

City of Kingsburg

PERSONNEL MANUAL



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Welcome to the City of Kingsburg

Welcome to the City of Kingsburg. In joining the staff of the City of Kingsburg, (hereinafter the “City”) you become an important part of a community of people dedicated to excellence. By working for the City, we gain the opportunity and the responsibility to make a real difference for the citizens of Kingsburg. Our continued success depends on your contributions and your service to the community.

This Personnel Manual (also referred to herein as “Manual”) is designed to provide you with the information necessary as an employee of the City. These pages should assist you in understanding what the City expects from you as a staff member and what you should expect from the City. For questions not answered here, please speak with your supervisor.

Regardless of whether you are newly employed or have years of service with the City, you should take time to familiarize yourself with this Manual. It is intended to help you establish a successful working relationship with the City.

The City reserves the right to make changes to this Manual at any time. Employees are responsible for knowing about and understanding any changes once they have been disseminated. Further, the City reserves the right to interpret the provisions of this Manual. For this reason, employees should check with the Director of Administrative Services to obtain information regarding specific employment guidelines, practices, policies, or procedures. Nothing set forth herein should be interpreted as creating a contract or a guarantee of continued employment. This Manual is intended for the personal use and reference by employees of the City. This Manual replaces all earlier personnel manuals and supersedes all prior rules, regulations, policies, practices, and/or procedures. If a provision of these rules conflicts with any provision of an applicable collective bargaining agreement entered into by the City of Kingsburg and a recognized employee organization, to the extent of such conflict, the provision of the collective bargaining agreement shall be deemed controlling unless the provision of these rules has been negotiated more recently.

The City has a reputation for excellence in many areas. By joining the City, you have become a part of a legacy of great achievement and even greater potential. Let’s work together to create and establish a community that we can all be proud of.

PERSONNEL MANUAL

CHAPTER I - GENERAL

SEC. 101 ADOPTION OF RULES, REGULATIONS, AND POLICIES

The following rules, regulations, and policies have been approved by the City Council by Ordinance pursuant to the authority granted in the City Charter of Kingsburg in order to establish an equitable and uniform procedure for dealing with personnel matters, and to place municipal employment on a merit basis so that the most qualified available people may be brought into and retained in the municipal service.

SEC. 102 ADMINISTRATION OF THE MERIT SYSTEM

The Director of Administrative Services is the Personnel Officer and Employee Relations Officer and shall administer the Merit Personnel System. The Director of Administrative Services may delegate any of the powers and duties conferred upon him/her as the Director of Administrative Services to any other officer or employee of the City.

SEC. 103 PURPOSE AND POLICY

The objective of the rules, regulations, and policies included in this Manual is to facilitate effective and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. This Manual sets forth, in detail, those procedures which ensure equal treatment for applicants and employees, and define the obligations, rights, privileges, benefits, and prohibitions placed upon all employees in the municipal service.

SEC. 104 PERSONNEL POLICY

It is hereby the declared personnel policy of the City of Kingsburg that:

- A. Employment and promotion by the City of Kingsburg shall be based on merit and fitness, free of personal and political considerations, and in no way, shall be based upon race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, or military and veteran status or any other basis protected by law.
- B. Tenure of employees covered by this Manual shall be subject to good behavior, satisfactory work performance, compliance with the terms of this Personnel Manual, continued necessity for the performance of work and the availability of funds.

SEC. 105 EMPLOYMENT CONSTITUTES ACCEPTANCE OF RULES

In accepting employment with the City, each employee agrees to be governed by and to comply with the Manual, and all other administrative rules, policies, and procedures established by the City and/or Director of Administrative Services pursuant thereto and any rules, regulations and/or directives of the department in which he/she is employed.

All employees holding a position in the municipal service on the effective date of this Manual shall thereafter be subject in all respects to all provisions herein. All current and new City employees will be provided with a copy of the Manual and shall be required to acknowledge receipt of same by their signature.

CHAPTER 2 - DEFINITIONS

SEC. 201 DEFINITION OF TERMS

The following terms, whenever used herein shall be defined as follows:

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

Continuous Service shall mean employment on a regular basis, which is not interrupted by terminations, or unprotected leaves of absence without pay. An unpaid unprotected leave of absence in excess of 90 days will constitute a break in service for purposes of computing continuous service, with such break in service commencing with the first day of each such unprotected leave in excess of 90 days. Unprotected leave constitutes a break in service since the FMLA requires continuation of benefits during FMLA (up to 4 months per year).

Disciplinary Probation shall mean a form of disciplinary action, as distinguished from probation for new employees as set forth in SEC. 901 herein, for a specified time, not to exceed one year. Persons placed on disciplinary probation may be terminated for failure to meet requirements.

Demotion shall mean the moving of an employee to a lower class (1) having a lower minimum rate of pay; and (2) to steps within the class with a rate of pay lower than the rate received by the employee immediately prior to the demotion.

Examination

- A. Open competitive examinations shall mean an examination for a particular class which is open to all persons meeting the qualifications for the class.
- B. Promotional examination shall mean an examination for a particular class,

admission to the examination being limited to regular and probationary employees of the City who meet the qualifications of the class.

- C. Continuous examination shall mean an open competitive examination, which is administered periodically as a result of which names are placed on an eligibility list, in order of final scores, for a period of not more than one year.

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

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

Probationary Status (see Chapter 9)

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

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

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

Shift Personnel shall mean personnel of the Public Works, Fire/Ambulance, and Police Departments whose duty assignment is other than the regularly scheduled workday Monday through Friday.

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

Temporary Employee shall mean personnel hired for a specified purpose(s) which is recognized to be of limited duration at the time of employment. A Temporary Employee may be, but is not always, seasonal.

Termination or Discharge shall mean the separation of an employee from municipal service. Termination may be by death, discharge, reduction-in-force, resignation, retirement, work completion, lack of work or funds, or for non-disciplinary reasons as specified in SEC. 404.

Transfer shall mean the movement of an employee from one job classification to another where the same salary range is assigned to both job classifications.

Y-Rating shall mean when an employee makes a job title or classification change which has a lower salary and/or benefit level, the employee's present salary and/or benefits shall be frozen until cost of living or other increases to the salary and/or benefits of his changed position have occurred which raise that changed position salary and/or benefit level to his frozen salary and/or benefit level. Once parity is achieved, the Y-Rating shall be removed.

CHAPTER 3 - EMPLOYMENT

SEC. 301 CITIZENSHIP

Employment is open to qualified persons who are citizens of the United States, or who are qualified non-citizens who have legal authorization to be employed in the United States. Sworn personnel must either be citizens of the United States or lawful permanent residents who are eligible for and have applied for citizenship. Failure to obtain citizenship within three years shall constitute grounds for termination.

SEC. 302 RECRUITMENT

Notices of employment opportunities may be placed in newspapers, the Internet, magazines, announcements, reputable agencies offering hiring services, or any other means available deemed to produce responses from qualified persons. The City, however, shall not pay any fee or service charge for any applicant who is referred to it by any employment agency.

SEC. 303 APPLICATION/EQUAL EMPLOYMENT OPPORTUNITY

All candidates for employment shall file an application on an official City application form. The specific position or department that candidates wish to apply for must be noted on the application. Separate applications must be submitted when applying for more than one position. Applications for employment submitted will be kept on file at City Hall for two years, or as otherwise required by law.

The City affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. The City prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, or military and veteran status or any other basis protected by law. Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing. Any employee having any questions regarding this policy should discuss them with the Director of Administrative Services.

SEC. 304 SELECTION PROCESS

The City has established standards, requirements, and procedures for hiring personnel consistent with its Charter and applicable laws. The City's nondiscriminatory hiring practice focuses on setting minimum qualifications for each position. Minimum qualifications may include appropriate education background, employment experience, skills, and licenses. The selection process may consist of such recognized techniques as achievement tests, aptitude tests, evaluation of personality and background through personal interviews, performance tests, evaluation of work performance, work samples, review and where authorized, investigation of personal background and references and finger printing.

Only after an offer of employment has been made will applicants be required to go through the following final steps as a condition of employment: Medical examination, physical agility test and where authorized, drug testing. All reports and records of all physical, psychological, and mental exams shall be kept in the offices of the physicians or mental health practitioners, with only a summary report provided to the Director of Administrative Services. This report will be kept in a confidential file, apart from the personnel file. Should there be a dispute concerning the exam, or should a supervisor be informed as to the need of reasonable accommodation including job restructuring, the report shall be made available to the necessary legal and supervisory or administrative personnel in the City on a strict need to know basis.

In the event written examinations are given, a candidate shall have the right to inspect his or her own examination papers unless prohibited by the vendor. Written examinations are only qualifying in nature.

Selection techniques will be impartial and shall relate to those areas which, in the opinion of the Director of Administrative Services, will adequately and fairly indicate the relative ability and quality of the candidates under consideration to execute the duties and responsibilities of the position to which they seek to be appointed.

Upon completion of the selection process, the City Manager/Department Head shall make appointments from those candidates who, on the basis of their performance in the selection process, appear most qualified for the position under consideration. The appointment shall become effective when the selected applicant has signed all official papers required by the City, and those papers bear the appropriate signatures confirming the appointment. All employees initially hired for any position with the City shall complete an employment eligibility verification statement in compliance with the federal Immigration Reform and Control Act of 1986 (I-9 Form).

SEC. 305 INELIGIBILITY OR DISQUALIFICATION

The Director of Administrative Services may withdraw anyone from consideration from employment, unless otherwise prohibited by law, whose appointment will be deemed contrary to the best interest of the City. Reasons for disqualification may include, but shall

not be limited to the following deficiencies:

- A. Lack of any of the requirements established for the examination or position for which he/she applies;
- B. Failure to submit application within the time limits specified in the job announcement;
- C. Unlawful use of any illegal or controlled substance as defined by law;
- D. Conviction of any felony, or conviction of a misdemeanor involving moral turpitude to be determined after the applicant has met the minimum qualifications for the position;
- E. Dismissal from any position for any cause which would be cause for dismissal by the City;
- F. Resignation from any position to avoid dismissal;
- G. Has made false statements of any material fact, or practiced any deception or fraud on the application or declarations;
- H. Request by applicant that his name be withdrawn from consideration;
- I. Failure to reply within a reasonable time, as specified by the Director of Administrative Services, to communication concerning availability for employment;
- J. Disqualification or unsuitability for employment as specified in any City or pertinent department rules or regulations;
- K. Anti-Nepotism Policy (see Section 1308);
- L. Used or attempted to use of political pressure or bribery to secure an advantage in the process;
- M. Directly or indirectly obtained information regarding examinations;
- N. Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;
- O. For any material cause, not prohibited by law, which in the judgment of the Director of Administrative Services or designee would render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City, or a significant disciplinary action.

Defective applications may be returned to the applicant with notice to amend and re-file, provided that the time limit for receiving applications has not expired. Whenever an application is rejected, notice of rejection will be mailed or e-mailed to the applicant.

If the application is rejected, the applicant can appeal the rejection to the Director of Administrative Services or designee within 10 working days of notice. The Director of Administrative Services or designee will review the appeal and either affirm the rejection or reinstate the applicant. However, if the interview and/or testing process have already begun, it may not be possible to reinstate the applicant. The Director of Administrative Services or designee's decision is final.

SEC. 306 CATEGORIES OF APPOINTMENT

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

- A. Regular: Regular employees are those who have been appointed to an authorized position in the Employee Classification Plan having a monthly salary, and who have successfully completed their probationary period and have been retained as hereafter provided in Chapter 9 of this Personnel Manual.
- B. Probationary: Probationary employees are those who through the regular examination process, have been appointed to an authorized position in the Employee Classification Plan having a monthly salary, but who have not completed the probationary period provided in Chapter 9 of this Personnel Manual.
- C. Part-time: Part-time employees are those hired for less than the standard forty (40) hour week and/or are paid on an hourly basis. Unless hourly rates are listed for specific part-time employees by job title in the Employee Classification Plan, they shall be compensated at an hourly rate equivalent to the applicable salary range and step.

Part-time employees may be suspended, demoted, or terminated at any time by the Department Head with or without cause or notice and without recourse to the appeal and grievance procedures provided in Chapters 10 and 11 herein. All part time employment is at-will.

SEC. 307 REAPPOINTMENTS

Reappointment after termination will be considered as new employment.

SEC. 308 CONTINUED EMPLOYMENT

Continued employment with the City of Kingsburg shall be subject to employee's good behavior, satisfactory work performance, necessity for the performance of work and

the availability of funds.

SEC. 309 REGULAR EMPLOYEE PERFORMANCE REPORTS

It is the responsibility of the immediate supervisor to observe and evaluate the job performance of assigned staff as well as to provide appropriate orientation to the job. A performance evaluation of each Regular Employee shall be made annually, or more frequently (if appropriate), by the Department Head on "City of Kingsburg Employee Performance Evaluation" forms and forwarded to the Human Resources department. The purpose of the performance evaluation is to encourage open communication between the employee and his or her immediate supervisor regarding expectations and performance, to identify opportunities for professional development and to establish goals and objectives for future progress and development.

The anniversary of a personnel action, such as promotion, demotion, transfer to a different class, or reclassification, determines the due date of the annual performance evaluation.

SEC. 310 TRANSFER

Any employee may be transferred from one department or division to another at the sole discretion of the City.

SEC. 311 PROMOTION

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

SEC. 312 DEMOTION

The City Manager or Department Head may demote an employee whose ability to perform his or her required duties falls below acceptable standards; or for disciplinary reasons set forth in SEC. 1003; or when the need for the position which an employee fills no longer exists; or when an employee requests such demotion. No employee shall be demoted to a classification for which he does not possess the minimum qualifications. When the action is disciplinary and initiated by the City Manager or Department Head, a written notice of the pending demotion shall be given to an employee at least ten (10) days before the effective date of the demotion. An employee may respond and appeal such action in the manner provided in SEC. 1005 and 1006, *et seq.*

SEC. 313 SUSPENSION

- A. By City Manager. The City Manager may suspend an employee under his/her control from his/her position at any time for disciplinary reasons set forth in SEC. 1003, or for other just cause including, but not limited to, inefficiency or incompetency. An employee may respond to and appeal such action in the manner provided in SEC. 1005 and 1006, *et seq.*
- B. By Department Head. Department Heads, may for the reasons specified in (A) above, suspend an employee. An employee may respond to and appeal such action in the manner provided in SEC. 1005 and 1006, *et seq.*

SEC. 314 REINSTATEMENT

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

CHAPTER 4 - TERMINATION OF EMPLOYMENT

SEC. 401 TERMINATION: RESIGNATION

An employee wishing to leave the employment with the City in good standing, shall file with their Department Head, a written resignation stating the effective date and reasons for leaving at least two (2) weeks before leaving, unless such time limit is waived by the Department Head. Failure to provide notice as required herein may be cause for denying future employment by the City. After an employee's resignation has been accepted, it cannot be withdrawn without the approval of the Director of Administrative Services and the City Manager. A resignation can be accepted by the Department Head even if it is submitted less than two weeks prior to the planned resignation date.

SEC. 402 TERMINATION: ABSENCE WITHOUT LEAVE

An employee is deemed to have resigned from his/her position if he or she is absent for three (3) consecutive scheduled work days/shifts without prior authorization, and without notification during the period of the absence. The employee will be given written notice, at his or her address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the City's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Department Head or Director of Administrative Services before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee separated for job abandonment has the right to a post-separation appeal.

SEC. 403 TERMINATION: LACK OF WORK OR FUNDS

- A. An employee may be terminated (laid off) under this Section by the City Manager for the following reasons: A shortage of work; lack of funds; material change in duties or organization; in the interest of economy; to reduce the staff of any City function; or the return of another City employee, occupying the same position, from a leave of absence; or for other good cause.
- B. Whenever a reduction in the work force becomes necessary, layoffs shall be made on the basis of demonstrable skill, reliability, and ability. When demonstrable skill, reliability, and ability are substantially equal, seniority as defined in this Section shall control. Layoffs shall be made by classification.
- C. Seniority shall be determined by the length of continuous service in the affected classification. Continuous service means the employee's total continuous service since date of appointment to the classification without break or interruption. Approved leaves, suspensions of less than one month, and layoffs of less than one year shall not constitute a break or interruption in service. In the event of a tie in seniority, rank on the list, date of application, and choice by lot, shall be used in that order to break the tie.
- D. Temporary employees in the class shall be laid off before probationary employees in the class who shall be laid off before regular permanent employees in the class.
- E. In the event an employee is laid off from a higher classification, he may be reinstated to a position in a lower classification which he was previously employed in, provided that the employee may not displace another employee in the lower class whose skills and abilities are greater, nor may the laid off employee displace an employee in the lower class whose skills and ability are substantially the same but who has greater seniority in the class. For the purposes of this section, service in a higher classification will be counted toward service in the lower class when the employee was directly promoted from the lower class to the higher class.
- F. Ability and skill shall be based on those written evaluations which are in the employee's file prior to the decision to implement layoffs. The City Manager shall make such determination after review of the file and consultation with the affected Department Head(s) and Supervisor(s).
- G. The names of employees who have been laid off shall be placed on a re-employment list for the affected classification maintained by the Director of Administrative Services and shall be eligible for re-employment for a period of one (1) year. Re-employment shall be in reverse order of layoff, provided such employees are otherwise qualified to perform the duties of

the positions available, and return to work within 14 calendar days of notice of re-employment. No new hires in any class where layoffs have taken place will be made until the re-employment list is exhausted. Failure to respond to a notice of re-employment or failure to accept re-employment shall result in removal from the re-employment list and all rights to re-employment are waived.

- H. Any employee laid off for six months or more may be required to pass a physical examination that is similar or equivalent to the pre-employment physical required for that particular classification.
- I. An employee may appeal such layoff by notifying the City Manager in writing within five (5) working days of receiving the notice of layoff. Such appeal shall be subject to the terms and conditions of SEC. 1104(B) and (C) and 1105 of the grievance procedures herein. An appeal of layoff shall be restricted to whether there is sufficient evidence to support the layoff of the individual, and shall not encompass arguments on the merits or necessity of the layoff itself. Once this appeal is finally adjudicated, there shall be no further appeals concerning that layoff. The filing of an appeal shall not affect the implementation of the layoff; however, in the event of a decision favorable to the grievant, he or she shall be reinstated and awarded back pay for the period from such layoff until reinstatement.

SEC. 404 TERMINATION: NON-DISCIPLINARY ACTION

Part-time, at-will and probationary employees may be terminated by the City Manager/Department Head any time, with or without notice, without cause or reason and with no right of appeal. Regular employees proposed for termination for cause, or for the convenience of the City, shall be given a written statement of the reasons for such termination and may respond and appeal such action in the manner provided in Chapter 10 of this Personnel Manual. Such cause shall be for disciplinary action, as set forth in SEC. 1003, *et. seq.*

SEC. 405 TERMINATION: DISCIPLINARY ACTION

An employee may be terminated at any time as disciplinary action, as provided for in Chapter 10 of this Personnel Manual.

SEC. 406 RETIREMENT: APPLICABLE REGULATIONS

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

SEC. 407 APPLICATION OF UNUSED SICK LEAVE TO RETIREMENT BENEFIT

Upon retirement under the Public Employees Retirement System, qualifying

employees may apply unused sick leave as authorized under Section 20965 of the Government Code. The Director of Administrative Services will advise all qualifying employees of the process by which this benefit can be realized.

SEC. 408 EXIT INTERVIEW

As soon as practical, following notice of resignation or termination, and prior to the employee's departure, the Director of Administrative Services may conduct an exit interview with the employee. This is done to ensure a mechanism for employees that leave the City of Kingsburg to provide information pertaining to their work experiences and the factors that contributed to their departing. Data from exit interviews may be used to help improve human resource management practices, e.g. recruiting, orientation, performance management, training, working conditions, etc. Additionally, the exit interview provides the City with information that may show trends in voluntary terminations and help guide efforts to improve areas that may be leading to turnover.

CHAPTER 5 - COMPENSATION AND HOURS

SEC. 501 POSITION CLASSIFICATIONS

Position classification is a system of identifying and describing different kinds of work in the City in order to permit equal treatment in employment practices and compensation. Each City position shall, on the basis of the duties, responsibilities, skills, experience, education, and training required of the position, be allocated to an appropriate class.

Each position shall have a concise descriptive title, a description of the essential and marginal functions (tasks) of the position, and statement of the qualifications for filling such positions. Such descriptions shall be approved by the City Council and shall be kept on file in the office of the City Clerk and shall be open for inspection by any interested party during regular office hours.

It shall be the duty of each Department Head to report to the Director of Administrative Services any and all departmental changes, which will significantly alter or affect changes in existing positions or proposed positions. The City Council shall approve all new or revised job descriptions and pay ranges for such positions.

SEC. 502 ADMINISTRATION AND REVIEW OF EMPLOYEE COMPENSATION PLAN

The City Council shall administer the Employee Compensation Plan for the City Manager. The Director of Administrative Services shall administer the Employee Compensation Plan for all other employees.

At least once a year, the Director of Administrative Services shall recommend to the City Council an appropriate salary range for each class. In case the salary range for a

class is changed by the City Council, all employees whose positions are allocated to this class shall be adjusted to the corresponding step in the new range.

SEC. 503 APPLICATION OF SALARY RANGES AND RATES

- A. Appointment. All initial appointments to classes assigned a pay range in the City Compensation Plan shall be at the first step of the salary range, provided that the City Manager may make an appointment to a position at an appropriate higher salary step when in his/her opinion it is difficult to obtain qualified personnel at the starting salary or when it appears that the education or experience of a proposed employee is substantially superior to that required of the class and justifies a beginning salary in excess of the first step.
- B. Promotion. An employee receiving a promotion shall start on the first step of the salary range of the class to which he or she is promoted, and be eligible for merit increases as elsewhere provided, unless his present salary level is equal to or exceeds the first step of the class to which he is promoted. In that event, is the equivalent of approximately a 5% increase in salary?

When the promotion includes the assigned responsibility of supervision over other employees, the salary level shall be increased by assigning the promoted employee to a higher step within the salary range to allow his annual salary to be above the salary of those he supervises.

- C. Transfer. A transfer does not affect an employee's salary level unless the transfer is for a punitive purpose and where the employee is provided sufficient notice and the right to appeal as stated in Chapter 10.
- D. Interim Compensation in the Event of Extended Employee Absence. In the event that an employee is performing duties which would normally be the responsibility of another employee who is on an approved absence which extends beyond thirty (30) days, the City Manager may increase the compensation of said employee by two salary ranges (approximately ten (10) percent) for the duration of the absence or more if approved by the City Council.

SEC. 504 ADVANCEMENT WITHIN SALARY RANGE

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

- A. Step increases within a pay range shall not be automatic but shall be based upon merit and then only upon written approval by the employee's

Department Head and the Director of Administrative Services. After six (6) months service, the employee shall be eligible for a step increase. Upon successful completion of probation, an employee shall be eligible for consideration for a step increase to the next step in the Compensation Plan.

- B. Time requirements: For purposes of determining time requirements as specified in the Employee Compensation Plan, time will commence on the first day of the payroll period coinciding with or following entrance into a classification or on to a salary step.

SEC. 505 SPECIAL PENALTY DECREASES

The Department Head may propose that the salary of any employee be decreased at any time to a lower salary step within the salary range, upon the recommendation that the quantity, quality, or manner of performance of services does not justify the salary being received, or other good cause; and, that such action would be subject to response and appeal as provided in SEC. 1004 and 1005, *et seq.*, herein.

SEC. 506 TIME INTERVALS FOR SUBSEQUENT SALARY INCREASES

In the event an employee's job is reclassified to a lower paying classification or his salary is reduced because of inability to meet the standards for a current salary step, the same time intervals for subsequent salary increases as indicated in SEC. 504 shall apply unless special review considerations are established at the time of the salary decrease.

SEC. 507 STANDARD WORK PERIODS

The standard work period for City employees shall be as follows:

The normal work week shall consist of five (5) consecutive days of Monday through Friday with eight (8) hours of work within a spread of nine (9) consecutive hours per day, with not less than one-half (1/2) hour nor more than (1) hour off for a meal at mid-shift, with quitting time adjusted accordingly. Within the normal five-day, eight-hour workweek, the Department Head has discretion to schedule group or individual normal daily starting times to be no earlier than 6:30 a. m. with normal daily quitting times to be no later than 6:00 p. m.

Employees represented by the Kingsburg Police Officers Association, Kingsburg Professional Firefighters Association, or Kingsburg Public Service Employees Association, should refer to the corresponding Memorandum of Understanding (“MOU”) for standard work period information.

SEC. 508 EXCEPTIONS TO STANDARD WORK PERIODS

The City Manager is hereby authorized to designate other work periods and

working hours for employees when, in his/her opinion, the best interest of the City may be served by such adjustment of the standard work periods and hours. The procedure for making adjustments in the standard work periods and hours shall be consistent with the provisions of Section 3504.5 of the Government Code and the City's MOUs.

SEC. 509 ATTENDANCE

For payroll purposes, employees will prepare and sign a bi-weekly time sheet, except in departments where timesheets are prepared and submitted by one designated employee. Time sheets will be authorized or signed by a supervisor. A schedule of payroll cut-off dates and paydays shall be distributed annually by the Finance Department.

SEC. 510 PAYROLL

Payroll is distributed at a biweekly rate. The pay period for most employees shall be every other week (Saturday through Friday) and compensation will be paid on every other Friday. Elected Officials will receive their stipends/compensation on a monthly basis.

Except for employees being terminated, employee compensation will be paid only on regular paydays. Employees leaving the municipal service will normally be paid on the regular pay day following the date of termination.

The method of distributing payroll checks shall be established by the Human Resources Department.

If you feel there is any error in your payroll rate, calculation methods, or any other aspect of benefits, vacation, etc., you must immediately bring this concern to the Human Resources Department. The situation will be more difficult to address if a large amount of time passes.

The lowest increment of time allowed to be recorded on a timesheet is $\frac{1}{4}$ of an hour.

The City of Kingsburg encourages all staff to use direct deposit of paychecks because of the advantages it offers. Direct deposit provides the convenience of having a paycheck electronically deposited into a checking and/or savings account. To enroll in direct deposit, employees should complete the *Direct Deposit Authorization Agreement* form, which is available from the Director of Administrative Services. After completing and signing the form, employees must attach a voided check or a document from their financial institution specifying the correct account numbers to deposit into, and return the materials to the Payroll Department. Refer to the relevant MOU for mandatory direct deposit requirements.

The City of Kingsburg is obligated by federal and state law to deduct or garnish wages from employee paychecks when child support, unpaid student loans, bankruptcy collection, or unpaid taxes are owed and/or overdue. Deductions from employee wages

occur when the City receives a valid request from federal, state or county institutions.

SEC. 511 COMPUTATION OF SALARY

Salary rates for all authorized City positions are set forth in the Employee Compensation Plan.

SEC. 512 OVERTIME POLICY DEFINITION

It is the policy of the City that overtime work is to be kept to the minimum consistent with protection of life, property and the efficient operation of the Department and activities of the City. Overtime must be expressly approved by the Department Head or supervisor.

Overtime work for all eligible employees, except as otherwise provided in SEC. 518-519 herein, shall be defined as any time worked beyond forty (40) hours in a given calendar week.

SEC. 513 OVERTIME COMPENSATION

Overtime shall be compensated for by payment at one and a half times the employee's regular rate of pay or as otherwise required by law or the applicable MOU between the City and the employee associations. Exceptions to this procedure will be made only upon written authorization of the City Manager.

SEC. 514 OVERTIME COMPUTATION

Employees who are called to work overtime on their day off or other off-duty hours, other than that of a standby status, shall be compensated for a minimum of two (2) hours of work at a rate provided in SEC. 513, except as otherwise provided in SEC. 519 of this Personnel Manual.

Overtime shall commence at the time an employee is directed to report and shall continue until released or the work is completed, whichever is the earlier.

SEC. 515 STANDBY COMPENSATION

Compensation shall be paid for standby time according to the applicable MOU.

SEC. 516 OVERTIME NOT APPLICABLE

Overtime compensation provisions shall not apply to Department Heads, the City Manager or to any other exempt employees, consistent with the provisions of the Fair Labor Standards Act.

SEC. 517 COMPENSATORY TIME

Compensatory time may be provided in lieu of overtime compensation at the rate of one and one-half times the overtime hours worked for employees in the following positions:

- Account Clerk I
- Account Clerk II
- Account Clerk II W A/P
- Account Clerk III
- Administrative Assistant
- Auto Equipment Mechanic
- Building Inspector I/Code Enforcement
- Building Inspector II/Code Enforcement
- Department Secretary I
- Department Secretary I W/Planning Commission Meetings
- Department Secretary II
- Department Secretary II W/Planning Commission Meetings
- Fire Captain/Paramedic
- Fire Captain/EMT
- Firefighter/Paramedic
- Firefighter/EMT
- Maintenance Worker I
- Maintenance Worker II
- Maintenance Worker III
- Police Sergeant
- Patrolman/Officer
- Police Services Technician
- Records Supervisor
- Water Operator I
- Water Operator II
- Water Operator III

Compensatory time shall be used or taken with the approval of the Department Head. According to the Fair Labor Standards Act, employees are subject to maximum caps regarding the amount of compensatory hours they earn. For work in “public safety,” “emergency response” and “seasonal” activities, the maximum cap is 480 hours (320 FLSA overtime hours worked). For all other jobs, the maximum cap is 240 hours (160 FLSA overtime hours worked). Refer to the applicable MOU for maximum caps. When employees reach their maximum caps, they must designate extra hours worked as overtime until their balance lowers. Also, any hours that accumulate above the maximum cap will be cashed out and paid to the employee.

Any employee who is separated from City service shall be entitled to payment for accrued compensatory time at the employee’s base hourly wage (which for Fire Captain/Firefighter/Paramedics/EMTs includes the applicable hourly holiday pay rate) at

the time of the employee's separation, less all normal deductions.

Requests for cash-outs of compensatory hours must be submitted with timesheets on the Friday prior to the end of the pay period.

SEC. 518 OVERTIME COMPENSATION EXCEPTIONS: COURT APPEARANCES

Any Police Officer appearing in court for The People (i.e., subpoenaed by the District Attorney's Office) during off-duty hours shall receive additional compensation at one and one-half times the employee's regular hourly rate as set forth in the Employee Compensation Plan. Any Police Officer subpoenaed to appear in court in civil cases or for the defense shall be compensated in accordance with State Law.

SEC. 519 OVERTIME COMPENSATION EXCEPTIONS: EMPLOYEE ASSIGNED NONSTANDARD WORK PERIODS

Overtime for employees assigned to nonstandard work periods and working hours, as provided in SEC. 508 herein, shall be defined as follows:

A. Police Department Employees

For the purpose of computing overtime, all hours in paid status shall be considered as hours worked. Overtime pay at the rate of one and one-half (1-1/2) times the employee's regular rate of pay shall be paid for all hours worked in excess of forty (40) hours per week.

The City and the Employee Organization agree that when the shift change occurs, the City shall pay for hours actually worked during the shift change week.

B. Fire Department Employees

Overtime pay at the rate of one and one-half (1-1/2) times the employee's regular rate of pay (which for Fire Captain/Firefighter/Paramedics includes the applicable hourly holiday pay rate) shall be paid for all hours worked in excess of fifty-six (56) or fifty-two and one-half (52.5) hours work week average, whichever applies, excluding voluntary, full or partial shift trades.

SEC. 520 OVERTIME: CONDITIONS OF LOCAL PERIL OR DISASTER

In case of disaster, state of extreme emergency or local peril, the overtime procedures established herein shall not be in effect and compensation procedures will be determined at that time for such conditions.

SEC. 521 DEDUCTIONS

Deductions from employee's pay shall be made in accordance with prevailing laws, contract and administrative rules and procedures established by the Director of Administrative Services.

SEC. 522 PAID HOLIDAYS

- A. Regular Holidays for Pay Purposes. The following holidays are recognized as municipal holidays for pay purposes and all employees shall have these days off except as otherwise provided in paragraphs (B) and (C) below:

<u>Holiday</u>	<u>Date</u>
New Year's Day	January 1
Martin Luther King Jr. Birthday	3rd Monday in January
Lincoln's Birthday	2nd Monday in February
Washington's Birthday	3rd Monday in February
Good Friday	1/2-day Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24th
Christmas Day	December 25th
Employee's Birthday	May be used as a floating holiday; must be used in same calendar year or it is lost.
New Year's Eve	December 31

When a holiday falls on Sunday, the following Monday shall be deemed to be the holiday in lieu of the day named. When a holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day named. Paid holidays which occur during an employee's scheduled vacation time will be treated as a "paid holiday" rather than a vacation day. Refer to the relevant MOU for any differences in which paid holidays an employee is entitled to.

- B. Police Department Personnel. Time off for paid holidays shall be taken when allowed by shift schedule.
- C. Fire Department Personnel. In lieu of fifteen (15) paid days off for holidays, the Fire Captain/Firefighter/Paramedic classifications receive the pay equivalent of one hundred sixty-eight (168) hours of "holiday pay" per year based on the then-applicable base hourly straight time wage rate for each employee in that classification, such holiday pay being accrued and

paid for all straight time hours in paid status at the rate of approximately five and seventy-seven one hundredths percent (5.77%) of the applicable Fire Captain/Firefighter/Paramedic base wage hourly straight time rate (e.g., 8 hours holiday pay per year divided by 2912 regular work hours per year equals 5.77%).

SEC. 523 TUITION REIMBURSEMENT

Employees who receive advance approval from their Department Head, and voluntarily attend and successfully complete (with a grade of “C” or better) community college, California State University, or other approved undergraduate courses of instruction or the equivalent (including technical institute courses) will be reimbursed for documented out-of-pocket expenditures for course fees and books, limited to \$400 per school year. As a condition of reimbursement, the employee must sign documents agreeing to reimburse the City if he/she leaves the City’s employment within one (1) year from the date of the City’s contribution or reimbursement payment.

Further, employees must submit documents establishing enrollment, grades and costs expended to the City prior to receipt of the reimbursement. Department Head approval should not be unreasonably withheld if the Department Head finds that a course or courses are job related and sufficient funds remain in the training appropriation.

SEC. 524 COMPENSATION FOR USE OF PRIVATE AUTOMOBILE IN CITY BUSINESS

Regular Employees may receive compensation for required use of their personal vehicle for City business. This may be in the form of a monthly vehicle allowance or a per mile reimbursement rate as established in the annual compensation and benefit plan resolution, prevailing IRS rate, or as per City policy.

All employees using their personal vehicle for City business must carry automobile insurance coverage of at least \$15,000/30,000 bodily injury and \$10,000 property damage, or as otherwise required by law.

CHAPTER 6 - SICK LEAVE

SEC. 601 STATEMENT OF POLICY

Sick leave is paid leave from work that can be used for the following purposes:

- a. diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee’s family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or
- b. for an employee who is a victim of domestic violence, sexual assault, or stalking to: i)

obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

- A. Employees may use up to ½ of his/her annual allotment of sick leave for the (a) diagnosis, care, or treatment of an existing health condition of, or preventive care for his or herself; (b) The diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee's family member (parent, child, spouse, registered domestic partner, parent-in-law, grandparent, grandchild, or sibling); or (c) An employee who is a victim of domestic violence, sexual assault, or stalking.
- B. No more than three (3) days of sick leave per year may be used by an employee, with the approval of the Department Head, as personal leave. Personal leave may not be granted or used to extend or increase approved vacation leave or compensatory time.

SEC. 602 ELIGIBILITY

- A. Regular, part-time, seasonal, temporary, or extra help employees shall be eligible to accrue sick leave as specified in this section.
- B. To receive compensation while absent on sick leave, the employee shall notify the head of his/her department as soon as possible prior to the absence. If that is not possible, the employee must notify the Department Head during the first day he/she is absent. Unless prohibited by law, the employee may be required at any time, by his/her Department Head, to submit a health care provider's certificate stating the date the employee was seen, that the employee is presently unable to work due to illness or disability, and the estimated duration of the absence due to illness or disability.

SEC. 603 ACCRUAL

Regular full-time employees will accrue fifteen (15) days of sick leave per calendar year. To equalize sick leave benefits between 40 hour per week and 56 hour per week personnel, each "day" of such benefits shall be equal to and shall mean 11.2 hours. Employees that work less than a Regular Full-Time Employee (40 hours per week) shall accrue their sick leave hours at a rate proportionate to the number of hours they work. Employees will not accrue sick leave during any unpaid leave of absence.

Part-time, seasonal, and temporary employees who are employed by the City for at least ninety (90) days will be eligible for three (3) days or twenty-four (24) hours of sick leave.

Healthy Workplaces Act (AB 1522)

Part-Time/Seasonal/Temporary Employees

The following policy applies only to part-time, temporary, and seasonal employees. Effective July 1, 2015, California's Paid Sick Leave law requires the City to provide paid sick leave to employees under the following conditions:

The City will provide each employee with 3 days or 24 hours, whichever is greater, of paid sick leave using the accrual method. Any unused accrued paid sick leave does not carry over year to year. An employee is not eligible to begin using any accrued paid sick leave until after 90 days of employment with the Agency.

In accordance with California's Paid Sick Leave law, an employee may use the first 3 days or 24 hours of accrued paid sick leave in a 12-month period for one of the following reasons:

- For the employee's own diagnosis, care, or treatment of an existing health condition or preventative care.
- For the diagnosis, care, or treatment of an existing health condition or preventative care for an employee's family member, including:
 - Child (including a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis.)
 - Spouse or Registered Domestic Partner;
 - Parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.)
 - Grandparent
 - Grandchild
 - Sibling
- To obtain any relief or services related to being a victim of domestic violence, sexual assault, or stalking including the following with appropriate certification of the need for such services:
 - A temporary restraining order or restraining order.
 - Other injunctive relief to help ensure the health, safety or welfare of themselves or their children.

- To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
 - To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
 - To obtain psychological counseling related to an experience of domestic violence,
 - Sexual assault, or stalking.
 - To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.
- An employee shall provide reasonable advance notification of their need to use accrued paid sick leave to their supervisor if the need for paid sick leave use is foreseeable (e.g., doctor's appointment scheduled in advance). If the need for paid sick leave use is unforeseeable, the employee shall provide notice of the need for the leave to their supervisor as soon as is practicable. Failure to do so without good reason shall result in that day of absence being treated as a leave of absence without pay.
 - An employee who uses paid sick leave must do so with a minimum increment of two hours of sick leave.
 - Paid sick leave will not be considered hours worked for purposes of overtime calculation.
 - In the event that an employee or a member of the employee's immediate family recovers from any such sickness after being granted sick leave, and during the regularly scheduled hours of work, then such employee shall notify the appropriate immediate supervisor and be available to return to duty.
 - Paid sick leave will not be granted to any employee absent from duty as a result of any sickness, injury or disability purposely self-inflicted or caused by willful misconduct.
 - Paid sick leave will not be granted to any employee to permit an extension of the employee's vacation.
 - Supervisors shall have the discretion to place employees on sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of such employee's duties.

- An employee will not receive compensation for unused accrued paid sick leave upon termination, resignation, retirement or other separation from employment from the City.
- If an employee separates from City employment and is re-hired by the City within one year of the date of separation, previously accrued and unused paid sick leave hours shall be reinstated. However, if a re-hired employee had not yet worked the requisite 90 days of employment to use paid sick leave at the time of separation, the employee must still satisfy the 90 days of employment requirement collectively over the periods of employment with the City before any paid sick leave can be used.
- An employee shall be subject to disciplinary action for abuse of sick leave which is defined as a claim of entitlement to sick leave when the employee does not meet the requirements of sick leave as defined herein.

SEC. 604 COMPENSATION

Eligible employees will receive pay at their normal base rate for any sick leave taken. Moreover, no employee will receive pay in lieu of sick leave under any circumstances, and employees will not be paid for any accrued, but unused sick leave upon termination of employment, except as authorized in SEC. 407 herein or relevant MOU.

SEC. 605 USE

- A. Sick leave may be taken for a personal illness, an emergency, a disability, for a family or medical leave, or to obtain any relief or services related to being a victim of domestic violence, sexual assault, or stalking, as described in this section and the in the City's Leave of Absence Policy. Additionally, eligible employees may also use sick leave in an amount not to exceed one-half of their annual accrual, to attend to their illness as defined in this chapter, or an illness of a child, parent, spouse, or domestic partner of the employee. Additionally, hours absent for medical and dental appointments will be treated as sick leave.
- B. Use of up to three (3) days' sick leave may be authorized to a Regular Employee by the head of his/her department in the event of death in the employee's family. For the purposes of this section only, the employee's family shall mean the spouse, parent, step-parent, child, step child, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandparents, spouse's grandparents, grandchildren, or a close relative residing in the household of the employee. Up to one (1) day of sick leave may be granted in the event of the death of a relative not a member of the employee's family as described above. Requests for sick leave in excess of three (3) days for this purpose shall be subject to approval by the City Manager/Department Head.

- C. Sick leave may be used as needed and approved, to the point of depletion, at which time the employee will no longer receive pay for sick leave or absence.
- D. Sick leave will not be granted for illness occurring during any leave of absence, with one exception: an illness or injury occurring while on vacation leave may be covered by sick leave, when such illness or injury causes the employee to be hospitalized.
- E. Accumulated sick leave will not be deducted for any injury or illness covered by Worker's Compensation for Police or Fire Department personnel governed by Section 4850 of the Labor Code.
- F. The City (management, department heads, and supervisors) reserves the right to determine if an employee is physically able to perform his/her duties. If, in the judgment of the City, an employee's physical condition might jeopardize the work product or the health and safety of the employee or others, the employee shall be directed to take sick leave, whether or not the employee has sick leave days accumulated. Any employee directed to take sick leave will be provided all due process rights specified in Chapter 10.
- G. The City will pay sick leave benefits to an eligible employee during the normal 3-day waiting period before the employee is paid worker's compensation benefits pursuant to the applicable state or federal law governing the industrial injury or illness. Similarly, the City will pay sick leave benefits during the normal seven (7) day waiting period before the eligible employee is paid benefits from either state unemployment disability or other insured unemployment disability plan.

SEC. 606 WORKER'S COMPENSATION: POLICE/FIRE DEPARTMENT PERSONNEL

An employee of the Police/Fire Department who is entitled to the benefits of Labor Code SEC. 4850, who is absent from work by reason of an injury or illness covered by Worker's Compensation, shall be allowed up to one-year leave of absence, as required by his/her condition, with the City supplying the difference between the amount granted pursuant to such Worker's Compensation and the employee's regular rate of pay.

- A. An employee of the Police/Fire Department who is absent from work by reason of an injury or illness covered by Worker's Compensation, will continue to accrue sick leave and vacation as though he/she were not on leave of absence; but shall not receive credit for holidays or paid days in lieu of holidays.
- B. Whenever such disability of an employee continues for a period beyond one year, the leave of absence may continue until the expiration of his/her

accrued sick leave and vacation, calculated to the nearest one-half day, with compensation at the employee's regular rate of pay.

- C. When it appears the employee cannot return to work by the expiration of such allowances, disability retirement shall be requested by the City to become effective at the expiration of these allowances unless the employee applies for or consents to his/her retirement as of an earlier date, at which time he/she may be compensated for his accrued benefits at his regular rate of pay.
- D. No employee of the Police/Fire Department shall be paid any disability indemnity under Worker's Compensation concurrently with wages or salary payments made by the City amounting to more than his/her regular rate of pay at any time during his leave of absence.
- E. No employee of the Police/Fire Department shall receive wage and salary payments from the City after a period of five years from the date of injury, for any one injury.

SEC. 607 WORKER'S COMPENSATION: ALL OTHER CITY EMPLOYEES

Any employee, other than Police/Fire Department personnel eligible for leave benefits under Labor Code Section 4850, who is absent from work by reason of an injury or illness covered by Worker's Compensation shall continue in pay status under the following provisions:

- A. The difference between the amount granted pursuant to such Worker's Compensation and the employee's regular rate of pay shall be deducted from the employee's accumulated sick leave and, when authorized by the employee, vacation accrual.
- B. Such an employee will continue in pay status and shall receive his/her regular rate of pay until his/her accumulated sick leave and vacation accrual have been depleted to the nearest one-half day.
- C. During this time, the employee is in pay status while absent from work by reason of injury or illness covered by Worker's Compensation, he/she shall continue to accrue sick leave and vacation benefits as though he/she were not on leave of absence, but shall not receive credit for holidays.
- D. Any employee, other than Police Department personnel, who depletes his/her accumulated sick leave, and vacation days to maintain pay status while absent from work by reason of an injury or illness covered by Worker's Compensation shall be removed from pay status and be covered under provisions of SEC. 609.

SEC. 608 FORFEITURE UPON TERMINATION

Employees leaving the municipal service prior to retirement, forfeit all accumulated sick leave.

SEC. 609 OPTION FOR CONVERSION OF SICK LEAVE TO VACATION OR CASH PAYOUT

Police Association. Employees who have an accumulated balance of thirty-five (35) or more days of sick leave as of the end of the last full pay period in June may elect once per calendar year to convert up to a maximum of five (5) sick leave days to an equal number of vacation days during the month of July, so long as the employee's remaining sick leave balance is not less than thirty (30) days after the conversion. The election will be done by responding to the City on the form designated for this purpose provided by the Payroll Clerk.

Firefighters Association. Employees who have an accumulated balance of thirty-three (33) or more days of sick leave as of the end of the last full pay period in June may elect to convert not more than three (3) sick leave days to an equal number of vacation days once per calendar year during the month of July so long as the employee's remaining sick leave balance is not less than thirty (30) days after such conversion. The election will be done by responding to City on the form designated for this purpose provided by the Payroll Clerk.

Miscellaneous Association and Department Heads. Employees who have an accumulated balance of thirty-three (33) or more days of sick leave as of the end of the last full pay period in June may Convert up to a maximum of three (3) sick leave days to an equal number of vacation days once per calendar year during the month of July so long as the employee's remaining sick leave balance is not less than thirty (30) days after the conversion. The election will be done by responding to the City on the form designated for this purpose provided by the Payroll Clerk.

SEC. 610 CASH PAYMENT FOR SICK LEAVE AT RETIREMENT

Fifty percent (50%) of all accumulated sick leave remaining, subject to any accumulation limits, will be paid at time of retirement, or may be used to purchase additional service time with PERS. For employees under the MOU between the City of Kingsburg and the Kingsburg Public Service Employees Association, after twenty (20) or more years of service to the City, an employee is entitled to cash out 75% of the sick leave hours accumulated at the date of retirement.

CHAPTER 7 - VACATION LEAVE

SEC. 701 USE OF VACATION

The purpose of annual vacation leave is to enable each eligible employee to take paid time off for rest and recreation and to return to his or her work mentally refreshed.

- A. Scheduling. Scheduling of employee vacations is to be done in a manner consistent with the City's operational requirements. Vacation requests should be submitted to an employee's supervisor or Department Head at least two weeks in advance of the commencement of the vacation period. Seniority may be a factor used in the event two or more employees request the same vacation periods.
- B. Waiting period. Employees must complete six (6) months continuous service before using accrued vacation leave, unless approved by Department Head/City Manager.
- C. Double Compensation prohibited. Employees shall not work for the City during their vacation.

SEC. 702 ELIGIBILITY

- A. Regular employees. Regular employees shall be eligible for vacation leave in conformance with the provisions of SEC. 703.
- B. Part-time. Part-time employees shall not be eligible for vacation leave.

SEC. 703 VACATION ACCRUAL

Vacation will be accrued and credited on a bi-weekly basis when an employee is in pay status for 50% or more of the work days or shifts in a given pay period. Each eligible employee shall accrue vacation at the following rate for continuous service beginning at the first of the year indicated or as otherwise established in the applicable MOU:

<u>YEARS OF SERVICE</u>	<u>VACATION ALLOWANCE</u>
1-5	12 Days
6	13 Days
7	14 Days
8	15 Days
9	16 Days
10	17 Days
11	18 Days
12	19 Days
13 - 19	20 Days
20 plus	25 Days

For purposes of calculating vacation for members of the Kingsburg Professional Firefighters Association, 11.2 hours equals a “day” as defined by 40 hour or 56-hour employee. Employees that work less than 40 hours per week shall accrue vacation hours at a rate proportionate to the amount of hours worked.

SEC. 704 HOLIDAYS FALLING DURING VACATION

In the event a City holiday falls within an employee's vacation period which would have excused the employee from work and for which no other compensation is made (see SEC. 522) said holiday shall not be charged as a vacation day.

SEC. 705 VACATION HOUR CASH-OUTS

Cash-outs for vacation hours may be done once per year according to the terms agreed upon in each City MOU. Requests for cash-outs of vacation hours must be submitted with timesheets on the Friday prior to the end of the pay period.

SEC. 706 VACATION AT TERMINATION

All employees terminated or leaving municipal service, with accrued vacation leave shall be compensated for the amount of accrued vacation in addition to their final paycheck. Compensation for accrued vacation shall be at the employee's current rate of pay.

SEC. 707 EFFECT OF EXTENDED MILITARY LEAVE

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

CHAPTER 8 - LEAVES OF ABSENCE

The City provides (A) family care and medical leave for up to 12 weeks per year in accordance with California's Moore-Brown-Roberti Family Rights Act and the federal Family and Medical Leave Act of 1993; (B) pregnancy leave for up to four months in accordance with the California Fair Employment and Housing Act; (C) disability leave as required to reasonably accommodate employees with a qualified disability under the Americans with Disabilities Act ("ADA") or the California Fair Employment and Housing Act ("FEHA"); and (D) leave for other legally required absences as set forth below. Employees having any questions regarding this policy should contact the Director of Administrative Services.

SEC. 801 LEAVE OF ABSENCE WITHOUT PAY

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

leave without the express approval of the City Manager/Department Head. No vacation or sick leave benefits shall be accrued or used during such leave.

- A. Approval of Department Head. A leave of absence without pay for a period of one (1) week or less, may be granted in the case of an emergency by the Department Head, based upon the merits of the individual case, at the sole discretion of the Department Head.

- B. Approval by City Manager. A leave of absence without pay, in excess of one (1) week's duration, may be granted by the City Manager based upon the merits of each individual case, at the sole discretion of the City Manager. Such leave shall not exceed twelve (12) months duration. If the employee is unable to return to work at the end of the authorized leave period, he/she must request further leave which will be subject to approval of the City Manager. If further leave is sought and granted, the employee must notify the City of his/her intent to return to work every thirty (30) days. A leave of absence without pay may be authorized by the City Manager as a reasonable accommodation for a disability as defined by the FEHA and the ADA.

SEC. 802 ABSENCE WITHOUT LEAVE

An employee is deemed to have resigned from his/her position if he or she is absent for three (3) consecutive scheduled work days/shifts without prior authorization and without notification during the period of the absence. Absence without leave approval for more than three (3) consecutive days may result in termination of employment in accordance with SEC. 402 of this Personnel Manual. Such termination shall not be subject to appeal. No employee separated for job abandonment has the right to a post-separation appeal.

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

Leave without pay for bereavement may be granted to regular employees by his/her Department Head, in the event of death of a family member other than immediate family, as defined elsewhere herein. Such leave to be granted in accordance with SEC. 801.

SEC. 804 FAMILY CARE AND MEDICAL LEAVE (FMLA)

To the extent not already provided for under current leave policies and provision, the City of Kingsburg will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department or Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA"), and the regulations of the California Family Rights Act ("CFRA"). Unless otherwise provided by this policy, "leave" under this policy shall mean leave pursuant to the FMLA and CFRA.

A. Definitions

1. “12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
2. “Single 12-month period” means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
3. “Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child.

A child is “incapable of self-care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living—such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

4. “Parent” means the biological, adoptive, step or foster parent of an employee, or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
5. “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage.
6. “Domestic Partner,” as defined by Family Code §§ 297 and 299.2 shall have the same meaning as “Spouse” for purposes of CFRA Leave.
7. “Serious health condition” means an illness, injury impairment, or physical or mental condition that involves:

A. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom); or

B. Continuing treatment by a health care provider: A serious health

condition involving continuing treatment by a health care provider includes any one or more of the following:

1. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three full consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

- Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist by a health care provider, by a nurse, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider. The first in-person treatment visit must take place within seven days of the first day of incapacity; or
- Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

2. Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.)

3. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

- Requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider;
- Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- May cause episodic rather than a continuing period of

incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

4. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision or, but need not be receiving active treatment by, a health care provider.

5. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

8. “Health Care Provider” means:

A. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

B. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;

C. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California law;

D. Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;

E. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

F. Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for

benefits.

9. “Active Duty or Call to Active Duty Status” means a duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation for members of the Reserve components, the National Guard, and certain retired members of the Regular Armed Forces and retired Reserve while serving on active duty status during a war or national emergency declared by the President or Congress.
10. “Contingency Operation” means a military operation that is (1) designated by the Secretary of Defense as an operation in which members of the United States Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (2) that results in the call to order to, or retention on, active duty members of the United States Armed Forces by law or any other provision of law during a war or national emergency declared by the President or Congress.
11. “Covered Servicemember” means: a) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or b) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
12. “Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
13. “Next of Kin of a Covered Servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military

caregiver leave under the FMLA.

14. “Serious Injury or Illness” means: a) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating; or 2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

B. Reasons for Leave

Leave is only permitted for the following reasons:

1. The birth of a child or to care for a newborn of an employee;
2. The placement of a child with an employee in connection with the adoption or foster care of a child;
3. Leave to care for a child, parent, spouse or domestic partner who has a serious health condition;
4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
5. Leave for a “qualifying exigency” may be taken arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation (under the FMLA only, not the CFRA); or
6. Leave to care for a spouse, son, daughter, parent, or “next of kin” servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).

C. Eligibility

To be eligible for family care and medical leave, an employee must (1) have worked for the City for at least twelve months prior to the date on which the leave is to commence; and (2) have worked at least 1,250 hours in the twelve (12) months preceding the leave.

D. Substitution of Paid Leave for Family Care and Medical Leave

The City requires an employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave, and may also require an employee to use family and medical care leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying. If an employee requests to use sick leave concurrently with leave, he/she is permitted to if the leave is for the employee's own serious health condition or the leave is needed to care for a parent, spouse, child, or domestic partner with a serious health condition, and would be permitted as sick leave under the City's sick leave policy.

E. Amount of Leave

Provided all the conditions of this policy are met, an employee may take a maximum of 12 weeks of family care and medical leave in a rolling 12-month period measured backwards from the date the employee's leave commences. Spouses who are both employed by the City may take a maximum combined total of 12 weeks of family care leave in a 12-month period for the birth, adoption, or foster care of their child.

The substitution of paid leave for family care or medical leave does not extend the total duration of family care and medical leave to which an employee is entitled to beyond 12 weeks in a 12-month period. For example, if an employee has accrued two weeks of unused paid vacation time at the time of the request for family care or medical leave that paid vacation time will run concurrently with the first two weeks of family care or medical leave, leaving up to ten additional weeks of unpaid leave.

Family care leave taken for the birth, adoption, or foster care placement of a child generally must be taken in blocks of at least two weeks' duration; however, the City will provide employees with family care leave for birth, adoption, or foster care placement for less than two weeks' duration on any two (2) occasions. Family care leaves for the birth, adoption or foster care placement of a child must be concluded within one year of the birth, adoption or placement.

Family care or medical leave for the employee's own serious health condition, or for the serious health condition of the employee's spouse, parent, or child, may be taken intermittently or on a reduced schedule where medically necessary. If leave is taken intermittently or on a reduced schedule, the City retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits which better accommodates the employee's leave schedule.

F. Leave's Effect on Pay

Except to the extent that other paid leave is substituted for family care or medical leave, family care and medical leave is unpaid.

G. Leave's Effect on Benefits

During an employee's family care or medical leave, for up to a maximum of 12 weeks in a 12-month period, the City shall continue to pay for the employee's participation in the City group health plans, pension and retirement plans, to the same extent and under the same terms and conditions as would apply had the employee not taken leave.

If the employee fails to return from the leave for a reason other than the recurrence or continuation of the health condition that brought about the leave or other circumstances beyond the employee's control, the City can recover any health premiums paid by the City on the employee's behalf during any unpaid periods of the leave. The City of Kingsburg shall have the right to recover premiums through deduction from any sums due the City (e.g. unpaid wages, vacation pay, etc.).

Employees on family care and medical leave accrue employment benefits, such as sick leave, vacation benefits, or seniority only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

H. Procedure for Requesting Family Care and Medical Leave

1. Notice Requirements. Employees should notify the City of their request for family care or medical leave as soon as they are aware of the need for such leave. For foreseeable events, if possible, the employee must provide 30 calendar days' advance notice to the City of the need for family care or medical leave. For events that are unforeseeable 30 days in advance, but are not emergencies, the employee must notify the City as soon as practicable, thus, as soon as he or she learns of the need for the leave, ordinarily no later than 1 to 2 working days after the employee learns of the need for the leave, and in compliance with the City's usual and customary policy related to absences. If the leave is requested in connection with a planned, nonemergency medical treatment, the employee may be requested to reschedule the treatment so as to minimize disruption of the City business.

If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the City reserves the right to delay the taking of the leave until at least 30 days after the date the employee provides notice of the need for family care or medical leave.

All requests for family care or medical leave should include the anticipated date(s) and duration of the leave. Any requests for extensions of a family care or medical leave must be received at least five (5) working days before the date on which the employee was originally scheduled to return to work and must include the revised anticipated date(s) and duration of the family care or medical leave.

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA-qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA-qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City may require the employee to exhaust accrued leave as described above.

2. Medical/Fitness Certification. Any request for medical leave for an employee's own serious health condition or for family care leave to care for a child, spouse, or parent with a serious health condition must be supported by medical certification from a health care provider. For foreseeable leaves, employees must provide the required medical certification before the leave begins. When this is not possible, employees must provide the required certification within 15 calendar days after the City's request for certification, unless it is not practicable under the circumstances to do so, despite the employee's good faith efforts. Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee's continued leave. Any request for an extension of the leave also must be supported by an updated medical certification.

The medical certification for a child, spouse, or parent with a serious health condition shall include (a) the date on which the serious health condition commenced; (b) the probable duration of the condition; (c) the health care provider's estimate of the amount of time needed for family care; (d) the health care provider's assurance that the health care condition warrants the participation of the employee to provide family care; and (e) in the case of intermittent or reduced schedule leave where medically necessary, the probable duration of such a schedule.

The medical certification for leave for the employee's own serious health condition shall include (a) the date on which the serious

health condition commenced; (b) the probable duration of the condition; (c) a statement that, due to the serious health condition, the employee is unable to perform the functions of his or her position; and (d) in the case of intermittent leave or reduced schedule leave where medically necessary, the probable duration of such a schedule. In addition, the certification may, at the employee's option, identify the nature of the serious health condition involved. If the City finds the certification to be deficient, the City will provide written notice to the employee of the deficiency providing employee with seven (7) days to cure the deficiency. If the City has reason to doubt the validity of the certification provided by the employee, the City may require the employee to obtain a second opinion from a doctor of the City's choosing at the City's expense. If the employee's health care provider and the doctor providing the second opinion do not agree, the City may require a third opinion, also at the City's expense, performed by a mutually agreeable doctor who will make a final determination.

Before permitting the employee to return to work, the City also may require the employee to provide medical certification that he or she is able to return to work. Specifically, the City may require that a fitness certification from employee's healthcare provider, which specifically addresses the employee's ability to perform the essential functions of said employee's job, be provided before employee can be reinstated. Further, the City may request that employee provide a fitness for duty certification from employee's healthcare provider for intermittent leave, if reasonable safety concerns exist.

I. Leave's Effect on Reinstatement

Leave's Effect on Reinstatement. Employees returning from family care or medical leave are entitled to reinstatement to the same or comparable position consistent with applicable law. The City retains the right to deny reinstatement to employees who are among the highest paid ten percent (10%) of the City's employees and whose reinstatement would cause substantial and grievous economic injury to the City's operations. Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

J. Military Family Leave

1. Injured Service Members. Eligible employees of covered service members may take up to twenty-six (26) work weeks of FMLA leave within a twelve (12) month period to care for a service member with a serious illness or injury incurred during or in the line

of active military duty. Eligible employees can take more than one period of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent service related serious injury or illness so long as it is within the same 26 work week period. A “single 12-month period” for purposes of military caregiver leave is a rolling 12-month period commencing on the date when an employee first takes leave to care for a covered service member with a serious injury or illness.

2. Members of the National Guard or Reserves. Eligible family members of National Guard and Reserve Personnel are entitled to take up to twelve (12) work weeks of FMLA leave to manage the military member’s affairs while that military member is on active duty in support of a contingency operation for any “qualifying exigency.” A “qualifying exigency” can include: short notice deployment, military events and related activities, child care and school activities, financial and legal arrangements, counseling, rest and recuperation, and post-deployment activities. Additional activities to address other events arising from the covered military member’s active duty or call to active duty status may also be deemed a “qualifying exigency” if the employer and employee agree that such leave qualifies, and agree to both the timing and duration of such leave.

The first time an employee requests leave because of a qualifying exigency, an employer may require the employee to provide a copy of the covered military member’s active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member’s active duty service. A copy of new active duty orders or similar documentation shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.

3. Medical Certification for Military Leave. The employer may require a certification for employees taking leave to care for a covered service member.

4. Military Leave and Regular FMLA Cannot be Taken at The Same Time. Leave that qualifies both as leave to care for a covered service member and leave taken to care for a family member with a serious health condition during the single 12-month period cannot be designated and counted as both types of leave. Instead, such leave must be counted only as military caregiver leave.

5. Employee's Rights and Responsibilities. For further information regarding employee rights and responsibilities under FMLA please see Notice of Employee Rights Under FMLA from the U.S. Department of Labor, a true and correct copy of which is attached hereto and incorporated herein as Appendix "A."

SEC. 805 PREGNANCY DISABILITY LEAVE

A. Leaves of Absence and Transfers

Any employee who is disabled on account of pregnancy, childbirth, or related conditions may take a pregnancy-related disability leave as defined by the Fair Employment and Housing Act (Gov. Code section 12945) for the period of actual disability of up to four months, in addition to any family care or medical leave to which the employee may be entitled, as per the Family Care and Medical Leave Policy. Pregnancy-related disability leaves may be taken intermittently, or on a reduced-hours schedule, as medically necessary.

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

B. Substitution of Paid Leave for Pregnancy-Related Disability Leave

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

C. Leave's Effect on Benefits

If an employee taking a pregnancy-related disability leave is also eligible for family care and medical leave under SEC. 804 of this policy, then the employee is entitled to the City's continuation of benefits as described therein, up to a maximum of 12 weeks in a 12-month period.

D. Other Terms and Conditions of Leave

The provisions of the City's Family Care and Medical Leave policy, (See SEC. 804 herein), regarding the leave's effect on pay, notice requirements, medical certification requirements, and reinstatement also apply to all pregnancy-related disability leaves. However, for pregnancy-related disabilities, there is no process for obtaining more than one medical opinion, and there is no reinstatement exception for key employees. For the

purpose of applying those provisions, an employee's pregnancy-related disability is considered to be a serious health condition.

SEC. 806 OTHER DISABILITY LEAVES

In addition to medical or pregnancy-related disability leaves described herein, employees may take a temporary disability leave of absence if necessary to reasonably accommodate a workplace injury or a disability as defined by the ADA or the FEHA. Any disability leave under this section may run concurrently with any medical leave to which the employee is entitled under this policy. Disability leaves under this section will be unpaid.

Employees taking disability leave must comply with the Family Care and Medical Leave provisions regarding substitution of paid leaves, notice, and medical certification as set forth in SEC. 804 herein. For the purpose of applying these provisions, a disability leave will be considered to be a medical leave.

If a disability leave under this section extends beyond 12 weeks in a 12-month period as defined by the FMLA and/or CFRA, the employee will not be entitled to any continued employer contributions towards any employee benefit plan. An employee, however, may elect to continue participating in such benefit plans, at the employee's own expense, to the extent permitted by such plans.

The duration of a leave under this section shall be consistent with applicable law, but in no event shall the leave extend past the date on which an employee becomes capable of performing the essential functions of his or her position, with or without reasonable accommodation. For a full explanation of leave duration and reinstatement rights, employees should contact the Director of Administrative Services.

SEC. 807 MILITARY LEAVE

The City will grant employees a military leave of absence to the extent required by applicable federal and state law.

A. Leave with Pay

Eligible employees who are members of a Reserve Component of the U.S. Armed Forces shall be granted military leave with pay for up to 30 calendar days in each fiscal year to attend active duty training and/or during their first 30 days of active duty under California Military and Veterans Code section 395.01. Because the statute uses the term "30 calendar days", the California Attorney General has defined this to mean that for an employee who works 40 hours each week, 30 calendar days consists of 21.5 working days or 172 working hours. Cal. Op. Atty. Gen. No. 02-213 (January 24, 2003). Any employee who is eligible to receive military leave with pay must present to his or her supervisor a copy of his or her orders or other appropriate documentation certifying performance of

required military duty.

An employee granted military leave for active-duty is entitled to receive the employee's regular pay for the first 30 calendar days of such leave in any one fiscal year, provided that the employee has been employed with the City for 12 continuous months immediately prior to the granting of the leave (all prior full-time military service shall be included in calculating this City employment requirement). An exception to this rule would be if an employee is granted military leave for emergency National Guard duty. In this case, an employee is entitled to receive their regular pay for a period not to exceed 30 calendar days in any one fiscal year regardless of the length of City employment.

An employee granted physical examination leave is entitled to receive the employee's regular pay provided that:

1. The physical examination is a pre-induction or pre-enlistment physical examination required to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable national emergency; and
2. The aggregate of payments for temporary military leave, extended military leave, and military leave for physical examination do not exceed 30 calendar days' pay in any one fiscal year.

Time off for other physical examinations in connection with military service may be charged to accrued sick leave, accrued vacation leave, or accrued compensatory time off, or shall be without pay.

During the period of military leave with pay, the employee will continue to earn and accumulate sick/vacation leave and may receive any promotion or salary increase for which he or she might be eligible. However, no merit salary adjustments shall be granted while an employee is on military leave. Employees serving a probationary period when called to inactive or active duty will receive credit for probationary time served. Upon return to active City employment, such employee must complete the remaining months of the required probationary period.

Employees shall not be entitled to military leave with pay for the following periods:

1. Duties resulting from disciplinary actions imposed by military authorities.
2. Unscheduled or incidental military activities such as volunteer work at military facilities (not in duty status), unofficial military activities, etc.
3. For inactive duty training (drills) performed for the convenience of the member, such as make-up drills.

An employee who is not eligible for military leave with pay may have such absence charged to accrued vacation or compensatory time off, or the military leave may be without pay. Following release from military service, an employee shall have the right to return, as specified by State and Federal law in effect at the time the employee applies for reinstatement.

B. Leave Without Pay

The City's military leave compensation provision does not include an employee's attendance at weekend reserve meetings or drills or medical examinations to determine physical fitness for military duty. Employees must use their own time for such activities. Should any of these unavoidably conflict with an employee's regular working hours, the employee is required to use accrued vacation/compensatory hours or leave without pay. If possible, the employee's work schedule will be appropriately rearranged to enable the employee to attend these mandatory training assemblies without the need for utilizing paid leave. The department head may require the employee to provide their unit training schedule which lists training dates for a month or more in advance.

All State Military Reserve personnel are entitled to unpaid temporary military leave up to 15 calendar days annually for inactive duty training, including time traveling to and returning from that duty under Military & Veterans Code, § 395.9. Employees are also entitled to up to 180 days of temporary military leave for active duty activities, including time traveling to and from such duty. However, employees have a right to extended leaves of absence and a right to reemployment after lengthier periods of ordered duty when called to active duty in certain emergency circumstances under Military & Veterans Code, §§ 143, 146, 395.05, 395.06, and 566.

An employee whose service is completed in 30 or fewer days will continue receiving health benefits on the same terms as he or she received prior to commencing a military leave. For service beyond 30 days, the employee has the ability to continue health benefits pursuant to applicable federal and state law. Upon an employee's return to work, the City will count the time spent on military duty as time worked (1) for determining eligibility for FMLA or CFRA leaves.

SEC. 808 JURY AND WITNESS DUTY; OTHER COURT APPEARANCES

The City will provide employees time off to serve, as required by law, on a jury or grand jury if the employee provides reasonable advance notice. Employees will be granted a paid leave of absence for the purpose of fulfilling jury duty.

Permanent and probationary employees shall be paid for this leave, provided the employee remits to the City all fees received for such duties, other than mileage or subsistence allowance within 30 days the termination of jury service. It is the responsibility of the employee to inform their supervisor when the duty is scheduled and the expected duration. Should jury duty occur on a scheduled day off, employee is not entitled to additional time off.

When a regular employee is subpoenaed to appear as a witness on behalf of the City, by a City, County, Public, District, or the State of California or any of its agencies, employee shall be granted a leave of absence with pay from their assigned duties until released. If court is on a day that would normally be their day off, the court time is to be considered as working time.

SEC. 809 OTHER LEAVE

Other unpaid leave as required by law will be provided by the City.

CHAPTER 9 - PROBATIONARY STATUS

SEC. 901 PROBATIONARY PERIOD

Original appointments to regular municipal service positions shall be tentative and subject to a one year probationary period at the time of appointment. However, regular employees in the Police Department will be subject to an 18 month probationary period at the time of appointment.

The probationary period for all employees may be extended, with the approval of the City Manager, for a period not to exceed six (6) additional months, where the Department Head finds that extraordinary conditions justify such extension.

SEC. 902 PROMOTIONAL PROBATIONARY PERIOD

The probationary period for all regular, non-sworn employees shall be one (1) year.

SEC. 903 OBJECTIVE OF PROBATIONARY PERIOD

The City seeks to hire the most qualified employees for each position. To ensure the hiring of the most qualified employees, the City provides for a probationary period of employment for the employee to assess the City and the job content, and for the City to evaluate the new employee and his or her job performance. All new employees must complete, to the City's satisfaction, a minimum one (1) year probationary period, beginning with the date of initial employment.

SEC. 904 PROBATIONARY EMPLOYEE PERFORMANCE REPORTS

A performance report of each probationary employee shall be made by the Department Head on "City of Kingsburg Employee Performance Evaluation Forms" according to the directions thereon and forwarded to the Director of Administrative Services. The Employee Performance Evaluation form shall be filed by the Department Head upon the completion of the employee's sixth month, one year and every year following that, corresponding with their original hire date at the City.

In those cases where the probationary period extends beyond twelve (12) months, the Employee Performance Evaluation form shall be required from the Department Head at

the conclusion of each three month interval, during said extension.

SEC. 905 REJECTION OF PROBATIONER

During the probationary period, an employee may be suspended, demoted, or terminated at any time by the Department Head, with or without cause or notice and without the right of appeal or grievance process.

CHAPTER 10 - DISCIPLINARY PROCEEDINGS

SEC. 1001 DISCIPLINARY ACTION: DEFINITION

As used in this Chapter, "disciplinary action" shall mean discharge, demotion, reduction in salary, reprimand, disciplinary probation, or suspension. A reprimand, either oral or written, shall not be subject to the provisions of SEC. 1003, 1004 and 1005.

SEC. 1002 DISCIPLINE

The purpose of discipline is to ensure high standards of performance and efficiency, to maintain good working relationships among employees, and to provide the citizens of the City with the highest possible level of courteous and professional public service. Employees are required to make a conscientious effort to work and act in accordance with the values, service standards, policies and guidelines of the City and the department in which they work. Each employee is expected to be self-disciplined and to work hard to be the best at what he or she does, to help the City provide a high level of public service. When an employee does not exercise adequate self-discipline, or is not successful in meeting the performance requirements of their job, it may be necessary for his or her Department Head or Supervisor to take disciplinary actions to correct the problem.

The following types of disciplinary actions are officially recognized by the City Manager. The extent of disciplinary action that may be taken shall be commensurate with the severity of the violation and include but are not limited to:

- A. Verbal Warning. A verbal warning is an oral reprimand given to an employee by his or her Supervisor or Department Head. A record of the warning shall not be recorded in the employee's personnel file. However, it will be noted by the Supervisor in the event that the verbal warning becomes relevant in the process of progressive discipline.
- B. Written Warning. A written warning informs the employee of the infraction (i.e. what occurred, date and time of events, the rule, policy, standard or agreement provision violated, the harm the employee's conduct caused or may cause the public service) and warns the employee to correct his/her actions (i.e. advises the employee of what he or she must do to improve). The employee is required to sign the warning to certify receipt. It then becomes part of the employee's personnel record, to be re-evaluated in six

(6) months for continued maintenance in the personnel file. The employee's side of the incident or write-up shall also be recorded and maintained in the personnel file.

- C. Suspension Without Pay. Department Heads must first consult with the City Manager before suspending an employee for more than 3 days. Because of the financial impact on the employee, this action is used by the supervisor only for very serious or often-repeated offenses. The employee is informed in writing of the infraction and the suspension and is warned to correct his/her actions. Regular employees are entitled to due process as stated in Sec. 1004 and 1005. The employee is required to sign the notice only to certify receipt, and, if the suspension is upheld after any appeal, it will become a permanent part of the employee's personnel file.
- D. Demotion. When utilized as a form of discipline, a demotion may be imposed when an employee is not performing well in the present position. A demotion is entitled to the due process procedures described in Sec. 1004-1005. Demotion may also occur for non-disciplinary reasons, such as the result of an economic layoff or other reduction enforce.
- E. Discharge for Cause. For extremely serious or flagrantly repeated violations, this final Disciplinary Action may be taken by the Department Head and City Manager/City Attorney. A discharged employee is entitled to the due process procedures described in Sec. 1004-1005.

The City reserves the right to impose whatever discipline is deems appropriate without resort to prior disciplinary steps.

Employees that work for the Community Services Department (other than the Senior Center) have a different discipline policy which will be provided to the employees at the beginning of such employees' employment.

SEC. 1003 CAUSES FOR DISCIPLINARY ACTION

The following is a list of misconduct, which may subject an employee to disciplinary action. This list is not exhaustive or exclusive; it is only representative of the types of misconduct, which may subject an employee to disciplinary action.

- A. Fraud in securing or retaining appointment.
- B. Neglect of duty/Incompetence or inefficiency in the performance of the duties of his or her position.
- C. Insubordination.
- D. Dishonesty including, but not limited to, theft of public property or funds, untruthfulness to avoid discipline or during an investigation preparatory to discipline, and being untruthful about any official matter.
- E. Being under the influence of, or the use, possession, sale or distribution of

alcohol or illegal or controlled substances on the City property or while conducting the City business.

- F. Theft.
- G. Absence without leave or approval or abuse of leave (excessive absenteeism or tardiness).
- H. Conviction of or plea of guilty or no contest to a felony.
- I. Discourteous treatment or offensive conduct/language of the public or other employees.
- J. Improper political activity as defined by State Law.
- K. Willful violation of safety, endangering property and persons, including failure to notify her supervisor of unsafe working conditions.
- L. Misuse or destruction of City Property.
- M. Violation of any of the provisions of this Personnel Manual or any other departmental rules, regulations, and/or policies.
- N. Other failure of good behavior either during or outside of duty hours which is of such a nature that causes discredit to the City.
- O. Refusal to take or subscribe to any oath or affirmation which is required by law in connection with employment.
- P. Unsatisfactory work performance.
- Q. Fraud in procuring benefits.
- R. Falsifying or altering City records.
- S. Altercations.
- T. A violation of the City's Anti-Discrimination/Harassment Policy.
- U. Unauthorized sleeping on the job.

SEC. 1004 PERSONS BY WHOM DISCIPLINARY ACTION MAY BE TAKEN:
NOTICE; SERVICE; CONTENTS

The City Manager and/or any Department Head are responsible for the conduct and effective performance of all employees under their jurisdiction and shall have the authority and the responsibility to discipline employees for violations of the City's personnel policies and any departmental rules, regulations, guidelines, or policies by notifying the employee, in writing, of the proposed action.

Disciplinary action against regular employees will be valid, in the absence of an emergency, only if a written notice of the proposed action is served on the employee and filed with the Director of Administrative Services ten (10) working days prior to the date of the proposed action. The notice shall be served upon the employee, either personally or by certified mail and shall include:

- A. A statement of the nature of the proposed disciplinary action.
- B. The effective date of the proposed penalty.
- C. A statement of cause(s) therefore.
- D. A statement in ordinary and concise language of the act or omission(s) upon which the cause(s) are based.
- E. A statement advising the employee that files and records bearing on the matter are available for the employee's inspection.

- F. A statement advising the employee of his right to respond, either orally or in writing, to the authority proposing the action.

SEC. 1005 RIGHT TO RESPOND

Any regular employee shall have the right to respond, either orally, in writing, or both orally and in writing to the authority proposing disciplinary action and have the response considered prior to the discipline being imposed. Such a response must be filed with the proposing authority within ten (10) working days after receipt of the written notice of the proposed disciplinary action. Failure to file a response within such period constitutes a waiver of the right to respond; however, a failure to respond shall not affect the employee's right to appeal the disciplinary action as provided in SEC.1006 herein.

If the authority proposing the disciplinary action, after reviewing the employee's response, dismisses or modifies the pending disciplinary action, a written notice will be filed with the Director of Administrative Services noting the changes from the originally proposed action.

If the authority proposing the disciplinary action, after reviewing the employee's response, finds no cause to dismiss or modify the pending disciplinary action, a written notice will be filed with the Director of Administrative Services and a copy of the notice will be personally served upon the employee.

SEC. 1006 RIGHT OF APPEAL: FORM

- A. Any regular employee shall have the right to appeal to the City Manager, any disciplinary action taken by the Department Head under SEC. 1002. Such appeal must be filed with the City Manager within ten (10) working days after receipt of written notice of the disciplinary action. Failure to file an appeal within such period constitutes a waiver of right of appeal. The appeal must be in writing and must state the basis of the appeal and the remedy sought.

The City Manager or his/her designee shall cause such appeal to be investigated and shall conduct an evidentiary hearing as provided in this Chapter.

- B. Any Department Head or other City employee, except as otherwise provided, under the control of the City Manager shall have the right to appeal, to the City Council, any disciplinary action taken by the City Manager under SEC. 1002. Such appeal must be filed with the City Clerk and a copy thereof served on the City Manager within ten (10) working days after receipt of written notice of the disciplinary action. Failure to file an appeal within such period constitutes a waiver of right of appeal. The appeal must be in writing and must state the basis of the appeal and the remedy sought. The City's Police and Fire Chief may also appeal any termination to the City Council.

Neither the provisions of this section nor this Chapter shall apply to reductions in work force or reductions in pay which are part of a general plan to reduce or adjust salaries and wages.

SEC. 1007 REPRESENTATION

The appellant may appear in person, be represented by counsel, or a duly authorized employee organization representative when responding to the authority proposing the action and at the evidentiary hearing of the appeal. Any City employee shall be entitled to representation at any or all stages of disciplinary procedures which are related to discharge, demotion, and reduction in salary, disciplinary probation, or suspension.

SEC. 1008 HEARING

The City Manager or City Council or their designee, shall conduct an evidentiary hearing on an appeal filed by any regular employee only in accordance with SEC. 1006 within a reasonable period of time, taking into consideration the schedules, rights and interests of all concerned. The City Manager or City Council may continue the hearing either for the convenience of the City or upon written application of the appellant, for a period not to exceed an additional twenty (20) days from the receipt of the appeal. Written notice of the time and place of the hearing and any continuance thereof shall be given to the appellant. Such hearings shall be conducted in accordance with the provisions of SEC. 11513 of the Government Code of the State of California, except that the appellant and other persons may be examined as provided in SEC. 19580 of said Government Code and the parties may submit all proper and competent evidence against or in support of the causes.

SEC. 1009 NOTICES TO WITNESSES: COST

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

SEC. 1010 FAILURE OF EMPLOYEE TO APPEAR AT HEARING

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

SEC. 1011 DECISIONS

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

Manager.

The notice of decision by the City Manager or City Council shall include the notice required by Code of Civil Procedure Section 1095.6 as follows:

NOTICE TO APPELANT

Pursuant to Code of Civil Procedure Section 1094.6, you have ninety (90) days from the date the decision was mailed to you within which to seek review of this decision pursuant to Code of Civil Procedure Section 1094.5. This decision was mailed to you on _____.

SEC. 1012 EFFECT OF CERTAIN DISCIPLINARY ACTIONS

- A. Oral reprimand. Employees receiving an oral reprimand may have it noted in the departmental record.
- B. Written reprimand. Employees receiving a written reprimand shall have a copy of the reprimand filed in their permanent record for future reference. Each employee's permanent record is in his/her personnel jacket and is kept in the Personnel Department.
- C. Suspension. Employees suspended from the municipal service shall forfeit all rights, privileges and salary while on such suspension with the exception of Group Health and Life Insurance Benefits.
- D. Discharge. Employees terminated pursuant to Chapter 4 of these Rules and Regulations shall be paid salary for vacation accumulated to the effective date of termination.

SEC. 1013 RELEASING OF INFORMATION RELATIVE TO DISCIPLINARY ACTION AGAINST MUNICIPAL EMPLOYEES

In the interest of preventing undue embarrassment and subsequent loss of ability to perform City work effectively, the following policy will prevail regarding release of information to the news media or the general public on personnel actions:

- A. No information will be released without prior approval of the City Manager.
- B. No information will be released until final action has been determined and taken.
- C. Even after final disposition of the matter, no details will be released other than the nature of the action taken.

The foregoing personnel procedure is sanctioned under the Ralph M. Brown Act and related laws. The Attorney General's opinions interpreting Government Code Section 54957 are as follows:

"The purpose of Section 54957 is to protect individual public employees and officers from unfavorable publicity, and to permit private inquiry into the employee's activities, or investigation of charges against such employees."

The release of information on police officer personnel shall be governed by and in accordance with state law including, but not limited to, the California Penal Code and Evidence Code regarding the confidentiality of peace officer's personnel files.

SEC. 1014 DISCIPLINARY ACTIONS NOT SUBJECT TO APPEAL AS STATED IN CHAPTER 10 OF THE CITY'S PERSONNEL RULES AND REGULATIONS

- A. Advisement. Employees receiving advisement may have it noted in their departmental record by the Department Head.
- B. Written Reprimand. Employees receiving a written reprimand shall have a copy of the reprimand filed in their permanent record for future reference. Each employee's permanent record is his/her personnel jacket kept by the personnel officer, except that certain records of police department employees may be maintained in the departmental personnel file.
- C. Employees who receive written reprimands may attach responses or rebuttals to the reprimand, which shall become part of the employee's official personnel file.

NOTE: Sections 1014 B and C do not apply to City Police Officers. Police Officers may appeal written reprimands as set forth in Section 1006, pursuant to California law.

CHAPTER 11 - GRIEVANCE PROCEDURES

SEC. 1101 PURPOSE OF CHAPTER

Grievance procedures for employees are provided herein for the following reasons:

- A. To promote improved employer-employee relations by establishing grievance procedures on matters for which an appeal or hearing is not provided by other regulations;
- B. To afford employees individually or through qualified employee organizations a systematic means of obtaining further consideration of problems after every other reasonable effort has failed to resolve them through discussions.

- C. To facilitate the notion that issues and grievances shall be settled as close as possible to the point of origin; and
- D. To provide that an informal process for hearing and resolution of grievances.

SEC. 1102 MATTERS SUBJECT TO GRIEVANCE PROCEDURE

A City employee shall have the right to present a grievance regarding wages, salaries, hours, and working conditions, for which an appeal right is not authorized or provided and is not prohibited under the provisions of Chapter 10. Disciplinary action is not subject to the grievance procedures.

SEC. 1103 INFORMAL GRIEVANCE PROCEDURE

An employee should first attempt to resolve a grievance or complaint through discussion with his/her immediate supervisor within 10 working days of the subject incident or occurrence. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, he/she shall have the right to discuss the incident or occurrence with his/her supervisor's immediate superior, if any.

Every effort should be made to find an acceptable solution by informal means at the most immediate level of supervision. If the employee is not in agreement with the decision reached through such discussion, he/she shall then have the right to file a formal grievance in writing, within ten (10) calendar days after receiving the informal decision of his superior or superiors. An informal grievance shall not be taken above the Department Head.

SEC. 1104 FORMAL GRIEVANCE PROCEDURE

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

- A. Department Review. The grievance shall be presented in writing to the employee's Department Head who shall discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The Department Head shall render his/her decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the grievance.

If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, he/she may present the grievance in writing to the City Manager. Failure of the employee to take further action within ten (10) calendar days after receipt of the decision, or within a total of twenty-five (25) calendar days if no decision is rendered, will constitute withdrawal of the grievance.

- B. City Manager Review. Upon receiving the grievance, the City Manager or his/her designated representative shall discuss the grievance with the employee, his/her representative, if any, and with all other appropriate persons. The City Manager may designate a fact-finding committee or an officer not in the normal line of supervision to advise him/her concerning the grievance. The City Manager shall render a decision in writing to the employee within fifteen (15) calendar days after receiving the grievance.

If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, he/she may present the grievance to the City Council.

Failure of the employee to take further action within ten (10) calendar days after receipt of the decision, or within a total of twenty-five (25) calendar days if no decision is rendered, constitutes withdrawal of the grievance.

- C. City Council Review. Upon receiving the grievance, the City Council or its designated representative shall discuss the grievance with the employee, his/her representative, if any, and with all other appropriate persons. The City Council may designate a fact-finding committee or any officer not in the normal line of supervision to advise it concerning the grievance. The City Council shall render a decision in writing to the employee within twenty (20) calendar days after receiving the grievance. The decision of the City Council shall be final.

SEC. 1105 CONDUCT OF GRIEVANCE PROCEDURE

- A. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewing party.
- B. The employee may request the assistance of another person of his/her own choosing in preparing and presenting his grievance at any level of review.
- C. Employees shall not be retaliated against for utilizing the City's grievance procedure.

SEC. 1106 NON-RETALIATORY CLAUSE

Employees shall not experience retaliation for exercising their legal rights herein. The City has zero tolerance for actions that are in retaliation against employees who exercise their legal rights. If you feel you are a victim of any type of retaliation, inform your supervisor as soon as possible. If you cannot speak to your supervisor regarding the situation, inform the Human Resources Department. The City will take the steps necessary to investigate and remedy the problem.

CHAPTER 12 - MISCELLANEOUS

SEC. 1201 REPORTS OF CHANGE OF STATUS

All actions involving employment and change in status of employment shall be reported by the Department Head to the Director of Administrative Services. Copies of such reports shall be furnished to the employee involved.

SEC. 1202 DAMAGE CLAIMS

Any employee of the City of Kingsburg filing suit for damages arising from occupational injury shall notify the Finance Director of the amount of damages collected from such suits in order that all expenses paid by the City may be recovered.

SEC. 1203 GRATUITIES

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

SEC. 1204 OUTSIDE EMPLOYMENT

Any regular employee desiring to engage in outside employment shall first obtain non-City conflict job approval from his/her Department Head. The employee shall submit a statement to his/her Department Head, naming the prospective employer, his address, and telephone number, and outline the proposed duties and the hours of work. Approval may be denied if, in the opinion of the Department Head, such outside employment is incompatible with the proper discharge of the employee's official duties. All such approvals shall be subject to review by the Department Head and the Director of Administrative Services.

A. Outside employment for Police Department personnel shall be governed as follows:

The role of a peace officer is a unique one in society and, as such, some limitations and restrictions regarding off-duty activities apply to those who hold that position. Because peace officers are required to be objective and impartial when carrying out their responsibilities, and rely exclusively upon facts and information provided to them, it is imperative that there not even appear to be a conflict of interest on the part of those officers. Therefore, and recognizing that many peace officers wish to engage in outside employment in order to augment their income, the legislature has empowered the chief executive of a law enforcement agency to declare certain types of outside employment as inconsistent with and/or in conflict with the fundamental responsibilities of a peace officer.

Since respect for law enforcement officers is paramount to their ability to perform their job, engaging in outside employment which would bring discredit, disrespect or embarrassment to that officer and/or his/her agency would be considered incompatible and

in conflict with the officer's primary role as a peace officer. Government Code Section 1126 sets forth factors which, in and of themselves, creates conflicts of interest. The Attorney General of California has opined that these are examples and not to be construed as a complete list. Additionally, the legislature requires that all agencies articulate in its outside employment conflict of interest policy those positions deemed incompatible and, therefore, not permitted.

If the situation arises in the future, a determination of whether outside employment constitutes a conflict of interest will be based upon the criteria set forth. Whether the outside employment brings discredit or disrepute upon this organization will also be considered when reaching such a decision.

Outside employment is in conflict if it brings discredit or disrepute upon this agency and/or:

1. Involves the use for private gain or advantage of the officer's local agency time, facilities, equipment and supplies, or the badge, uniform, prestige, or influence of his/her local agency office for employment, or;
2. Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his/her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his/her local agency employment or as a part of his/her duties as a local agency officer or employee, or;
3. Involves the performance of an act in other than his/her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection review, audit, or enforcement of any other officer or employee or the agency by which he/she is employee; or
4. Involves such time demands as would render performance of his/her duties as a local agency officer or employee less efficient. Examples of outside employment which are conflicts of interest include, but are not limited to:
 - A. Security guard
 - B. Private investigator, within this or counties directly adjacent to this County
 - C. Bartender
 - D. Bouncer
 - E. Sales clerk position in a liquor store or gun dealership
 - F. Process server
 - G. Repossessor

- H. Debt collection
- I. Legal Practice of Criminal Defense
- J. Card dealer, handicapper, change maker, caller, machine repairperson, keno runner, pit boss, table waitress, or employment in any gaming establishment where the employment is directly related to the primary purpose of the employer
- K. Bodyguard
- L. Employment as a "keeper".
- M. Funeral Escort where traffic control or the wearing of a uniform which resembles that of a peace officer is required

Employees who do not receive prior approval to engage in outside employment, or accept employment prior to receiving permission to do so, or who engage in any outside employment listed herein or determined to be a conflict of interest under this policy, may be subject to disciplinary action.

B. Appeal Process:

1. Any employee who has been denied the right to engage in outside employment based on the determination that his/her secondary employment falls within the prohibitions outlined in this policy may, within 5 days from the date on notification of the denial to engage in outside employment, file a written appeal to the Department Head.
2. If the employee is dissatisfied with the findings of the Department Head, he/she may then follow the following appeal procedures:

Employees shall have the right to appeal to the City Manager. Such appeal must be filed with the City Manager within ten (10) working days after receipt of findings of the Department Head. The appeal must be in writing and must state the basis of the appeal. The findings of the City Manager shall be final.

Authorization for outside employment is automatically terminated whenever the outside employer and/or nature of outside employment changes from that specified on the Personnel Action Form. When such a change occurs, employees shall apply for a new approval for outside employment as provided herein.

SEC. 1205 UNIFORM ALLOWANCE AND CLOTHING PROVISIONS

City employees may receive uniform allowances or clothing provisions when they are approved in the budgets of the respective departments or set forth in the MOUs.

Such allowances are to be used to acquire and maintain the specific departmental uniform in a neat and proper manner.

The Police/Fire Chief shall establish administrative rules and procedures for the administration of the uniform allowance program in their respective departments.

SEC. 1206 POLITICAL ACTIVITY

The political activity of City employees shall be governed by the following:

- A. Except as otherwise provided by law, or whenever on duty or in uniform, no employee shall be prohibited from engaging, or be coerced or required to engage, in political activity.
- B. No employee shall be prohibited from seeking election to, or serving as a member of the governing board of a school district.

SEC. 1207 CONFLICTS OF INTEREST

No employee shall engage in any business transaction nor shall have a financial interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties in the public interest or which would tend to impair his/her independence of judgment or action in the performance of his/her official duties, and is any way a violation of California law.

SEC. 1208 ANTI-NEPOTISM POLICY

Persons in the first degree of kinship to an existing employee of the City shall not be appointed to a position within the same department of the City. For purposes of this rule, the first degree of kinship includes those persons to whom the existing employee is directly related by blood, or marriage or other legal process, i.e., mother, father, sister, brother, spouse, children, step-children, as well as in-law relationships such as mother-in-law, father-in-law, brother-in-law, sister-in-law, etc. Persons in the first degree of kinship to employees in the Human Resource Department, Payroll Department or City Manager may not be employed by the City.

In determining rules and regulations governing the employment of City employees who become related by marriage after commencement of City employ, the City is guided by the principles enunciated in the FEHA which prohibits discrimination on the grounds of marital status. If a City employee marries another person employed by the City within the same department, both employees shall be allowed to retain their respective positions provided that a supervisory relationship does not exist at the time of marriage between these two positions. During the period of employment, no supervisor/subordinate marriage relationship shall exist between the two employees.

SEC. 1209 NON-FRATERNIZATION

In order to promote the efficient operation of the City's business and to avoid misunderstanding; complaints of favoritism; other problems of supervision, security and

moral; and possible claims of sexual harassment; managers and supervisors are forbidden from dating or pursuing romantic or sexual relationships with employees whom they supervise, directly or indirectly. Employees who violate this guideline will be subject to discipline, up to and including termination of employment.

SEC. 1210 TAXABILITY OF AWARDS AND GIFTS

Gifts, rewards, or awards may be provided to City of Kingsburg employees for work-related achievements and/or recognition, making special contributions and achieving major milestones such as years of service, promotion, departure or retirement. The expense for such gifts or awards must follow prescribed accounting and procurement procedures. The Internal Revenue Service classifies many awards to staff as taxable income subject to W-2 reporting and tax withholding. All monetary awards/gifts and cash equivalents, such as gift certificates and cards, are subject to personal income tax.

SEC. 1211 INVESTIGATIONS

The Human Resources Department is bound by law to investigate any claims that potentially involve discrimination, harassment, retaliation, and/or, but not limited to, threats of violence. If you disclose information of this nature to Human Resources, the appropriate action will be taken. Confidentiality will be maintained to the extent possible and as required by law.

SEC. 1212 GOSSIP

To foster teamwork and avoid misunderstandings, the City will not condone gossip. Do not discuss information of a private, personal nature concerning any employee, on or off the job. An employee shall not be subject to his/her personal life being gossiped about in the workplace. These types of conversations, whether true or untrue, can be hurtful, reduce productivity, interfere with City operations, and may result in litigation against the City.

SEC. 1213 TECHNOLOGY USE

The City provides various Technology Resources to authorized employees to assist them in performing their job duties for the City. Each employee has a responsibility to use the City's Technology Resources in a manner that increases productivity, enhances the City's public image, and is respectful of other employees. Failure to follow the City's policies regarding Technology Resources may lead to disciplinary measures, up to and including termination of employment. Moreover, the City reserves the right to advise appropriate legal authorities of any violation of law by an employee.

- A. Technology Resources Definition. Technology Resources consist of all electronic devices, software, and means of electronic communication including, but not limited to, the following: personal computers and workstations; lap-top computers; mini and mainframe computers; computer hardware such as disk drives and tape drives; peripheral equipment such as

printers, modems, fax machines, and copiers; computer software applications and associated files and data, including software that grants access to external services, such as the Internet; electronic mail (“email”); telephones; cellular phones; personal organizers; pagers; and voicemail systems.

B. Authorization. Employee access to the City’s Technology Resources is within the sole discretion of the City. Generally, employees are given access to the City’s various technologies based on their job functions. Only employees whose job performance will benefit from the use of the City’s Technology Resources will be given access to the necessary technology.

C. Use. The City’s Technology Resources are to be used by employees only for the purpose of conducting City business. Employees may, however, use the City’s Technology Resources for the following incidental personal uses so long as such use does not interfere with the employee's duties, is not done for pecuniary gain, does not conflict with the City’s business, and does not violate any City policy:

1. To send and receive necessary and occasional personal communications;
2. To prepare and store incidental personal data (such as personal calendars, personal address lists, and similar incidental personal data) in a reasonable manner;
3. To use the telephone system for brief and necessary personal calls. Long distance personal calls must first be cleared by your Department Manager. Employees may be personally liable for unauthorized calls and may be subject to discipline up to and including discharge for the same. The City assumes no liability for loss, damage, destruction, alteration, disclosure, or misuse of any personal data or communications transmitted over or stored on the City’s Technology Resources. The City accepts no responsibility or liability for the loss or non-delivery of any personal electronic-mail or voicemail communications or any personal data stored on any City property. The City strongly discourages employees from storing any personal data on any of the City’s Technology Resources.

D. Improper Use

1. Prohibition Against Harassing, Discriminatory and Defamatory Use. Employees are strictly prohibited from using the City’s Technology Resources in any manner that constitutes a violation of the City’s “Policy Against Harassment.” As set forth more fully in the City

"Policy Against Harassment," the City does not tolerate discrimination or harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, or military and veteran status, or any other basis protected by state and federal law. Under no circumstances may employees use the City's Technology Resources to transmit, receive, or store any information that is discriminatory, harassing, or defamatory in any way including, but not limited to, sexually-explicit or racial messages, jokes, or cartoons whether sent to or received from another City employee or a third party. Any violations of this policy may result in discipline, including termination.

2. Prohibition Against Violating Copyright Laws. Employees must not use the City's Technology Resources to copy, retrieve, forward or send copyrighted materials, unless the employee has the author's permission or is accessing a single copy only for the employee's reference.
3. Other Prohibited Uses. Employees may not use the City's Technology Resources for any illegal purpose, in violation of any City policy, in a manner contrary to the best interests of the City, in any way that discloses confidential or proprietary information of the City or third parties, or for personal or pecuniary gain.

E. City Access To Technology Resources. All messages sent and received, including personal voice messages, text messages, emails, and all data and information stored on City electronic-mail system, voicemail system, or computer systems are property of the City regardless of the content. As such, the City reserves the right to access all of its Technology Resources including its computers, voicemail, and electronic-mail systems, at any time, in its sole discretion. Employee has no right or expectation of privacy related to use of the City's Technology Resources.

1. Privacy. On occasion, the City may need to access its Technology Resources including computer files, electronic-mail messages, and voicemail messages. Employees should understand, therefore, that they have no right of privacy with respect to any messages or information created or maintained on the City's Technology Resources, including personal information or messages. The City may, at its discretion, inspect all files, documents, emails, or messages stored on or in its Technology Resources at any time, for any reason. The City may also monitor its Technology Resources at any time in order to determine compliance with its policies, for purposes of legal proceedings, to investigate misconduct, to locate

information, or for any other business purpose.

2. Passwords. Certain areas of the City's Technology Resources can be accessed only by entering a password. Passwords are intended to prevent unauthorized access to information. Passwords do not confer any right of privacy upon any employee of the City. Thus, even though employees may maintain passwords for accessing Technology Resources, or may password-protect documents, files, or information on the City's Technology Resources, employees must not expect that any information maintained on Technology Resources, including documents, electronic-mail and/or voicemail messages, are private. Employees are expected to maintain their passwords as confidential. Employees must not share passwords and must not access coworkers' systems without express authorization. However, each Employee must provide their Department Head with their personal passwords.

3. Data Collection. The best way to guarantee the privacy of personal information is not to store or transmit it on the City's Technology Resources. To ensure that employees understand the extent to which information is collected and stored, below are examples of information maintained by the City. The City may, however, in its sole discretion, and at any time, alter the amount and type of information that it retains.
 - A. Although voicemail is password protected, an authorized administrator can reset the password and listen to voicemail messages.

 - B. Electronic mail is backed-up and archived. Although electronic mail is or may be password protected, an authorized administrator can reset the password and read electronic mail.

 - C. Internet Use: Internet sites visited, the number of times visited, and the total time connected to each site is or may be recorded and periodically monitored.

Deleted Information. Deleting or erasing information, documents, or messages maintained on the City's Technology Resources is, in most cases, ineffective. All employees should understand that any information kept on the City's Technology Resources may be electronically recalled or recreated regardless of whether it may have been "deleted" or "erased" by an employee. Because the City periodically backs-up all files and messages, and because of the way in which computers re-use file storage space, files and messages may exist that are thought to have been deleted or erased. Therefore, employees who delete or erase information or messages should not assume that such information or messages are confidential.

- F. The Internet And On-Line Services. The City provides authorized employees access to on-line services such as the Internet. The City expects that employees will use these services in a responsible way and for business-related purposes only. Under no circumstances are employees permitted to use the City's Technology Resources to access, download, or contribute to Internet sites that contain inappropriate content such as gross, indecent, or sexually-oriented materials, gambling, and information related to illegal drugs.

The City may monitor both the amount of time spent using on-line services and the sites visited by individual employees. The City reserves the right to limit such access by any means available to it, including revoking access altogether.

- G. Software Use. All software in use on the City's Technology Resources is officially licensed software. No software is to be installed or used that has not been duly paid for and appropriately licensed to the City for proper use. No employee may load any software on the City computers, by any means of transmission, unless authorized in writing in advance by the Director of Administrative Services or other designated supervisor. Authorization for loading software onto the City computers should not be given until the software to be loaded has been thoroughly scanned for viruses.

- H. Confidential Information. The City is very sensitive to the issue of protection of trade secrets and other confidential and proprietary information of both the City and third parties ("Confidential Information"). Therefore, employees are expected to use good judgment and to adhere to the highest ethical standards when using or transmitting Confidential Information with The City's Technology Resources.

Confidential Information should not be accessed through the City's Technology Resources in the presence of unauthorized individuals. Similarly, Confidential Information should not be left visible or unattended. Moreover, any Confidential Information transmitted via Technology Resources should be marked with the following confidentiality legend:

"This message contains confidential information. Unless you are the addressee (or authorized to receive for the addressee), you may not copy, use, or distribute this information. If you have received this message in error, please advise [employee's name] immediately at [employee's telephone number] or return it promptly by mail."

Employees should avoid sending Confidential Information over the internet, except when absolutely necessary. Employees should also verify electronic-

mail addresses before transmitting any messages.

SEC. 1214 EMPLOYEE PRIVACY

The City will not release employee information to third parties unless the recipient has a business reason to know, as defined in the Civil Code. Employee information will not be released to outside sources without the employee's approval, except to verify employment dates and most recent job title, or as required by law. Direct any inquiries about employee information to the Human Resources Department.

SEC. 1215 POLICY AGAINST DISCRIMINATION AND HARASSMENT

A. PURPOSE OF POLICY

The City of Kingsburg has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. The City has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation.

The City encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible. Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

The individuals covered by this Policy are: applicants, employees regardless of rank or title, elected or appointed officials, interns, volunteers, and contractors. This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

B. DEFINITIONS

Protected Classification

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, or military and veteran status, or any other basis protected by law. (Gov. Code § 12940(a).) This Policy prohibits discrimination, harassment or retaliation because: 1) of an individual's protected classification; 2) 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.

Protected Activity

This Policy prohibits discrimination, harassment or retaliation because of an individual's protected activity. Protected activity includes: making a request for or receiving an accommodation for a disability; making a request for or receiving accommodation for religious beliefs or practices; making or supporting a complaint under this Policy; opposing violations of this Policy; or participating in an investigation pursuant to this Policy.

Harassment Defined

Harassment includes, but is not limited to, the following types of behavior that are taken because of a covered individual's actual or perceived protected classification:

- a. Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race, ethnic or sexually oriented stories and jokes.
- b. Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- c. Visual acts, such as derogatory gestures, posters, cartoons, emails, pictures or drawings related to a protected classification.
- d. Sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment. (Gov. Code §12940(j); 2 Cal. Code Regs § 11091(b)(1).)

Harassment includes any conduct which would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:

- a. It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
- b. Simply because no one has complained about a joke, gesture, picture, physical

contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.

c. Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.

d. Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

Bullying Defined:

Generally, bullying is repeated, potentially health-harming mistreatment of another employee. Examples of prohibited bullying include, but are not limited to: screaming; swearing; name calling; stealing; giving dangerous work assignments; using threatening, intimidating, or cruel behaviors; deliberately humiliating a person; denying advancement; and stealing work credit. Generally, bullying involves: (1) written, verbal, graphic or physical acts (including electronically transmitted content, such as using the Internet, a cell phone, a personal digital assistant (PDA), or a wireless handheld device); (2) behavior that substantially interferes with work, opportunities, and benefits of one or more employees, sometimes through actual sabotaging of work; (3) behavior that adversely affects an employee's ability to function at work by placing the employee in reasonable fear of physical harm or by causing emotional distress.

C. Reporting And Investigating Harassing Conduct

Director of Administrative Services Director of Administrative Services Director of Administrative Services Director of Administrative Services

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor, manager, department head, or Director of Administrative Services without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the Director of Administrative Services. Upon receiving notification of a harassment complaint, the Director of Administrative Services will complete and/or delegate the following steps.

If the Director of Administrative Services is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

a. Authorize and supervise the investigation of the complaint and/or investigate the

complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.

b. Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.

c. Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.

d. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.

e. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

Every reported complaint of harassment, discrimination, and/or retaliation will be investigated thoroughly and promptly by the Director of Administrative Services.

The City may also choose to retain the services of an independent investigator at the City's sole discretion. The City Attorney may be involved in the selection of an independent investigator. The Director of Administrative Services or other City official responsible for the investigation, will notify the victim of the results of the investigation. The investigation will be handled in as confidential a manner as possible consistent with a full, fair, and proper investigation.

The investigation, discipline, and disposition of a harassment, discrimination, and/or retaliation complaint against a member of the City's police force shall be governed by Department Order. Further, if a complaint of harassment is made against the City Manager, the City Attorney shall institute an investigation and shall report the same to the City Council. If the complaint regarding the City Manager is deemed founded, following an investigation, the City Council may discipline the City Manager consistent with its authority under the City Charter, City ordinance, or other resolutions or rules governing discipline of the City Manager. Additionally, the City Council may discipline an elected official for violation of this Policy, in whatever manner it deems appropriate, consistent with its authority under state law, the City Charter, City Ordinances, Resolutions, and/or other rules governing discipline of elected officials.

Option to Report to Outside Administrative Agencies

In addition to notifying the City about harassment or retaliation complaints, affected employees may also direct their complaints to the California Department of Fair

Employment and Housing ("DFEH"), which has the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. If the DFEH believes that a complaint is valid and settlement efforts fail, the DFEH may seek an administrative hearing before the California Fair Employment and Housing Commission ("FEHC") or file a lawsuit in court. Both the FEHC and the courts have the authority to award monetary and non-monetary relief in meritorious cases. Employees can contact the nearest DFEH office or the FEHC at the locations listed in the City's DFEH poster or by checking the state government listings in the local telephone directory.

D. Corrective Action

The City will not tolerate retaliation against any employee for making a complaint of harassment or for cooperating in an investigation. If harassment or retaliation is established, the City will take corrective action. Corrective action may include, for example: training, referral to counseling, or disciplinary action ranging from verbal or written warnings to termination of employment, depending on the circumstances, at the sole discretion of the City, on a case by case basis.

Confidentiality

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. 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 court order.

Responsibilities

(a) Each non-manager or non-supervisor is responsible for:

1. Treating all individuals in the workplace or on worksites with respect and consideration.
2. Modeling behavior that conforms to this Policy.
3. Participating in periodic training.
4. Cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.
5. Taking no actions to influence any potential witness while the investigation is

ongoing.

6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or Director of Administrative Services.

(b) In addition to the responsibilities listed above, each manager and supervisor is responsible for:

1. Informing employees of this Policy.

2. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.

3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.

4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.

5. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.

6. Assisting, advising, or consulting with employees and the [Personnel Officer] regarding this Policy.

7. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.

8. Implementing appropriate disciplinary and remedial actions.

9. Reporting potential violations of this Policy of which he or she becomes aware to the Director of Administrative Services regardless of whether a complaint has been submitted.

10. Participating in periodic training and scheduling employees for training

SEC. 1216 MODIFIED DUTY/RETURN TO WORK

It is the desire of the City to control workers' compensation costs. A Modified Duty/Return To Work Program is an essential part of a cost containment effort. Modified duty/return to work assignments are temporary assignments to assist injured or ill

employees to progressively escalate to full duty status.

The City has established this Modified Duty/Return To Work Program with the following objectives:

- A. To return all injured employees to work as soon as possible without danger of re-injury.
- B. To reduce the number of employee days lost from work and the cost of workers compensation temporary disability benefits.
- C. To increase communication with injured employees.
- D. To reduce the number and expense of litigated cases.
- E. To diminish the feelings of unproductiveness and depression which often accompany an employee's work-related injury and to reinstate self-confidence and dignity in their place.
- F. To meet the City's obligations under the Labor Code and employee contracts.
- G. To perform tasks for the City which can be supplemental, enhance service, or that currently go undone or which would otherwise require extra help, while at the same time providing productive work for a temporarily injured employee.

Modified duty/return to work assignments are only temporary assignments designated for employees who were injured in the course of City employment or as a possible reasonable accommodation for a disability and who can return to work within the physical restrictions set forth by their doctor. These assignments are established for a period not anticipated to exceed two or three months. The assignments created for modified duty/return to work participants are not permanent assignments and are not funded in the most recently approved budget. It is in no way the intent of the City to make these permanent assignments.

It shall be the policy of the City that all supervisors implement, maintain, and adhere to the Modified Duty/Return To Work Program guidelines for work related injuries or as otherwise direction.

- A. Program Guidelines:
 - 1. Injured employees will be medically treated as deemed appropriate. The City's designated medical provider will be aware of the City's Modified Duty/Return To Work Program so they can assist the City in placing the injured employee in an appropriate assignment.

A. Upon return from the doctor's office, the employee and supervisor will meet to discuss the work restrictions as reported by the doctor on the Medical Service Order. If the work restrictions require modified/light duty work, then such assignment will be evaluated and made available in the work unit if possible.

B. If any question should arise concerning the injured employee's ability to perform a specific modified/light duty assignment, the doctor who authorized the modified work must be contacted for clarification.

C. If no modified duty/return to work assignment is available within the injured employee's regular department, the supervisor will contact the Director of Administrative Services within one working day following the meeting with the employee. If modified/light duty work is not available within the employee's normal work area, verbal notification shall be given by the Director of Administrative Services as to the availability and location of modified duty/return to work assignments. If no assignments can be found, the injured employee will be placed on temporary disability until such time as appropriate work, within the work restrictions, is available, or the restrictions are lifted pursuant to direction from the doctor. The City has the duty to reasonably accommodate an injured employee within their current structure, but no duty to create a position specifically for the injured employee.

A letter or memorandum notifying the injured employee of the modified duty/return to work assignment must always follow the oral notification. If the injured employee refuses the modified duty assignment, no temporary disability benefits will be payable.

2. If it appears that the injured employee will not return to their regular job within a reasonable period of time (two to three months), the Director of Administrative Services will contact the workers' compensation third party administrator to request that an appointment be made with a specialist for consultation and/or treatment and to make a determination on the issue of returning to regular work duties.
3. Employees suffering from other, non-work-related injuries will be offered reasonable accommodations as part of the interactive process and in accordance with the requirements of the FEHA and the Americans with Disabilities Act.

B. Types of Modified Duty Return to Work Assignments

The following modified duty/return to work assignments may be available to

injured employees:

- Prepare a City-wide inventory of property
- Filing
- Photocopying
- Typing
- Computer data entry
- Police Department dispatching
- Legal research
- Paperwork (police reports)
- Light cleaning (windows, bathrooms, railings, dusting)
- Stamping or stuffing envelopes
- Read safety or policy manuals for updates to the data
- Review safety films for viewing by other city employees
- Painting
- Graffiti cleaning
- Engrave property for identification in case of misplacement or theft
- Flagman for road work
- Messenger

Any modified duty/return to work assignments, in addition to those listed above, may be made as long as it conforms to the following:

1. The assignment is not demeaning or punitive in any manner whatsoever.
2. The assignment should benefit the employee by giving them an opportunity to return to work and benefit the City by providing supplemental tasks, enhancing services or having tasks accomplished which may not have otherwise been completed without additional cost.

It may be helpful to the City and the employees involved in the Modified Duty/Return To Work Program if the person coordinating the Program works with the employee to determine which duties he or she is capable of performing. This adds “ownership” to the Program, and the employee may be more willing to make the Program work if he or she is instrumental in its design.

This policy was established to benefit employees and the City and it is consistent with California State Law, Federal Law, and the Americans with Disabilities Act.

SEC. 1217 DRUG AND ALCOHOL-FREE WORKPLACE

A. Purpose

The City and its employees recognize that behavior resulting from the use of alcohol and/or other drugs may detrimentally affect work performance, safety, public confidence in the City’s work force and may present a risk to City employees and the

health and welfare of the citizens of the City.

In recognition of the City's responsibility to maintain a safe, healthful and productive work environment and each employee's responsibility to perform work for the public safely, effectively and efficiently, the City will act to eliminate any substance abuse which increases the risk of accidents, absenteeism, substandard performance, poor employee morale or damage to the City's reputation. Substance abuse includes the use or possession of legal or illegal drugs, alcohol, or controlled substances which could or does impair an employee's ability to perform his or her job safely, effectively and efficiently.

The City believes that its employees are its most important asset. Thus, a primary objective of the Policy is to ensure that public safety and the welfare of our employees are not endangered as a result of substance abuse. Additionally, the City is committed to provide an employee with an opportunity for recovery and rehabilitation, enabling the affected employee to return to a satisfactory job performance level.

This Policy sets forth the City's position regarding substance abuse and a drug and alcohol free workplace and provides guidance to all employees including those holding safety sensitive positions, supervisors and managers in addressing substance abuse issues.

B. Definitions

For purposes of this Guideline:

1. "Illegal drugs or other controlled substances" 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. "Legal drug" means any drug, including any prescription drug or over-the-counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
3. "Abuse of any legal drug" means the use of any legal drug (a) for any purpose other than the purpose for which it was prescribed or manufactured; or (b) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.
4. "Reasonable suspicion" includes a suspicion that is based on specific personal observations such as an employee's manner, disposition, muscular movement, appearance, behavior, speech or breath odor; information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable; or a suspicion that is based on other surrounding circumstances.

For example, any of the following, alone or in combination, may constitute “reasonable suspicion.”

- A. Slurred speech;
 - B. Alcohol on breath;
 - C. Problems walking or other physical activity impairments;
 - D. An accident involving a City employee while operating a City owned motor vehicle or a personal vehicle while on City business;
 - E. Physical altercation;
 - F. Verbal altercation;
 - G. Behavior which is so unusual that it warrants summoning a supervisor or anyone else with authority;
 - H. Possession of alcohol or drugs;
 - I. Information obtained from a reliable person with personal knowledge;
 - J. An officer-involved shooting or discharge of weapon.
5. "Possession" means that an employee has the substance on his or her person or otherwise under his or her control.

C. Prohibited Conduct

It is the City’s policy that the following conduct, which is neither exhaustive nor exclusive, by any City employee, including those holding safety sensitive positions, is prohibited:

- 1. Reporting to work under the influence of alcohol or illegal or controlled substances or drugs;
- 2. Being under the influence of alcohol or illegal or controlled substances or drugs while on standby (standby is defined as being on an “on-call” or “court stand-by” status as defined by the applicable Memorandum of Understanding);
- 3. Possessing drugs or alcohol while on duty, except as authorized in the course and scope of duty;
- 4. Use of alcohol and/or illegal or controlled substances or drugs while on duty or while on standby, except as authorized in the course and scope of duty;
- 5. Manufacture, sell, distribute, dispense, or provide alcohol, illegal drugs, controlled substances or drugs without a prescription, either directly or through a third party to any employee or person while on duty or while on standby;
- 6. Have their ability to work impaired as a result of the use of alcohol and/or illegal or controlled substances or drugs;
- 7. Operation of City vehicles or equipment while under the influence of alcohol, illegal drugs, or controlled substances.
- 8. Abuse of legal drugs

Use of medically prescribed medication and drugs is not per se a violation of this Policy. However, failure by the employee to notify his/her supervisor before beginning work, when taking medication or drugs which may interfere with or impair the employee's safe and effective performance of their duties or operation of City equipment or vehicles, is a violation of this Policy. Further, an employee's abuse of legal drugs or purchase, sale, distribution, dispensation, or possession of any legal prescription drug in a manner inconsistent with law may result in discipline, up to and including discharge. In the event there is a question regarding the employee's ability to safely and effectively perform the assigned duties while using such medication or drugs, clearance from a qualified physician may be required.

The City reserves the right, consistent with Government Code Section 3309 (Police Officer Bill of Rights), to search under the circumstances prescribed by Government Code section 3309, without employee consent, all areas and property in which the City maintains full or joint control with the employee for the purpose of detecting the presence of alcohol, legal or illegal drugs or controlled substances. Areas in which the City maintains full control include, but are not limited to, all City-owned property, buildings and City-owned equipment. Areas jointly controlled by the City and employee include, but are not limited to, desks, lockers, file cabinets, office cabinets and bookshelves. Otherwise, the City may notify the appropriate law enforcement agency that an employee may have illegal drugs or controlled substances in his or her possession or in an area not jointly or fully controlled by the City.

Employees reasonably believed to be under the influence of alcohol or drugs, and where reasonable suspension exists, shall be prevented from engaging in further work and shall be detained for a reasonable time until an authorized City representative or law enforcement representative can transport the employee from the work site.

Violations of this Policy by an employee, including employees holding safety sensitive positions may be grounds for disciplinary action, up to and including discharge. Further, testing positive for alcohol or illegal drugs or controlled substances as determined by a random or regularly scheduled alcohol/drug test may be grounds for disciplinary action, up to and including discharge. Refusal to submit immediately to an alcohol/drug analysis when requested by City management or law enforcement personnel, failure to cooperate during testing, or any acts taken by the employee to negate testing procedures, may constitute insubordination and may be grounds for discipline up to and including termination. The City has established a confidential, voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, Safety Coordinator, or the Director of Administrative Services for additional information.

The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal law.

This policy applies to all employees of and to all applicants for positions with the City. This policy applies to alcohol and to all substances, drugs, or medications, legal or

illegal, which could impair an employee's ability to effectively and safely perform the functions of the job. All proceedings and tests under this policy shall be confidential.

D. Employee Responsibilities

An employee shall:

1. Not report to work or while on standby have his/her ability to perform job duties impaired due to alcohol or drug use, on or off duty;
2. Not possess, use, or be under the influence of alcohol or drugs (illegal drugs and legal drugs without a prescription) during working hours, while on standby, on breaks, during meal periods or while driving a personal vehicle or City vehicle on City business;
3. Not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty or while on standby;
4. Submit immediately to an alcohol/drug analysis when requested by a responsible City supervisor or management representative;
5. Notify his/her supervisor, before beginning work or when contacted for call back, when taking any medications or drugs, prescription or non-prescription, or alcohol, which may interfere with the safe and effective performance of duties or operation of City equipment;
6. Upon request, provide a current valid prescription for any drug or medication identified when a drug analysis is positive within a reasonable time period. The prescription must be in the employee's name;
7. If convicted of an alcohol or drug-related criminal offense, an employee shall notify his/her supervisor within five calendar days of the conviction; and
8. As a condition of continued employment with the City, employees shall abide by the provisions of this Policy.

Failure to comply with the above-referenced prohibition or any related policies set forth herein may result in discipline, up to and including immediate discharge.

Employee Complaint or Reporting Requirements:

1. An employee shall file a complaint with their department head regarding any employee whose performance is being affected by substance abuse.
2. An employee filing a complaint shall, within 24 hours, document in writing the facts constituting reasonable suspicion that the employee in question was intoxicated or under the influence of drugs.

3. Complaints which are determined to be malicious or vexatious will not be tolerated and will subject the complaining individual to disciplinary action.

E. Management Responsibilities and Guidelines

1. Managers and supervisors are responsible for consistent enforcement of this policy. The City shall develop a training program to assist management and supervisory personnel in identifying alcohol and drug use among employees. Such training will be directed towards recognition of the conduct and behavior that give rise to a reasonable suspicion of alcohol or drug use.
2. Managers and supervisors may request that an employee submit to a drug/alcohol analysis when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol. "Reasonable suspicion" is a belief based on objective and articulable facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol or that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.
3. Any manager or supervisor requesting an employee to submit to a drug/alcohol analysis shall, within 24 hours, document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
4. Any manager or supervisor encountering an employee who refuses to submit to a drug/alcohol analysis upon request shall remind the employee of the requirements and consequences of this Policy. Any employee refusing to submit to a drug/alcohol test shall not be forced to submit to such testing, but will be subject to discipline for insubordination for refusal to do so. The manager or supervisor should require the employee to remain on the premises for a reasonable time until an authorized City representative or law enforcement representative can arrange for transport of the employee for testing or home in the event of refusal.
5. Managers and supervisors shall not physically search employees.
6. Managers and supervisors shall notify the appropriate law enforcement agency when they have a reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City.

7. Managers and supervisors may search areas jointly or fully controlled by the City; however, in the event such area is occupied by a Peace Officer defined under Penal Code Sections 830.1, 830.2, 830.3, 830.31, 830.4, and 830.5, all searches shall be consistent with Government Code Section 3309 (Police Officer Bill of Rights).
8. Managers and supervisors shall not confiscate, without consent, prescription drugs or medications from an employee who has a prescription.

F. Employee Assistance Program

The City has a well-established voluntary Employees Assistance Program (EAP) to assist employees who seek help for substance abuse problems. The EAP is available for assessment, referral to treatment, and follow-up. Any employee with the City wishing confidential assistance for a possible alcohol or drug problem can call the EAP office and arrange for an appointment with a counselor. Employees who are concerned about their alcohol and/or drug use are strongly encouraged to voluntarily seek assistance through the EAP or health insurance program. In addition, employees who are concerned about alcohol and/or drug use among their co-workers should strongly encourage those individuals to seek assistance through the EAP.

All self-referral contacts are held in confidence by the EAP unless the employee requests, through specific written release of information, that the department, supervisor, union or other parties be notified.

The employee's compliance with recommendations of the EAP is voluntary. Employee's job security and/or promotional opportunities will not be jeopardized by utilization of the EAP or any other treatment service.

Confidentiality is an essential element of both the EAP and substance abuse treatment. Any employee violating this confidentiality will be subject to disciplinary action. The employee can schedule an appointment on his/her own time (days off, before or after the work shift, during lunch break) without letting anyone in the department know. Sick leave time may be used for referral appointments during regular work hours.

If an employee requires leave time for substance abuse treatment, he/she can follow established personnel policy concerning sick leave usage.

G. Procedure for Drug/Alcohol Testing

1. The City will refer applicants or employees to an independent, National Institute on Drug Abuse (NIDA)-certified medical clinic or laboratory, which will administer the test. The City will pay the cost of the test and reasonable transportation costs to the testing facility. Upon being ordered to submit to an alcohol/drug test, an employee may request representation in accordance with an approved

Memorandum of Understanding and/or the Government Code. The delay in securing such representation shall not exceed one hour from the time the employee was ordered to submit to the alcohol/drug test.

2. Before an alcohol/drug test is administered, candidates with a conditional offer of employment for a safety sensitive position and or employees demonstrating reasonable suspicion of being under the influence, will be asked to sign a consent form authorizing the test and permitting release of test results to those City officials with the need to know. The consent form shall provide space for employees and candidates to acknowledge that they have been notified of the City's alcohol/drug testing policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

- A. The procedure for confirming an initial positive test result;
 - B. The consequences of a confirmed positive test result;
 - C. The right to explain a confirmed positive test result and any appeal procedure available; and
 - D. The consequences of refusing to undergo an alcohol/drug test.
3. The drug/alcohol analysis may test for any substance which could impair an employee's or candidate's ability to effectively and safely perform the functions of his/her job, including, but not limited to alcohol, prescription medications, heroin, cocaine, morphine and its derivatives, PCP, methadone, barbiturates, amphetamines, marijuana and other cannabinoids.
 4. If the results of an initial test are positive, a confirmatory analysis, using gas-chromatograph/mass spectrometer technology, will be conducted. The certified laboratory conducting the analysis will not release any information to the City until a confirmatory test is completed and also results in a positive test.
 - A. Samples that screen positive are placed in a secure place and kept for six months.
 - B. Samples that screen negative are disposed of immediately.

H. Drug and/or Alcohol Analysis:

1. Pre-employment Physical/Drug Testing.

A. Candidates who are applying for a safety sensitive position and have received a conditional offer of employment shall be denied employment if they refuse to undergo drug/alcohol testing prior to employment.

B. A positive result from a drug/alcohol analysis may result in the applicant not being hired.

C. If a drug screen is positive at the post conditional offer physical, the applicant must provide within 24 hours of request a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide a prescription, or if the drug is one that impairs the applicant's ability to perform the job duties, the applicant may not be hired.

2. Reasonable Suspicion Testing.

A. All employees will be subject to reasonable suspicion drug or alcohol testing when the supervisor or manager has a reasonable suspicion that the employee is working in an impaired condition or otherwise engaging in conduct that violates this guideline including, but not limited to examples set forth at Section 1317B (4) of this Manual. The employee will be asked about any observed behavior and offered an opportunity to provide a reasonable explanation. If the employee is unable to explain the behavior satisfactorily, he or she will be requested to take a drug and/or alcohol test in accordance with the procedures outlined herein. A positive result from a drug/alcohol analysis may result in disciplinary action, up to and including discharge.

B. If the drug screen is positive, the employee must provide within 24 hours of request a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not have a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action.

C. If the employee refuses to cooperate with the administration of the drug and/or alcohol test, the refusal will be handled in the same manner as a positive test result.

D. An employee may choose to agree to seek help through the City's Employee Assistance Program or another rehabilitation program. If the employee so chooses, an Employee Assistance

Agreement must be completed.

3. Post-Accident Drug/Alcohol Testing. Shall be conducted, where lawful, after all accidents involving a vehicle or equipment or any other work-related accident where the involved employee's performance could have contributed to the accident and for all on duty vehicular accidents resulting in bodily injury, even if the driver is not cited for a moving traffic violation.
4. Random Drug/Alcohol Testing (Safety Sensitive Positions Only). Shall be conducted on a random unannounced basis just before, during or just after performance of safety-sensitive functions. Testing dates and times will be unannounced and will take place with unpredictable frequency throughout the year. The number of random tests conducted by the employer must equal at least 25 % of all employees in safety-sensitive positions. A positive result from a drug/alcohol analysis (of .02 or greater) will result in the employee's immediate suspension from safety sensitive duties and may result in disciplinary action, up to and including discharge.
5. Return-to-duty and follow-up (Safety Sensitive Positions). Drug/Alcohol testing shall be conducted when an individual who has violated the prohibited drug or alcohol standards set forth herein, returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months after an employee returns to work. A positive result from a drug/alcohol analysis (of .02) will result in the employee's immediate suspension from safety sensitive duties and may result in disciplinary action, up to and including discharge.

I. Confidentiality

Laboratory reports or test results shall not appear in an employee personnel file. Information of this nature, however, will be included in a separate confidential medical folder. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

SEC. 1218 SMOKING

The purpose of this section is to implement Labor Code Section 6404.5,

enacted by the passage of AB 13. This document sets forth City policy in regard to smoking by City Employees in City Facilities. The intent is to regulate such conduct in accordance with the new state law and because of recognized dangers to the health of smokers and non-smokers alike.

Definitions:

- A. “To Smoke” or “Smoking” means and includes the carrying, lighting or using of a lighted pipe, lighted cigar, lighted cigarette of any kind, or vaping.

Policy:

- A. All City employees who smoke are strongly encouraged to stop smoking. Information regarding programs to assist employees to stop smoking and those programs offered by City-sponsored health plans are available in the Human Resources Department.
- B. In addition to these rules concerning smoking in City Facilities, smoking by employees on-the-job out-of-doors is strongly discouraged, as it is a proven detriment to employee health, safety and productivity.
- C. Labor Code Section 6404.5(b) states: “No employer shall knowingly or intentionally permit, and no person shall engage in, the smoking of tobacco products in an enclosed space at a place of employment.”

It should be noted that Exceptions to Definition of Place of Employment (Section 6404.5(d)(13)) do not apply because they fail to meet all the conditions listed in that section.

In accordance with Labor Code Section 6404.5(b) smoking by employees is prohibited in all City buildings, facilities, vehicles, etc.
January 2004 AB 846, Chapter 342, Statutes of 2003 prohibits smoking within 20 feet of main entrances, exits, and operable windows of all City Buildings.

Procedures:

- A. The Public Works Department will be responsible for posting and maintaining all signs. No smoking signs will be made available at the Public Works Office.
- B. Those supervisors closest to employee work sites are hereby charged with implementation and compliance with this policy. The Director of Administrative Services is ultimately responsible for resolving all disputes resulting from this Policy.

- C. The Director of Administrative Services will be responsible for updating this Policy as necessary.
- D. Violations of this policy shall be considered cause for disciplinary action pursuant to the provisions of Section 1002 of the City Personnel Manual.

SEC. 1219 TRAVEL AND EXPENSE

The purpose of this section is to provide written guidelines covering employee, Council Member and Commissioner expenses for travel that will be paid for by the City. The City recognizes that attendance at meetings, conferences and other training provides excellent opportunities for training and professional development. The City encourages these activities, but as with other expenditures, they must be done in conformance with City policy and expenditures must be in line with budgeted amounts.

The City Manager has overall responsibility for administration of this policy and ensuring that all travel is appropriate and within budgeted amounts. Each department head is also responsible for monitoring all activity within his department and seeing that it stays within the approved budget. Each employee shall exercise sound and reasonable judgment when traveling on City business.

A. Transportation

Individuals requesting official travel should attempt to travel by means most economical to the City. All transportation options should be considered using economy fares. Individuals' assigned City vehicles should not use personal vehicles or other forms of transportation without prior approval from their department head. Individuals using personal vehicles will be reimbursed at the rate set by the IRS in effect at the time of travel.

B. Lodging

Amounts equivalent to the reasonable cost of accommodations for single occupancy at the hotel or motel in which the employee stays will be allowed. "Reasonable cost" shall be determined by taking into account such factors as prevailing lodging rates of the area, proximity of lodging to City business destinations and potential additional transportation requirements.

An employee, Council Member, or Commissioner is expected to make reservations well in advance whenever possible and to take other actions to ensure that lodging is secured at moderate rates. Reimbursement for lodging shall be limited to the minimum number of nights required to conduct the assigned City business.

When traveling on City business, an employee, Council Member, or Commissioner may arrive the night before, if he would otherwise have to leave before six a.m. on the day of the business activity. If City business ends by five p.m. he is expected to return home on the last day of the meeting if it is held within a 250-mile radius of the City. If he chooses to arrive earlier or stay later than the length of City business, the additional lodgings and other

expenses related to this decision are the individual's personal expenses. If he prefers to remain overnight as a guest of friends or relatives while traveling on behalf of the City, no amount may be claimed for lodging expense.

C. Meals

1. All meal and incidental expenses are reimbursed on a per diem basis. Per diem meal expenses are determined by the applicable CONUS rates. The traveler is responsible for providing documentation of the applicable CONUS rates and all per diem must be approved by a department head or the City Manager. The traveler must comply with the following restrictions for meal and incidental reimbursement:
2. For the first and last day of travel, a traveler is limited to 75% of the applicable per diem rate for meals and incidental expenses. If the traveler's flight leaves prior to 9:00 am or the traveler returns after 6:00 pm, on the first and last day the traveler is eligible for 100% of per diem for those days.
3. When meals are provided as part of the cost of an event, travelers will not be provided per diem. When the traveler can justify a legitimate business or personal reason, such as dietary restrictions, to not participate in the provided meal, the traveler must submit written justification to receive per diem for that meal.
4. The City will not pay for alcohol/personal bar expenses.

D. Other Allowable Expenses

In addition to registration, transportation and lodging, expenses for tips, necessary stationary and office supplies, parking fees, bridge or road tolls and telephone calls will be reimbursed when receipts are submitted.

E. Attendance of Spouses

The City recognizes that spouse attendance at City business functions is beneficial in some cases. However, according to Government Code §8314 and Penal Code §424, the City cannot pay for spouses to accompany public officials to these types of events. Spouses may be allowed to attend City business functions, but it shall be at the expense of the employee.

F. Advances

In case of need, a travel advance may be obtained to cover estimated lodging and food costs. An accounting of the use of the advance must be submitted to the Finance Department within two weeks of returning from the travel. If a report is not received within that time, the next paycheck will be held until the report is received. If a second report is not received in a timely manner, the next paycheck will again be held until the report is

received and no further advances will be allowed. For a non-employee, if a report covering the use of an advance is not received within two weeks of returning from travel, no future advances will be made.

SEC. 1220 USE OF CITY VEHICLES

City vehicles are to be used for the conduct of City business only, or when the use is at the convenience of the City and is pre-approved by a Department Head or the City Manager.

What this means for City employees is the following:

- A. City vehicles are not to be used in the conduct of non-City business. This includes, but is not limited to, using a City vehicle for personal errands or as a means of passenger transportation or cartage.
- B. City vehicles are not to be used to transport non-City employees, except when the individual(s) is conducting City business or a participant in the Fire & Police Department's Ride Along Program or pursuant to Police Department Policy.
- C. City vehicles assigned to individuals as a take-home vehicle or while on Standby duty are not to be used to conduct personal business (either as a means of passenger transportation or cartage) and are to remain at the employee's personal residence except when conducting official City business or while on stand-by or pursuant to Police Department Policy.
- D. Post-accident drug and alcohol testing shall be conducted, where lawful, after all accidents involving a vehicle where the involved employee's performance could have contributed to the accident and for all on duty vehicular accidents resulting in bodily injury, even if the driver is not cited for a moving traffic violation.

Any violation of this policy shall be grounds for discipline pursuant to the provisions of the City's Personnel Policy. Liability for damage to property or personal injury which occurs while this Policy is being violated shall be the sole responsibility of the employee.

SEC. 1221 MOTOR VEHICLE ACCIDENT INVESTIGATIONS

Any traffic collision that occurs within the City of Kingsburg City limits involving a City employee driving a City Vehicle and acting within the course and scope of his or her employment regardless of whether personal injury or property damage occurs shall be investigated by the Kingsburg Police Department. This includes any traffic collision regardless of whether another vehicle is involved.

If a traffic collision involves a Kingsburg Police Department employee, the investigation shall be conducted by a Sergeant or Officer of a higher rank. If a traffic

collision involves a Sergeant or someone of higher rank, the investigation shall be done by the Chief of Police or his designee.

If a traffic collision involves the City Manager or Chief of Police, inside the Kingsburg city limits, the California Highway Patrol shall be asked to conduct the investigation.

The California Highway Patrol may also be asked to conduct a traffic collision investigation inside the Kingsburg city limits, anytime a conflict of interest may exist, in the judgment of the Chief of Police or his designee.

The California Highway Patrol shall be asked to conduct a traffic collision investigation if there is a fatality, or serious bodily injury to a City employee or another party.

If a City employee is involved in a traffic collision while on duty in a City vehicle outside of Kingsburg city limits, the traffic collision investigation shall be conducted by the appropriate law enforcement agency in the jurisdiction where the accident occurred.

SEC. 1222 CELL PHONE USAGE

A. Personal Cell Phones

The use of a personal cell phone while at work may present a hazard, distraction, or otherwise interfere with employee productivity to the user, co-employees, or others. This policy is meant to ensure that cell phone use while at work is both safe and does not disrupt your job duties. Such usage should be brief and for necessary or important personal business only. Employees must not abuse the use of their personal cell phone while working. Supervisors may impose appropriate discipline if they determine an employee is abusing this cell phone policy.

B. City Cell Phones

City provided cell phones are for the purpose of City business. Employees shall not abuse this policy with excessive personal use. Rather, City employees shall use the City cell phone for personal use only on occasion and, if necessary. Further, employees may be personally liable for charges incurred on a City cell phone for excessive, non-business related, long distance and over limit fees, and/or other disciplinary measures may be imposed by their supervisor. In addition, employees should use a City provided cell phone only when a less costly alternative does not exist. City cell phones are the property of the City and the employee has no reasonable expectation of privacy in the City's cell phone.

C. Use of Cell Phones While Operating a Vehicle

Employees must adhere to all federal, state or local rules and regulations regarding the use of cell phones while operating a City vehicle or while driving any vehicle in the course and scope of City employment. Effective July 1, 2008, all drivers are prohibited

from using a handheld wireless telephone while operating a vehicle. (Vehicle Code § 23123.) Motorists eighteen (18) years and over may use a wireless telephone while driving, which is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving, such as Blue Tooth, or the speaker phone function of their wireless telephone. The law prohibits using a “push-to-talk” feature on a cell phone while driving. Employees are prohibited from using an electronic wireless communication device to write, send or read a text-based communication while operating a City vehicle or when driving any vehicle while in the course and scope of their employment. Drivers under the age of eighteen (18) may not use a wireless telephone or hands-free device while operating a motor vehicle. Employees who violate the law or the City policy will be subject to discipline. Further, an Employee cited by law enforcement for any such violation, will be personally responsible for all related fines or penalties and must report the violation to the Human Resource Coordinator, if it occurred in the course and scope of your employment with the City.

Exceptions to the hands-free requirement laws are as follows:

1. A driver may use a wireless telephone to make emergency calls to a law enforcement agency, a medical provider, the fire department, or other emergency services agency; or
2. If the driver is an emergency services professional using a wireless telephone while operating an authorized emergency vehicle during the course and scope of employment.

SEC. 1223 VIOLENCE IN THE WORKPLACE

A. Statement of Policy

The City recognizes that workplace violence is a concern among employers and employees across the country. The City is committed to providing a safe, violence-free workplace. In this regard, the City strictly prohibits employees, consultants, customers, visitors, or anyone else on City premises or engaging in a City-related activity from behaving in a violent, intimidating, or threatening manner. Moreover, as part of this policy, the City seeks to prevent workplace violence before it begins and reserves the right to deal with behavior that suggests a propensity towards violence even prior to any violent behavior occurring.

The City believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs and has established procedures within Human Resources for responding to any situation that presents the possibility of violence.

B. Workplace Violence Defined

Workplace violence includes, but is not limited to, the following:

1. Threats of any kind;

2. Threatening, physically aggressive, or violent behavior, such as intimidation of or attempts to instill fear in others;
3. Other behavior that suggests a propensity towards violence, which can include belligerent speech, excessive arguing or swearing, sabotage, or threats of sabotage of City property, or a demonstrated pattern of refusal to follow City policies and procedures;
4. Defacing City property or causing physical damage to the facilities;
5. With the exception of security personnel, bringing weapons or firearms of any kind on City premises, in City parking lots, or while conducting City business; or
6. Bringing weapons of any nature to work or having on your person except as authorized by law or as related to officers in the City Police Department.

C. Reporting

If any employee observes or becomes aware of any of the above-listed actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify Human Resources immediately.

Further, employees should notify Director of Administrative Services 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.

D. Investigation

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

E. Corrective Action and Discipline

If the City determines that workplace violence has occurred, the City will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include written or oral warnings, probation, reassignment of responsibilities, suspension, or termination. If the violent behavior is that of a non-employee, the City will take appropriate corrective action in an attempt to ensure that such behavior is not repeated. Under certain circumstances, the City may forego disciplinary action on the condition that the employee takes a medical leave of absence. In addition, the City may request that the employee participate in counseling, either voluntarily or as a condition of continued employment.

SEC. 1224 CITY PROPERTY, PROPRIETARY, AND CONFIDENTIAL INFORMATION

The security of the City property is of vital importance to the City. The City property includes not only tangible property, like motor vehicles, desks, computers and software, but also intangible property such as information. All employees share responsibility to ensure that proper security is maintained at all times.

A. Proprietary and Confidential Information

Proprietary information includes all information relating in any manner to the business of the City and its affiliates, consultants, customers, clients, and business associates produced or obtained by City employees during the course of their work. All proprietary information that is not known generally to the public or the industry, or is known only through improper means, is confidential information. Customer lists, customer files, personnel files, computer records, marketing data, research plans, electronic codes, computer programs, and trade secrets are examples of confidential information.

Given the nature of the City's business, protecting proprietary and confidential information is of vital concern to the City. This information is one of the most important assets of City. It enhances the City's opportunities for future growth, and indirectly adds to the job security of all employees.

Employees must not use or disclose any proprietary or confidential information that they produce or obtain during employment with the City, except to the extent such use or disclosure is required by their jobs. This obligation remains even after an employee's employment relationship with the City ends.

B. Obligations on Termination

On termination of employment, whether voluntary or involuntary, all City documents, computer records, and other tangible property of the City in the employee's possession or control must be returned to the City.

All employees must observe good security practices. Employees are expected to keep proprietary and confidential information secure from outside visitors and all other persons who do not have legitimate reasons to see or use such information. Employees are not to remove City property without authorization. In addition, employees are expected to comply with City policies regarding the authorized and secure use of City computer technology. Failure to adhere to City policies regarding proprietary and confidential information will be considered grounds for discipline, up to and including dismissal.

SEC. 1225 INSPECTIONS OF CITY PREMISES

A. Purpose of the Guideline

The City believes that maintaining a workplace that is free of drugs, alcohol, and

other harmful materials is vital to the health and safety of its employees and to the success of the City business. The City also intends to protect against the unauthorized use and removal of the City property. In addition, the City intends to assure its access at all times to City premises and City property, equipment, information, records, documents, and files. Accordingly, the City has established this Guideline concerning inspections and searches on City premises. This Guideline applies to all employees of the City.

B. Definitions

For purposes of this Guideline:

1. "Prohibited materials" means firearms or other weapons; explosives and/or hazardous materials or articles; illegal drugs or other controlled substances as defined in City Drug-Free Workplace Guideline set forth herein; drug-related paraphernalia; alcoholic beverages; City property, and/or proprietary and confidential information belonging to a third party that an employee is not authorized to have in his or her possession.
2. "City property" includes all documents, records, software, electronic codes, data, and files relating to City business; and all motor vehicle equipment, hardware, and other property of any kind, whether owned, leased, rented, or used by the City.
3. "City premises" includes all premises and locations owned or leased by the City or under the control of the City, including parking lots, lockers, and storage areas.
4. "Reasonable suspicion" includes a suspicion that is based on specific personal observations such as an employee's manner, disposition, muscular movement, appearance, behavior, speech or breath odor; information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable; or a suspicion that is based on other surrounding circumstances.
5. "Possession" means that an employee has the substance or City property on his or her person or otherwise under his or her control.

C. Inspections and Searches

1. Access to City Property

A. In order to assure access at all times to City property, and because employees properly in possession of City property or information related to the City business may not always be available to produce the property or information when needed in the ordinary course of City business, the City reserves the right to access at all

times information and communications stored in the City computer files on City disk-drives, in employee voicemail boxes, and electronic-mail systems.

B. The City may search or inspect an employee's work space, including his or her office, desk, file cabinet, or closet where the City has reasonable suspicion of workplace misconduct or a reasonable belief that the search will turn up evidence supporting the suspicion. The City reserves the right to search City property where it has a legitimate interest in maintaining a safe and efficient workplace. For peace officers and firefighters, searches of lockers or storage spaces shall comply with Government Code sections 3259 and 3390.

C. All employees are encouraged to refrain from bringing into the workplace any item of personal property that they do not wish to reveal to the City.

2. Inspections and Searches for Prohibited Materials

A. Inspections or searches for prohibited materials in or on City premises also will be conducted whenever the City has reasonable suspicion to believe that a particular employee, or group of employees may be in possession of materials in violation of this Guideline.

B. Inspections or searches for prohibited materials may be conducted by an independent security service or by City personnel.

C. Inspections or searches for prohibited materials may include an employee's office, desk, file cabinet, closet, computer, or similar places where employees may place personal possessions or information, whether or not the places are locked or password protected. Inspections or searches for prohibited materials also may include an employee's locker, or an employee's pockets, purse, briefcase, lunch box, or other item of personal property that is being worn or carried by the employee while on City premises.

D. Disciplinary Action

Employees who are found to be in possession of prohibited materials in violation of this Guideline and/or in violation of City Property; Proprietary and Confidential Information Guideline, the Technology Use and Privacy Guideline, and the Drug-Free Workplace Guideline, or employees who are found to have used City property in an unauthorized manner, will be subject to discipline, up to and including immediate discharge.

E. Confidentiality

Managers and supervisors will make their best effort to restrict communications concerning a violation or possible violation of this Guideline to persons who have an important work-related reason to know.

SEC. 1226 GIFTS, GRATUITIES AND DONATED ITEMS

On occasion, City employees receive gifts in appreciation of good work or service provided to residents, business people, community members, government officials and fellow employees. In some instances, accepting a gift can be viewed by the grantor as a means to receive favored treatment that other individuals may not be provided. The following points are to be observed with regard to employees receiving gifts in an effort to avoid such possible misconceptions and problems:

- A. Since the acceptance of gifts and/or gratuities can lead to the perception of “free” services, “bribes”, or other beneficial inducements, no gifts or favors of any value should be accepted if the grantee or grantor believes it will lead to the grantor receiving preferential treatment in his/her dealings with the City, or possibly influence the grantee in the discharge of his/her duties.
- B. Under no circumstances should cash, gift cards or alcoholic beverages be accepted as a gift.
- C. No gifts or favors with a value over \$25.00 from any one source should be accepted during a calendar year if the gift or favor is connected with the individual’s employment with the City. “One source” means any entity, including its officers, employees, consultants, and affiliated organizations. Gifts that are acceptable to receive are those that can be shared among City staff and/or the public. These may include, but are not limited to, cookies, candies, cakes, and flowers. Gifts consisting of perishable goods should be placed in a central location for all department employees to partake of.
- D. Inappropriate gifts should be sent back to the grantor with a letter explaining the City’s gift-giving policy.
- E. Anonymous gifts can be raffled among the employees in the department and the proceeds shared for some common or charitable use (i.e., Red Cross donation, office refreshments).
- F. All gifts received must be brought to the attention of the department head to ensure the spirit of the policy is being carried out.
- G. This policy is not intended to prohibit the exchange of gifts among City employees, officers, officials and/or other staff for the celebration of holidays, birthdays, Administrative Professional Day, etc.
- H. The solicitation or acceptance of gifts in violation of the City’s policy may

be grounds for disciplinary action, up to an including termination of employment.

CHAPTER 14 - SAFETY PROGRAM

SEC. 1301 POLICY STATEMENT

The City is committed to providing and maintaining a healthy and safe work environment for all employees and thus the City has instituted a safety program to meet that goal. All employees are required to know and comply with the City's safety rules and to follow safe and healthy work practices at all times. Employees are required to report immediately to their supervisor any potential health or safety hazards and all injuries or accidents.

To meet this goal, it shall be the policy of the City to give precedence to safety above the expedience of any operation and to comply with all established laws, ordinances, and standards. Continued effort in safety education, working conditions, safety, and accident prevention analysis, in conjunction with active participation by supervisors and employees will help to ensure a successful program.

The following basic principles shall guide the safety program:

- A. Accidents can and must be prevented.
- B. Safety hazards can be eliminated.
- C. Prevention of accidents is a responsibility of each employee.
- D. It is to the employees' advantage, as well as the City's, to work safely and they are expected to cooperate toward this end.
- E. Active and responsible supervision is a vital factor in the success of a safety program.
- F. Accident prevention is good business; it protects the employee, increases efficiency, and provides economy of operation.

SEC. 1302 RESPONSIBILITY

The Safety Coordinator, as appointed by the City Manager, shall be the administering authority of the Safety Program, and shall be responsible for its development and implementation.