug or alcohol problems classify them as disabled and/or suffering from medical condition under federal and/or State law.
- F. Definitions:
 - 1. "*Controlled Substance*" means any drug or substance that (a) is not legally obtainable or (b) is legally obtainable, but has not been legally obtained or (c) has been legally obtained, but is being sold or distributed unlawfully.
 - 2. "*Reasonable Suspicion*" is based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. Such observations can include the employee's activity or inactivity, equilibrium, attention span, mental and physical reactions, slurring of speech, unfocused vision, odor of intoxicants on the breath or clothing, or any other conduct or behavior which indicates probable alcohol misuse or use of controlled substances. Observations may also include indications of chronic use and the withdrawal effects of controlled substances, and chronic absenteeism.

6.04 Drug Testing

A. Pre-Employment Testing.

As part of the City of Soledad's employment screening process, any applicant for a position in a classification the City has determined is subject to pre-employment drug and alcohol screening, and to whom an offer of employment is made must pass a test for alcohol, drugs and controlled substances, under the procedures described below. Any offer of employment is conditional on a negative test result. Applicants will be informed of the City's drug testing policy in the employment application. An applicant's failure to consent to applicable tests will result in the withdrawal of a conditional offer of employment and disqualification from further consideration for employment.

The applicant will be referred to a City designated certified medical clinic or laboratory to administer the test at the City's expense. The employee shall have the opportunity to alert the clinic or laboratory personnel about any prescription or non-prescription drugs taken that may affect the

outcome of the test. Unless otherwise requested, all drug and alcohol testing will be performed through urinalysis. The clinic or laboratory will inform the Personnel Officer, or designee, of the results of the test. If the applicant failed the test, or refuses to take the test, the applicant will be immediately disqualified from any consideration for City employment.

B. Reasonable Suspicion Testing.

If there is suspicion that an employee is working in an impaired condition, including an accident while conducting a City vehicle, the employee will be asked about any use of alcohol or controlled drugs and offered an opportunity to give an explanation. If the employee is unable to satisfactorily explain the behavior, the employee will be requested by the Personnel Officer or designee to take a drug test in accordance with the procedures outlined below. If the employee refuses to cooperate with the administration of the test, the refusal will be treated as a positive test result.

C. Drug Testing of Safety-Sensitive Positions.

Employee(s) subject to random testing fall under the rules and regulations of the Federal Omnibus Transportation Testing Act of 1991. The City will comply with the testing procedures and requirements under the rules and regulations issued by the Department of Transportation (DOT), or the Federal Highway Administration (FHWA) for persons in safety sensitive positions, and issue an administrative policy to affected unit employees.

6.05 Nepotism; Employment of Relatives

- A. Nepotism is defined as an employee using personal authority or influence to aid or hinder another in the employment setting because of a close personal or blood relationship. A close personal relationship is an association with an individual by adoption, marriage, cohabitation, or blood in the third degree.
- B. Employees who have a close personal relationship may work in the same organizational unit, division or department, however, appointments or assignments shall not be made where any of the following would apply:
1. Employees would work in a small unit or close association with each other.
 2. Employees would have a direct supervisor-subordinate or Department Director-subordinate relationship.
- C. Employees who have a close personal relationship shall not be appointed or assigned where such a relationship would adversely affect them in any of the following:

1. Work, safety, and/or morale of the unit, division or department.
2. Fair and impartial supervision and evaluation of employees.

6.06 Conflict of Interest

No employee shall engage in any business transaction, or have a financial interest, direct or indirect, which is incompatible with the proper discharge of the employee's official duties, is against public interest, or would tend to impair independence of judgment or action in the performance of official duties, or in otherwise contrary to existing State or federal laws or regulations of the City of Soledad.

6.07 Solicitation

Employees are prohibited from soliciting funds, donations, or anything of value during working hours from other employees, members of the public, vendors, or other third parties, or while wearing a City uniform, unless the activity relates to a City-sponsored event and has been fully authorized by the City Manager or Department Director. Any infraction of this nature will result in appropriate disciplinary action up to and including termination.

6.08 Outside Employment; Off-Duty Notification

Employees will be permitted to engage in off-duty employment if such secondary employment meets the following standards:

- A. The outside occupation does not conflict with the interests of the City.
- B. The outside work must not adversely affect the employee's duties at the City.
- C. The employment must be such that the City bears no responsibility or liability for injury incurred on the outside job.
- D. The job does not interfere with the requirement that the employee be readily accessible and available in case of emergencies.
- E. Subject to review by the Personnel Officer or designee, the basis for approval by the immediate supervisor and Department Director is as follows:
 1. No employee will be allowed to engage in any outside employment without first filling out an off-duty employment permit, which in turn is to be approved or denied by the employee's Department Director. A copy of each permit shall be approved by the Department Director and the Personnel Officer, and renewed at least on a yearly basis. Forms for this purpose are available at Human

Resources. Approved permits will be maintained in the employee's personnel file.

2. Each request to engage in outside work is to be considered individually. Certain types of work, which are incompatible to the department, may be so designated in writing by the Department Director and the Department Director may refuse permits for such outside employment.

6.09 Request for Assistance from Private Citizen

Under no circumstances shall a City of Soledad employee request or authorize a private individual to assist in any manner in the performance of the employee's job function or duties, except for volunteers or public safety personnel engaged in an emergency.

6.10 Financial Affairs

Employees shall so arrange their personal financial affairs in order that creditors and collection agencies will not make use of the offices of the City, contact Department Directors or the Personnel Officer for the purpose of making collections.

6.11 Gifts or Payments

No City employee shall accept any gift, service, money or thing of value including, but not limited to, tickets to events or trips from members of the public, vendors, or other third parties with which the employee has or may have official dealings. It should be understood that such gifts are not for personal use or benefit, and should be shared by all employees. Any questions should be referred to the Personnel Officer for proper disposition or disposal.

6.12 Personal Conduct

The conduct of all employees shall be governed at all times by ordinary and reasonable rules of behavior observed by law-abiding citizens, and shall not reflect unfavorably upon City service. This shall apply whether or not the employee is acting in an official employment capacity. Failure to do so may result in disciplinary action up to and including termination.

6.13 Tobacco Products in the Workplace

Smoking or tobacco products shall not be permitted in any workplace, meeting room, classroom, or restroom of any City facility except for designated areas. Smoking or tobacco products shall not be permitted in any City vehicle, or within twenty (20) feet of any City building or worksite.

6.14 Dress and Grooming Standards

The professional environment of the City is maintained by the image employees present to the public. It is expected that all employees will dress in a manner consistent with good hygiene and safety. Neatness and cleanliness are necessary at all times. Individual City departments may adopt different dress and grooming standards, depending on the needs of their operations, subject to approval by the Personnel Officer.

6.15 Cell Phone Use Policy

A. Applicability & Purpose

This policy and procedure applies to the use of personal and City of Soledad cell phone devices by employees within the course and scope of employment. Violation of this policy may result in disciplinary action.

B. Use of City Cell Phones

City cell phones are issued on an as-needed basis with the approval of the Personnel Officer. All City cell phones are provided as a tool to conduct City-related business. All City employees shall use City-issued cell phones in a responsible, appropriate, and safe manner. All employees assigned City-issued cell phones shall assume the responsibility to use the equipment in accordance with the provisions of this policy and the City's Electronic Communications Policy (Exhibit A).

1. Employees are prohibited from installing any third party equipment on City cell phones unless approved in writing by the employee's supervisor.
2. Employees have no expectation of privacy as to data residing in City-issued cell phones and/or voice mail. The City may inspect that data at any time and without notice.
3. Employees shall protect City-issued cell phones from loss or damage. An employee assigned a City cell phone is responsible for its good care and will be required to reimburse the City's cost for any cell phones lost or damaged due to negligence. If a cell phone is damaged, fails to work properly, or is stolen or lost, the employee shall immediately notify the Personnel Officer.
4. City cell phones should only be used by City employees in the performance of their official duties. Personal use of City cell phones is **strictly prohibited** and will result in disciplinary action and reimbursement of charges for personal use.

C. Use of Personal Cell Phones

1. Employees are required to limit personal cell phone usage during working hours to breaks or lunch periods. Usage outside of break or lunch periods should be minimal.
2. Personal cell phones must be in silent or vibrating mode during work hours and must not be disruptive to co-workers.
3. Regardless of whether employees are assigned City cell phones, employees **shall not** use their personal cell phones for work-related calls, except as authorized below in subsection 4.
4. In the event of an emergency or other special circumstances requiring an employee to make or receive a work-related call or text message, and if the communication cannot be made from a City cell phone, a City wired landline, or any other City-provided telecommunications device, the employee shall obtain advanced authorization from a supervisor before using a personal cell phone for the work-related purposes. If no supervisor is available to provide advanced authorization, and the employee is required to use a personal cell phone for the work-related communication, the employee shall notify a supervisor of the communication as soon as practicable.

D. Reimbursement for Emergency Use of Personal Cell Phone for Work-Related Purposes

1. In the event of an emergency or other special circumstances requiring an employee to use a personal cell phone to make or receive a work-related communication, as described in Section 6.15.C, the employee (with Personnel Officer approval) will be reimbursed for personal cell phone expenses incurred for work-related purposes.
2. Employees shall submit their cell phone bill to the Personnel Officer, and shall identify which communications were made for work-related purposes.
3. If the communications are within the allotted minutes of an employee's cellular plan, the City will identify the percentage of communications made on City business and reimburse the employee for this percentage of the cellular bill. Employees must submit a request for reimbursement within 30 calendar days of the date of the cell phone bill.
4. In all other circumstances, the City shall pay a reasonable percentage of the employee's cell phone bill, to be calculated on a case-by-case basis, based on information reasonably made available to the City.

- E. Use of City or Personal Cell Phones While Operating a Vehicle in the Course and Scope of Employment
1. In the interest of the safety of City employees and other drivers, City employees are prohibited from using cell phones while driving on City business and/or City time. Personal and/or City provided cell phones are to be turned off any time you are driving on City business or City time.
 2. As determined by City management, if your job requires that you keep your City-issued cell phone turned on while you are driving, you must use a hands-free device while using the cell phone to make phone calls to conduct City business while driving per City policy and as required by law. Under no circumstances should employees read/send/compose any text messages, emails, or instant messages while operating a motor vehicle while driving on City business and/or City time.
 3. Pursuant to City policy and as required by law, an employee under the age of 18 years is prohibited from driving a motor vehicle while using a cell phone or other mobile service device, even if equipped with a hands-free device. This prohibition does not apply to such a person using a wireless telephone or a mobile service device for emergency purposes. Any violation of this policy is a violation of City rules subject to disciplinary action and may be a violation of law subject to criminal penalties.

Section 7. Employment, Selection and Appointment

7.01 Application Forms

Application shall be made as prescribed on the job announcement. Application forms shall require information covering training, experience, education and other pertinent information. All applications must be signed by the individual applying. Incomplete applications are subject to rejection.

7.02 Application

- A. All candidates for employment and volunteer positions without pay, shall file with Human Resources an application on an official City application form. Such application may be rejected if it is not signed, dated and completed in its entirety, or if the applicant does not meet all the qualifications specified in the job description to warrant acceptance.
- B. Criminal Conviction History.
 1. The City shall not ask any applicant for employment to disclose, through any written form or verbally, at any time, information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or post trial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.45, and 1210.1 of the Penal Code.
 2. Unless otherwise required by law, the City shall not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant, until the City has determined that the applicant meets the minimum employment qualifications, as stated in any notice issued for the position. The job announcement for the position in question will advise whether a lawful exception to this provision applies, such as for positions subject to the stringent requirements of Public Resources Code Section 5164.
 3. Applicants who are invited to participate in an interview following initial screening for minimum qualifications will be requested to complete a supplemental application regarding criminal conviction history for review by the City, and a background screening, as part of the examination process.

C. Ineligibility or Disqualification.

1. The Personnel Officer may withdraw anyone from consideration if the candidate does not meet required qualifications and whose appointment is not in the best interest of the City. Whenever an application is disqualified or rejected, written notice shall be mailed to the applicant. No specific reason need be given for the rejection, other than the applicant was not qualified for the position.
2. Reasons for disqualification may include, but shall not be limited to the following:
 - a. Lack of any of the requirements and qualifications established for the examination or position for which applied.
 - b. Evidence of intoxicants and/or habit-forming drugs.
 - c. Conviction of a felony, or plea of no contest, or conviction of a misdemeanor involving moral turpitude, as discovered pursuant to Section 7.02.B.3.
 - d. Resignation from any position to avoid dismissal.
 - e. Deception or fraud in making the application.
 - f. Unacceptable driving record, as determined by most recent DMV readout, when a license is required for the position sought.
 - g. Request by applicants that their names be withdrawn from consideration.
 - h. Failure to apply within the time frame specified by the Personnel Officer to an advertised/posted position.
 - i. Disqualification or unsuitability for employment for any reason specified in any City or pertinent department rules and regulations.

7.03 Announcement

All announcements for positions in the Classified Service shall be publicized by posting in City Hall, on official bulletin boards, and by such other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay of the class for which the position is announced, the nature of the work to be performed, and minimum qualifications.

7.04 Recruitment

Recruitment for qualified applicants may be a continuing process so the City may have available applications of interested, qualified persons for possible future employment. Notices of employment opportunities may be placed in newspapers, magazines, announcements, college placement offices, community organizations, or professional agencies offering services that will result in response from qualified persons. However, the City shall not pay any fee or service charge for any applicant referred to City by any employment agency, unless it is the result of a contractual agreement with the employment agency.

7.05 Special Provisions

- A. The Personnel Officer may authorize the expenditure of funds or reimburse applicants for cost and expenses related to the recruiting and selection process where it is in the best interest of the City to do so.
- B. The Personnel Officer may limit the number of qualified applicants to be examined in the selection process when there is a large pool of qualified applicants compared to the number of anticipated vacancies. Qualified applicants to be examined may be determined by lot, date of application or other means as determined by the Personnel Officer.

7.06 Conduct of Examination

The Personnel Officer may contract with any industry recognized agency for the development and conduct of examinations. The Personnel Officer shall see that grading of examinations are performed by an employee in Human Resources.

7.07 Nature and Types of Examination

The selection techniques used in the examination process shall be impartial, and relate to subjects which, in the opinion of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which applicants seek to be appointed. Examinations shall consist of selection techniques which test fairly for knowledge, skills, and abilities of candidates.

7.08 Notification of Examination Results and Review of Papers

Each candidate taking an examination shall be given written notice of the results thereof within thirty (30) days.

7.09 Promotional Examinations

- A. Existing qualified regular or probationary employees shall be given the opportunity to apply before positions become available to applicants who are not in City service.

- B. Only regular or probationary employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations. For each promotional examination, there must be a minimum of two qualified candidates for each vacancy.
- C. Promotional recruitment announcements will be posted for a minimum of five (5) business days in all departments and at a central location in Human Resources until the final filing date specified in the announcement. The announcement will specify a selection process which may include anyone or a combination of the following: application appraisal, written test, performance test, physical fitness test, personal interview or any other selection techniques which, in the judgment of the Personnel Officer, in consultation with the Department Director or other. Subject Matter Expert, are necessary to evaluate the candidate's capacity to perform the job tasks.
- D. The Personnel Officer may extend the filing period for any recruitment based upon consideration of the quantity and quality of applications received.

7.10 Scoring Examinations and Qualifying Scores

- A. Upon scoring of all selection components, the names of applicants will be placed on eligibility lists, ranked according to scores.
- B. A candidate's score in a given examination shall be the average scores on each competitive part of the examination, weighed as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing the entire examination, or disqualified for subsequent parts of an examination.
- C. In case of tied scores, the following rules shall apply:
 - 1. For purposes of placement on the list of eligibles, if an applicant who has a tied score is a veteran, as that term is defined in Section 50088 of the California Government Code, or as may be amended, the tie will be broken in favor of the veteran, such that the veteran will be placed at a higher position than the non-veteran.
 - 2. All other candidates with tied scores shall be listed in alphabetical order.

7.11 Eligibility Lists

- A. Eligibility Lists: Within a reasonable time after successful completion of all phases of the City's recruitment process, the Personnel Officer or designee shall prepare and keep available an Eligibility List. If there are

less than three (3) candidates on the list, the Personnel Officer may cause the list to expire, and may commence a new recruitment.

- B. Duration of Lists: Employment/Eligibility lists may remain in effect for one year, unless exhausted, and may be extended prior to the expiration date by action of the Personnel Officer. All open-competitive and promotional lists shall remain in effect for one year, unless exhausted or abolished within that period as provided below. The Personnel Officer may extend any such list for additional periods, but in no event shall an employment list remain in effect for more than two (2) years. The effective date of a list shall be the date it is approved by the Personnel Officer.

7.12 Re-Employment Lists

- A. The names of probationary and regular employees who have been laid off may be placed on appropriate re-employment lists in the order of total continuous cumulative time served on probationary and regular status. Such names may remain on the lists for one year unless such persons are rehired prior to that date. Re-employment Lists may be extended at the discretion of the Personnel Officer, but in no event shall an employment list remain in effect for more than two (2) years.
- B. When a re-employment list is to be used to fill vacancies, the Personnel Officer shall certify from the top of such list, the number of names equal to the number of vacancies to be filled, and the appointing authority shall appoint such persons to fill the vacancies. The Personnel Officer shall send a notice of certification to persons appearing on the re-employment list.

7.13 Certification and Appointment

- A. Filing Vacancies.
1. The Department Director shall notify the Personnel Officer or designee of an anticipated vacancy in an established career position, except for positions outside the classified service. The Personnel Officer and Department Director shall determine the means to be used to fill the vacancy.
 2. With the approval of the Personnel Officer, the vacancy may be filled through a transfer, reassignment or voluntary demotion of an employee. If appointment is not made in this manner, then the vacancy shall be filled by appointment from an existing employment list in the following order:
 - a. Re-employment List: A list established as a result of a reduction in force.

- b. Promotional List: A list of qualified employees in City service who successfully completed a promotional examination process.
 - c. Reinstatement List: A list of applicants which were previously in City service.
 - d. Open-competitive List: A list of qualified applicants outside City service.
3. If there are less than two (2) candidates on the applicable promotional list and/or less than three (3) candidates on the applicable open-competitive list, the Personnel Officer may:
- a. Authorize appointment from among the available candidates.
 - b. Cancel the existing employment list and declare an alternate employment list.
 - c. Cancel the existing employment list and order a new examination. The Personnel Officer may also authorize a temporary appointment for the interim period while the recruitment process is conducted. The interim period may not exceed six (6) months.

B. Certification of Candidates.

1. When a vacancy is to be filled from either a promotional or an open-competitive list, the Personnel Officer shall provide the Department Director with a list containing an appropriate number of candidates. The number of candidates certified shall depend upon the type of recruitment and number of vacancies. The names of the top three (3) candidates from a promotional list or the top seven (7) candidates from an open-competitive list will be certified for a single vacancy and, where there is more than one vacancy, one additional name for each vacancy in excess of one.
2. Following interview and recommendation by the Department Director, the City Manager may appoint from those candidates certified and interviewed. Appointments shall not be retroactive.
3. Regular appointments are contingent upon results of reference checks, background investigations, agility, psychological, physical and any other examinations, which may be required at the discretion of the Personnel Officer.

7.14 Removal of Names From List

- A. The name of any person appearing on an employment, re-employment, or promotional list shall be removed by the Personnel Officer if the eligible person requests in writing that the name be removed, or the employees or applicants fail to respond to notices of certification mailed via certified mail to the last known address.
- B. The names of persons on promotional employment lists who resign from City service shall automatically be dropped from such lists.

7.15 Temporary Appointments

- A. Temporary positions and appointments exist to fill a temporary need, including but not limited to vacation relief, sick leave relief, temporary projects, extra help to accelerate a program, seasonal work, surges of work, and under special circumstances to temporarily substitute for a regular appointment. Because they are intended to be interim in nature, work hours shall not exceed one thousand (1,000) in a twelve (12) month period. Temporary employees may be terminated at any time by the Personnel Officer without cause and without recourse to the appeal and grievance procedure.
- B. Temporary appointments may be made from existing appropriate employment lists or from among qualified applicants. Qualified applicants for this purpose shall mean individuals who meet the minimum qualifications for the classification as defined in the class specification.
- C. In no event shall a period of temporary appointment constitute satisfactory completion of any part of a probationary period for any appointment in a regular position in City service.
- D. Temporary employees shall not gain a property interest in their jobs.

7.16 Types and Categories of Appointment

All vacancies in the Classified Service may be filled by transfer, promotion, demotion, re-employment, reinstatement, or from eligibility lists certified by the Personnel Officer. In the absence of persons eligible for appointment in this manner, provisional appointments may be made in accordance with these Rules and Regulations.

Employment in the Classified Service is divided into the following categories:

- A. Regular: Regular employees are those who have been appointed to an authorized position in the City's Classification and Compensation Plan, having successfully completed the probationary period, and retained as provided in these Rules and Regulations. A regular employee may be full-

time or part-time. Part-time employees who have been appointed to an authorized position in the City's Compensation and Benefit Plan through appointment from an eligibility list are designated as Regular employees after successfully completing a probationary period.

- B. Probationary: Probationary employees are those who, through the regular examining process, have been appointed to an authorized position in the City's Classification and Compensation Plan, but have not completed the applicable probationary period.

7.17 Personnel Officer's Discretion Regarding Vacant Position

Nothing in this Section shall require the Personnel Officer to fill any vacancy in the Classified Service. The Personnel Officer has the discretion to recommend to the City Council that the vacant position be eliminated, retitled, or an alternative position or positions be created in place thereof. However, nothing within this Section shall require the Personnel Officer to replace any vacant position.

7.18 Citizenship

Except as otherwise provided by State or Federal law, employment is open to qualified men and women who are citizens of the United States, qualified non-citizens of the United States, and those who have employment rights under the United States Constitution, or State and Federal Law (e.g., non-residents holding temporary work permits).

7.19 Legal Authority to Work

All offers of employment and continued employment are conditioned on furnishing satisfactory evidence of identity and legal status to work in the United States. Each applicant must document legal authority to work in the United States, and verify identity in accordance with applicable federal statutes by completing and signing required forms, such as the I-9. All offers for employment will be contingent on receiving this verification, which must be completed as soon as possible after an offer of employment is made, but no later than at the time an individual first reports to work. Failure to provide proof of legal residence and authorization to work in the United States shall be the basis for disqualification in employment and immediate termination.

7.20 Minimum Employment Age

All persons who are selected for regular employment by the City must be at least eighteen (18) years of age. All persons who are selected for temporary and/or seasonal employment by the City must be at least sixteen (16) years of age. Applicants may be asked to provide proof of age at any time. Persons employed under the age of eighteen (18) must provide a valid minor work permit and shall

not be assigned to "hazardous" duties as determined by the Department Director and Personnel Officer.

7.21 Pre-Employment Medical Examination

All offers of employment are contingent upon successful completion of a health questionnaire and/or medical examination which includes a pre-employment drug test. Each prospective employee shall be required to complete a pre-employment health questionnaire and, as determined by the Personnel Officer, take a pre-employment medical examination after receiving an offer of employment. The medical examination shall be conducted by a physician authorized or approved by the City at its expense. Medical records shall be maintained in a separate confidential folder open for inspection only on a need to know basis, and stored in a secured area consistent with the requirements of American Health Insurance Portability and Accountability Act of 1996 (HIPAA).

7.22 Background/Reference Checks

As soon as possible and practicable, a live fingerprint scan, background and reference check will be performed and completed for each employee receiving a conditional offer of employment. The City shall comply with all requirements of the Federal Fair Credit Reporting Act and the California Investigative Consumer Reporting Agencies Act.

7.23 Reappointment; Break in Service

An employee who voluntarily leaves the City Service and is rehired at a later date is not eligible to receive any benefits that may have previously been afforded, except as described in Section 13.05.L. Reappointments following resignation will be considered new employment. Employees rehired within 60 days after separation will have their service bridged. This means that the employee will retain the original date of hire and will continue to accrue insurance benefits, previously in effect. In addition, these employees who have been rehired will accrue benefits (vacation and sick leave accruals) at the same rate as was in effect prior to the separation.

With regard to accrued sick leave benefits prior to separation, an employee is eligible to be reinstated with 50% of the remaining balance after being laid-off or separated, except as described in Section 13.05.L.

For example, an employee at time of separation who had 45 days of sick leave accrued, is eligible to be paid directly for up to 15 days, this leaves a balance of 30 accrued days of which 50% or 15 days of sick leave could be reinstated.

7.24 Transfer

An employee may be transferred by the Personnel Officer from one position to another position in a comparable class. No person shall be transferred to a

position for which the employee does not possess the minimum qualifications. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties, and requires substantially the same basic qualifications. If the transfer involves a change from one department to another, both Department Directors must consent to the transfer, unless the Personnel Officer orders the transfer for purposes of economy, efficiency, or the best interest of the City.

7.25 Demotion

The Personnel Officer or Department Director may demote an employee:

1. Whose ability to perform required duties falls below acceptable standards;
2. For disciplinary reasons;
3. When the need for the position which an employee fills no longer exists;
4. When an employee request such demotion.

7.26 Termination

At the discretion of the Personnel Officer or Department Director, an employee may be terminated or separated in the following manner:

1. On a weekday, other than a weekday that lands on a holiday; or
2. On the last weekday of a pay period.

The last day worked will constitute the employee's termination or separation date.

Section 8. Probationary Period and Seniority

8.01 Objective of Probationary Period

The probationary period shall be regarded as part of the selection process and utilized to closely observe and employee's work performance, evaluate the adjustment of a new employee to the position, and reject any probationary employee whose performance does not meet acceptable standards of work.

8.02 Performance Evaluation Reports

A. The City will make reasonable efforts to timely provide each employee a performance evaluation report as follows:

1. For Probationary Employees

Length of Probation	Performance Evaluation Dates
0 to 6 months	Mid-point of probation
Greater than 6 months	Mid-point and 2-weeks before end of probation

2. For Regular/Permanent Employees

- a. Every twelve (12) months on the anniversary date of the employee's successful passing of probation, or the anniversary date of appointment to a different position or classification.
- b. In the event a performance evaluation is not completed within fifteen (15) days after the anniversary date, the employee shall automatically receive a "satisfactory" rating (i.e., attains goals), which will be documented in a memo to file.

B. The performance evaluation report will be signed by the employee's Supervisor and Department Director as soon as practicable. Each report will be discussed with and signed by the evaluated employee, then submitted to the Personnel Officer and permanently retained in the employee's personnel file. If the employee refuses to sign their evaluation, the employee's supervisor will note the employee's refusal to sign and sign below this note.

C. Employee will receive a review of their job performance in order to determine whether or not a step adjustment is in order. Step increases are not to be construed as automatic in nature. If an employee's performance proves to be satisfactory, that employee shall be eligible for an increase which is defined as a Merit or Step Increase. A step increase

shall not be denied as a result of the failure to complete an annual performance evaluation.

8.03 Probationary Period

- A. A working evaluation period during which employees are required to demonstrate satisfactory performance for the duties to which they are appointed. Probationary periods range from six (6) to eighteen (18) months depending on the position, and will be extended for periods of paid or unpaid leave of absence upon recommendation of a Department Director and approval of the City Manager.
- B. A promotional appointment shall be probationary for six (6) months, twelve (12) months, or eighteen (18) months, as applicable. Probationary periods will be extended for periods of paid or unpaid leave of absence upon recommendation of a Department Director and approval of the City Manager.

8.04 Rejection of Probationer

- A. During the initial probationary period, an employee may be separated from City service by the Personnel Officer for cause or no cause without appeal rights. The Department Director shall notify the Personnel Officer in advance as to whether a regular appointment or rejection is recommended.
- B. Notification of rejection in writing shall be served on the probationary employee and a copy included in the employee's personnel file.

8.05 Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which the employee was promoted with no loss of seniority at the discretion of the Personnel Officer.

8.06 Seniority for Lay Off Purposes

- A. Whenever more than one person is appointed to the same classification on the same day, the seniority of each individual will be equal. In the event of a reduction in force (RIF), for whatever reason, individuals with the same seniority date will be laid off based on the following criteria:
 - 1. Years of service;
 - 2. Overall performance in City employment; and
 - 3. Special knowledge, skill, training, or experience.

8.07 Loss of Seniority

Seniority shall not be broken by vacations, sick time, or any authorized leave of absence or call to military service. All seniority rights shall be lost by an employee under the following circumstance if the employee:

- A. Resigns;
- B. Is discharged and fails to appeal;
- C. Fails to return to work when recalled after a layoff; or
- D. Is laid off for one year without being recalled, or two (2) years if the Re-employment List has been extended.

Section 9. Position Classification Plan

9.01 Classified Service Plan

The Personnel Officer shall ascertain and record the duties and responsibilities of all positions in the Classified Service and, after consulting with Department Directors, shall recommend a Classification Plan for such positions. The Classification Plan shall consist of classes of positions in the Classified Service defined by class specifications, including job title. The Classification Plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

9.02 Adoption, Amendment and Revision of Plan

The Classification Plan shall be adopted and may be amended from time to time by resolution of the City Council. Notice of City Council consideration of the proposed Classification Plan amendments, or revisions, shall be provided to Recognized Employee Organizations that represent the new or amended position class.

9.03 Assignment of Positions

Following the adoption of the Classification Plan, the Personnel Officer shall assign every position in the Classified Service to one of the classes established by the Plan.

9.04 New Positions

Newly established classifications shall be approved by the City Council.

9.05 Reclassification

The duties of any position which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions. A reclassification shall become effective after approval of the City Manager.

9.06 Salary Schedule Conformance

Employees shall be assigned a salary in conformance with the classification salary schedule, as the same may be amended from time to time by the City Council.

9.07 Interpretation of Class Specifications

The class specifications, commonly referred as "job descriptions" are descriptive and explanatory and not restrictive. They are intended to indicate the kinds of positions that are allocated to the various classes and should not be construed as limiting the assignment of duties and responsibilities to any position or modifying the authority of any Department Director to assign, direct and control the work of employees under supervision. The use of a particular expression or an illustration as to duties should not be interpreted to exclude others not mentioned that are of similar in kind or quantity, nor shall be any specific omission necessarily mean that such duty or requirement is not included. The specifications for each class should be considered in its entirety, and in relation to other classes in the classification plan. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications, and relation to other positions so that collectively they describe the kind of employment the class is designed to embrace.

9.08 Use of Class Title

Class title shall be the official title of every position allocated to the class for the purpose of personnel actions, and shall be used on all payrolls, budget estimates, official records, and reports relating to the position. Any other "working title" desired and authorized to be used by the Department Director may be used as a designation for purposes of internal administration or in contacts with the public, subject to advanced approval of the City Manager or designee.