



## **City of Lindsay Personnel Rules and Regulations**

*Approved by the Lindsay City Council on August 25, 2015  
Amended by the Lindsay City Council on October 10, 2023*

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

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**MERIT PERSONNEL SYSTEM**

**Section 1.1 Purpose**

The purpose of this personnel system is to:

1. Establish an equitable and uniform procedure for dealing with personnel matters;
2. Attract the most competent and desirable persons available for employment;
3. Assure that appointment and advancement of employees are based on merit and ability; and
4. Provide reasonable security for qualified employees.

The objectives of these personnel rules and regulations are to facilitate efficient and economical service to the public and provide for a fair and equitable system of personnel management in the municipal government. These rules and regulations set forth those procedures and policies which ensure similar treatment for those who compete for original and promotional employment and define certain obligations, rights privileges, benefits, and prohibitions which are placed upon all employees in the service of the City.

**Section 1.2 Personnel System Organization**

The City Manager has final responsibility for all personnel actions, except those reserved to the City Council. Each department head exercises direct line authority for personnel functions described in these rules and regulations. The City Manager shall administer the personnel system. He/she may delegate personnel duties for the effective administration of the system to the Personnel Director, his/her designee, or Finance Director.

**Section 1.3 Merit Employment Policy**

It is the policy of the city to provide for an employment system, which assures that employees are selected, promoted, and retained on the basis of merit. It is the intent of this system to provide fair and equitable treatment to all applicants for employment. The screening and selection of the employees shall be on a specific job-related basis. The potential and actual performance of employees within the city shall guide employment decisions with the goal of providing a high-performance work force for the residents of the City.

**Section 1.4 Intent of the Personnel System**

1. Employment Standards: The City Council and all the residents of Lindsay have the right to expect that the City will employ the best qualified persons available, that the tenure of every City employee will be based on a demonstrated need for the work performed, availability of funds, competent effective performance, proper personal conduct, and continuing fitness for the position.
2. City Responsibility to employees: Each employee of the City of Lindsay has the right to expect: To be fully informed of his or her duties and

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responsibilities; to be provided with adequate administrative and supervisory direction; to be informed of job expectations and desired work behaviors; that promotions will be made on the basis of merit and ability; and progressively improved work performance over an extended period will be recognized and rewarded; that incompetence and misconduct will not be tolerated; and that suspensions, demotions, terminations, and other disciplinary actions will be administered in a fair and impartial manner.

### **Section 1.5 Prior Policies Repealed**

If the terms and provisions of these personnel rules and regulations are inconsistent or in conflict with the terms and provisions of any prior City of Lindsay (“City”) personnel rules and regulations this policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations this policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations are hereby repealed.

### **Section 1.6 Priority of Collective Bargaining Agreements**

If a provision of these rules conflicts with any provision of an applicable collective bargaining agreement entered into by the City 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.

### **Section 1.7 Terms of Personnel Rules**

These personnel rules and regulations shall take effect when approved by the City Manager of the City. The rules shall remain in effect unless repealed, in whole or part, by the City Manager. The City Manager may in his/her sole discretion add to, delete or otherwise modify these personnel rules and regulations, subject to the following paragraph.

Prior to amendment of these personnel rules and regulations, the City Manager shall consult with City employees or, if required, upon request, meet and confer with affected recognized employee organizations.

### **Section 1.8 Non-Discrimination**

The City shall comply with applicable federal and state laws governing fair employment practice and equal opportunity. The City strictly prohibits unlawful discrimination. This includes discrimination on the basis of sex, sexual orientation, gender identity, national origin, race, color, ancestry, religious creed, physical or mental disability, medical condition, age, marital status, citizenship status, uniformed service member status or any other protected class under applicable law.

### **Section 1.9 Application of Personnel Rules and Regulations**

These personnel rules and regulations have been developed to serve the City of Lindsay and all employees of the City of Lindsay unless specifically excluded. Its contents and all appropriate references represent the rules and practices to which all employees of the City are held accountable.

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## **Section 1.10 Violations of Rules and Regulations**

Violation of the provisions of these rules and regulations shall constitute grounds for disciplinary action. A violation shall not make disciplinary action mandatory but shall be given such weight as shall be appropriate in view of all the circumstances.

## **Section 1.11 Employee Responsibility**

It shall be the responsibility of each employee to become aware and be knowledgeable of these personnel rules and regulations.

## **Section 1.12 Administrative-Department Policies and Procedures**

The City Manager or individual city department heads may develop and administer supplemental written department policies and procedures as deemed necessary for the efficient, safe and orderly administration of the City or department. However, no such policies or procedures shall conflict with or supersede these personnel rules and regulations, other Council resolutions and ordinances, or existing laws. Copies of department policies and procedures should be made available to each employee of the department.

## **Section 1.13 Distribution of Personnel Policies**

A copy of these personnel rules and regulations shall be made available to each City employee and each recognized employee organization. Newly hired employees shall receive a copy upon hire. Copies of these personnel rules and regulations shall also be made available to each department of the City. Department heads shall make them accessible to employees. . Employees with questions about these personnel rules and regulations may direct them to their immediate supervisor, the department head, the personnel office, or Finance Director.

## **Section 1.14 No Contract Created**

These rules do not create any contract of employment, expressed or implied, or any rights in the nature of a contract.

## **Section 1.15 Severability Clause**

If any provision, or the application(s) of any provision of these personnel rules and regulations is implemented is rendered or declared invalid by any final court action or by reason of any preemptive legislation, the remaining provisions of these personnel rules and regulation shall remain in full force and effect. Nothing these personnel rules and regulations shall be construed to deny any person or employee the rights granted by federal and state law. The rights, powers and authority of the City Manager in all matters, including the right to maintain any legal action shall not be modified or restricted by these regulations.

**DEFINITION OF TERMS**

**Section 2.1 Definitions**

Unless the context indicates otherwise the terms used in these personnel rules and regulations are defined as follows:

**Abandonment of Position** – The failure to report to work for three consecutive regular work shifts without notification by the employee and approval of the City.

**Acting Appointment** – An appointment of a person who possesses at least the minimum qualifications established for a particular class and who is appointed to a position in that class in the absence of available eligible incumbents, or on an interim basis pending later appointment of an eligible person.

**Advancement** – A salary increase within the limits of pay range established for a class.

**Allocation** – The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

**Anniversary Date** – One calendar year from the date of the employee’s probationary appointment with the City and each succeeding year thereafter, unless the probationary period was extended. An employee’s anniversary date shall be determined by applying the continuity of service requirements of these rules.

**Appeal** – A written request by an employee for consideration in matters relating to grievance and/or discipline as set forth in these rules.

**Appointment** – The offer to, and acceptance by, an individual for a position in the competitive service.

**Applicant** – Any person submitting a formal completed application for employment with the City.

**Appointing Authority** – The City Manager is the appointing authority for all City employees and the City Council shall appoint the City Manager. The City Manager may delegate appointing authority. Further delegations of appointing authority must be approved by the City Manager.

**Authorized Position** – A specific work position within a job classification that is or may be held by an employee.

**Benefit Date** – For the purpose of sick and vacation leave accrued, the benefit date is defined as follows for all employees: (a) if the first working day of the pay period was worked, the benefit date will be the first day of that pay period. (b) if the employee started anytime after the first working day of the pay period, then the benefit date will be the first day of the following pay period. (c) if an employee is absent without pay for any period of time his or her benefit date will be adjusted to reflect the deduction of the period of time in which the employee was absent without pay.

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**Break in Continuous Service** – Separation of the employee from City employment initiated by either the City or the employees for any period without pay.

**Bulletin Board** – The official posting place for public notices.

**Certification** – The furnishing of names by the personnel officer of eligible, available candidates for employment, from an employment list in the manner prescribed in these rules.

**Class** – A result of grouping together those positions that are similar in duties, authority, and responsibility, so that the same requirements as to education, general knowledge, and ability may be required of incumbents, and permit grouping under a common title with common standards of selection, and with the same schedule of compensation. Individual positions in the same class may be assigned different duties and responsibilities.

**Class Specification** – The official description of a class including (1) title, (2) a definition, (3) a statement of the duties and responsibilities, and (4) the employment standards, such as education, experience, knowledge and skills, and abilities which may be required of applicants.

**Classification Plan** – The arrangement of positions in classes, together with the title and specifications describing each class.

**Compensation** – Salary, wages, fees, benefits, allowances or any other consideration paid to an employee for performing the duties or exercising the responsibilities of a position.

**Compensatory Time** – Time off from work in lieu of monetary payment for overtime work.

**Continuous Service** – Employment in a regular position that is uninterrupted from the effective date of the appointment except an authorized absence with pay or as required by law.

**Contract Employees** – Contract employees are those individuals employed by the City pursuant to the terms of an individual employment contract that sets forth terms and conditions of employment. Unless expressly stated herein, the provisions of these personnel rules and regulations shall not be applicable to contract employees.

**Days** – Means calendar days unless otherwise stated.

**Demotion** – The movement of an employee from a position in one class to another class, the next class having a lower maximum base rate of pay.

**Department** – A major administrative branch of the City involving a general line of work with one or more employees under the charge of one or more individuals known as supervisors.

**Department Head** – The individual designated as the administrative head of a City department. The City Manager is the Department Head of the other departments heads.

**Disciplinary Action** – The termination, demotion, reduction in pay, or suspension of a regular employee for cause.

**Eligible** – A person whose name is on an employment list.

## CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

**Employee** – A person who is legally occupying a position in the City’s service or who is on an authorized leave of absence for such position.

**Employee (Emergency)** - A person employed by the City for a temporary period of time to meet emergencies, which threaten life, property, or the general welfare of the City. An emergency employee serves at the will of the City Manager or designee and may be removed at any time without cause.

**Employee (Part-Time)** – A person employed by the City for specifically designated hours less than full time. A part time employee serves at the will of the City Manager or designee and may be removed at any time without cause.

**Employee (Probationary)** – A person employed by the City in a regular full-time position who has not completed the probationary period.

**Employee (Regular)** – A person employed by the City in a full-time capacity who has successfully completed his/her probationary period and has been retained according to the provisions of these rules. The term does not include an elected official.

**Employee (Temporary)** – A person employed by the City full-time or part-time for some specific work that is temporary in nature. A temporary employee serves at the will of the City Manager or designee and may be removed at any time without cause.

**Employee (Extra Help)** - An employee who is appointed to a position with less than year-round funding. Extra-help employees shall be compensated on an hourly basis shall not be eligible for participation in any benefit plans except as required by law and serves at the will of the City Manager or designee and may be removed at any time without cause.

**Employment Date** – Date on which an employee was hired to fill a position with the City.

**Employment List** – A list of names of persons who may be considered for employment with the City under specified conditions. Employment lists will be prepared as needed under the direction of the Personnel Director or their designee.

**Evaluation Date** – For the purpose of step advancement, this term shall mean the date upon which the employee’s most recent step advancement occurred.

**Examination** – An examination for a particular class, which is open to persons meeting the qualifications for the class.

**Exempt Employee** – The City Manager, department heads, executive or professional staff, administrative technical staff, and others whose duties and responsibilities allow them to be “exempt” from the overtime pay provisions as provided by the Federal Fair Labor Standards Act (FLSA) and any applicable state laws.

**Fiscal Year** – The fiscal year for the City begins on July 1 and ends on June 30 of the next year.

**Full-time Position** – A budgeted position in which an employee of the City is regularly scheduled to work at least forty (40) hours per week and/or no less than two thousand eighty hours per year.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

**Grievance** – The formal allegation made by an employee that the City, or one of its representatives has violated, misinterpreted, or misapplied the provisions of the Memorandum of Understanding and/or City personnel ordinances, rules and regulations, or administrative directives.

**Grievance Procedure** – The systematic means set forth in these personnel rules and regulations by which an employee may obtain consideration of a grievance.

**Job Description** – Description of duties, responsibilities, and minimum qualification requirements of the positions included in the class.

**Lay-off** – The separation of employees from the active workforce due to a shortage of work or funds, or due to the abolition of positions by the City Manager and/or City Council for the above reasons or due to organization changes.

**Leave of Absence** – An authorized absence from duty for a specified period.

**Memorandum of Understanding (M.O.U.)** – An understanding reached with a recognized employee organization as a result of meeting and conferring on hours, wages, and working conditions in accordance with State law and City ordinances, resolutions, and rules.

**Minimum Qualifications** – The minimum qualifications deemed necessary for a candidate to possess for selection to fill a vacancy and to maintain employment with the City.

**Oral Interview or Qualifications Appraisal Board** – Part of an examination conducted by a competent board to evaluate the candidate's education, experience, and general qualifications pertinent to the position for which examined.

**Out-of-Class Pay** – The salary an employee shall receive for working in a classification having a higher salary range than the one to which that employee was appointed during a period of time or these rules. .

**Overtime** – Time worked in excess of 40 hours in a work week or as provided in an applicable M.O.U.

**Part-time Position** – A position in which an employee of the City is regularly scheduled to work less than forty (40) hours per week and/or less than two thousand eighty hours per year.

**Performance Evaluation** – A review and evaluation of an employee's performance and capabilities in the employee's authorized position by the employee's immediate supervisor and/or other members of management at designated intervals and filed in the employee's official personnel file; minimum of one evaluation annually.

**Personnel Director** – The employee of the City designated to manage the personnel function of the City. The Personnel Director may delegate one or more of those functions to subordinates.

**Personnel Rules and Regulations Manual** - This Group of personnel rules and regulations concerning employment with the City of Lindsay.

**Personnel Records** – The official records of the City for each employee, maintained by and in the personnel office, except records that may be required to be maintained in other locations.



## CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

**Position** – A specific office or employment provided by the budget, whether occupied or vacant, of limited-term or regular, and requiring the performance of certain duties and responsibilities assigned or delegated by the appointing authority.

**Probationary Period** – A period from original date of hire to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of duties of the position.

**Professional Employee** – Management, supervisory and technical employees engaged in work requiring specialized knowledge and skills as so designated by the City.

**Promotion** – The movement of an employee from a position of one class to a position in another class having a higher maximum salary rate, generally with an increase in duties and responsibilities over the employee's present class.

**Promotional Probationary Period** – The initial period of service by an employee in a promotion position, this period to be considered an integral part of the examination, testing and selection process during which an employee is required to demonstrate fitness for the position to which promoted by actual performance.

**Reclassification** – Modification of job title and corresponding salary range adjustment supported by an appropriate classification analysis prepared under the direction of the Personnel Director, or designee which identifies a change in level of difficulty and/or responsibilities between the existing job description and actual job duties.

**Reduction in Pay** – A temporary or permanent decrease in salary.

**Regular Position** – A budgeted position, the duties of which do not terminate at any stated time.

**Reinstatement** – The restoration without examination of a former regular employee to a classification in which the employee formerly served as a regular non-probationary employee within one year of separation from the City.

**Rejection** – The termination or demotion of an employee during a probationary period.

**Relief of Duty** – The temporary assignment of an employee to a status of administrative leave with pay.

**Reprimand** – An oral or written notification to an employee regarding a censure made as a disciplinary action.

**Resignation** – Voluntary termination of employment by an employee, including the abandonment of the position.

**Salary** – The wages paid for services performed.

**Salary Increase** – An increase in salary for a classification as a result of the meet-and-confer process and/or City Manager or City Council action.

## CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

**Salary Range** – Categories, which determine the minimum and maximum salary with appropriate steps for each employment classification.

**Seniority** – Precedence of one employee over another based on length of service within the classification, department, and City to be determined by continuous employment from the date of hire into a regular position.

**Separation** – The voluntary or involuntary end of City employment.

**Smoking** – Includes any lighted cigarette, vaporizer, e-cigarette, cigar, or pipe.

**Standard Work Week** – Any consecutive seven (7) day period, as determined by the City, beginning at 12:01 A.M. on the first day, and ending at 12:00 midnight on the seventh day, and consisting of forty (40) hours.

**Step Increase** – A salary increase of one or more steps within the limits of the salary range established for a class.

**Supervisor** – A person having authority in the interest of the City to direct employees, or to adjust grievances, or effectively recommend any such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

**Suspension** – The temporary separation, without pay, from service of an employee for disciplinary purposes.

**Termination** – Separation from City employment for disciplinary reasons or as a result of rejection during a probationary period.

**Transfer** – The movement of an employee within a department or between departments from one position to another position in the same class or another class having the same maximum salary.

**Vacancy** – An unfilled authorized position in the City of Lindsay employment.

**Work Shifts** – The days of the week and the hours on each of those days that an employee is assigned to work on a regular basis.

### **Section 2.2 Construction In General**

The provisions of these rules and regulations and proceedings under them shall be construed with the view to affect their purpose and to promote justice.

### **Section 2.3 Prohibited Acts Include Causing or Permitting**

Any act or omission, which is unlawful under these rules, includes causing, permitting, aiding, abetting, suffering, or concealing the act or omission.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 2.4 Reference to Rules Includes Amendments**

When a reference is made to a portion of these rules and regulations, or to an ordinance of the City, the reference applies to each amendment and addition, which may be made to it.

### **Section 2.5 “Shall” and “May”**

As used in these rules, “shall” is mandatory and “may” is permissive.

**GENERAL PROVISION**

**Section 3.1 Fair Employment**

During the selection process, the City will not attempt to elicit information concerning race, color, ancestry, national origin, sexual orientation and/or gender identity, marital status, physical or mental disability, medical condition, age, citizenship status, political or religious opinions or affiliations of an applicant. Appointment or removal from a position shall not be affected or influenced by consideration of race, color, ancestry, national origin, sexual orientation, and/or gender identity, marital status, physical or mental disability, medical condition, age, citizenship status, political or religious opinion or affiliation or other category protected by law.

**Section 3.2 Violation of Rules and Regulations**

Violation of these rules is grounds for suspension, demotion, dismissal or other disciplinary action appropriate under the circumstances.

**Section 3.3 Amendment and Revision of Rules and Regulations**

It is fully recognized that rules and regulations, practices, procedures and policies may require modification to reflect changing needs and more effective methods as they are developed. These rules and regulations may be appropriately revised to reflect such needed changes.

**CLASSIFICATIONS**

**Section 4.1 Purpose**

The classification plan provides a complete inventory of all positions in the competitive service and an accurate description and specification for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities.

**Section 4.2 Classification Plan**

The classification plan consists of classes and positions defined by class specification, including the title. The classification plan shall be maintained so that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedule of compensation may be made to apply with equity under similar working conditions to all positions in the same class.

**Section 4.3 Administration**

The Personnel Director or designee will continually review the classification plan based on the job analysis. The Personnel Director or designee shall ascertain and record the duties and responsibilities of all positions in the competitive service, and make a recommendation to the City Council or City Manager of a classification for such positions. Changes in classifications, which result in a salary that falls outside the limits of the department budget, shall be approved by the City Manager.

**Section 4.4 Classification of Positions**

Each position shall be allocated to the appropriate class in accordance with the character, difficulty, and responsibility of its assigned duties. Positions in a single class shall be sufficiently similar to permit substantially the same level of skill, knowledge, ability, and other qualifications required of incumbents, the same or similar selection method and the same schedule of compensation.

**Section 4.5 Classification of New Positions**

All new full-time positions require City Council authorization. The Personnel Director or designee shall recommend the proper assignment of any new positions to a class in the classification plan, or when appropriate, create a new class. When a new position is created and is classified before it is occupied, such position shall be subject to review by the Personnel Director or designee after it is occupied to determine if the incumbent is performing the duties of the class.

**Section 4.6 Reclassification**

The classification plan may be amended from time to time. The assigned duties of positions, which have been materially changed over time by the City so as to necessitate reclassification, whether new or already created, shall be allocated by the City Manager to a more appropriate class. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to effect a change in salary in the absence of a significant change in assigned duties and responsibilities. During the process of consideration, any recognized

## CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

employee organization affected shall be advised. Amendments and revisions of the plan may be suggested by any interested party, including any recognized employee organization and shall be submitted to the City Manager.

The City Manager may approve the reallocation of a position to a different class or approve the creation of a new class whenever the duties of the position change materially over time. This may occur upon the recommendation of the department head, or upon the request of an employee and with the concurrence of the department head. When any change is made within a Department, which significantly affects the duties and responsibilities of any position, the appointing authority shall report these facts in writing to the Personnel Director. The Personnel Director or designee shall make a classification study of the duties and responsibilities and the relationship to other classes or positions. The Personnel Director may study the allocation of any position in the Classification Plan and make recommendations to the City Manager for a change in class or the allocation to a more appropriate class. The department head shall be consulted before a classification study is begun in his or her department. Studies may be initiated in the following manner:

1. Written request, submitted by the department head, due to reorganization of a department caused by a lack of funds, lack of work, or where the department reorganization would be for the betterment of the delivery of services or when the duties of a position have materially changed over time.
2. Referral from the City Manager.
3. When possible authorization of a new position is indicated.
4. Regular, periodic maintenance of the Classification Plan or when the Personnel Director identifies a need to study an existing position.

A change in classification on an occupied position shall affect the status of the incumbent in the following manner:

1. When a position is moved to a class with the same or higher salary range, the incumbent may retain the same status in the new class that was held in the prior class. The duties should have evolved over a period of time and be basically the same duties and responsibilities as were performed by the incumbent.
2. When a position is reallocated to a class in a related series with a lower salary range, incumbents may choose to retain the position by accepting voluntary demotion or may request a transfer, if available, for the class from which the position was moved. If neither of the foregoing is chosen, the normal layoff procedures will be followed.

### **Section 4.7 Job Descriptions (Specifications)**

The Personnel Director or designee with the assistance of the department heads shall prepare written specifications for each class of positions. The official copy of the specifications for each class shall be maintained in the personnel office and shall indicate the date of approval or last revision.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

Each specification shall include the class, title, a brief description of the scope, nature, and responsibility of the class, a description of the tasks or duties ordinarily performed in the positions allocated to the class; a statement of the minimum qualifications considered necessary for proficient performance of the work, including education, experience, training, knowledge, skills, physical characteristics, and any additional factors considered pertinent. Specifications are not restrictive. A department head may temporarily assign other related duties and responsibilities or otherwise direct the work of employees.

No person shall be appointed to any position unless that person meets the minimum qualifications set forth in the currently approved class specification for that position or meets the permissible equivalency provisions of these rules.

### **Section 4.8 Vacancies**

When a permanent vacancy occurs in an authorized position, the department head may fill the vacant position with an existing employee or someone who is not currently employed. The department head may determine that it is in the City's best interest to leave the position vacant. Individuals will be chosen to fill the vacancy based on merit.

### **Section 4.9 Evaluations**

All personnel of the City of Lindsay are subject to periodic evaluations of their work performance. Each person will be rated by his or her immediate supervisor and/or past supervisor depending on the length of time a person has been assigned to a particular supervisor. Each probationary employee shall be rated at the end of the third, sixth, ninth, and eleventh months of his/her probationary period, while each regular employee shall be rated thirty days prior to the employee's anniversary date. Performance evaluations will consist of both a written evaluation report and an evaluation interview. The written report will be prepared and used as a guide during the evaluation interview. Each supervisor shall use the City form obtained from the Personnel Director or designee. The completed form will be dated and signed by the supervisor and the employee after the interview. The completed form will then be forwarded to the department head who in turn will supply the original to the Personnel Director.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE V

### COMPENSATION

#### **Section 5.1 Preparation of Salary and Wage Plan**

Upon request of the City Manager, the Personnel Director shall recommend a wage and salary plan. The Personnel Director shall consult with each department head and give consideration to prevailing rates of pay and working conditions for comparable work in other public and private employment, the difficulty and responsibility of the work, current costs of living, suggestions of department heads, the City's financial condition and other relevant factors.

#### **Section 5.2 Adoption and Application of Plan**

The City Council shall adopt a salary and wage plan and may amend it from time to time. At the time the City Council considers it, interested persons may appear and shall be heard. Suggested changes may be submitted to the City Council through the City Manager. Said adoption will be accomplished during the budget process.

#### **Section 5.3 New Employees**

A new employee shall be appointed to the first step of the salary range to which his/her class is assigned, except as follows: where it is difficult to locate qualified personnel, or when it appears that the education and previous training or experience of a proposed employee is substantially superior to those required at the beginning level of the class and justify a beginning salary in excess of minimum compensation. The City Manager may authorize hiring at a higher step in such cases.

##### **Section 5.3.1 Advancement Within Salary Range**

Advancement within the salary range is not automatic. An increase is made on the basis of merit as established by the employees' work performance and after written recommendation of the department head. The department head shall set forth the source of funding for the raise, and show that adequate funds are available for the raise when given and in the coming fiscal years. Any advancement must be approved by the City Manager or designee. An employee who fails to receive in-grade salary advancement shall be notified in writing as to the reason.

##### **Section 5.3.2 Special Salary Adjustments**

In order to correct gross inequities or to reward outstanding achievement and performance, (exceptional service) the City Manager may upon recommendation of the department head adjust the salary rate of an employee to any step in his/her existing salary range or up to 10% above the range if the employee is at the top step.

The factor of exceptional service is intended to recognize exceptional performance in which an employee is performing service substantially above the level of proficiency normally expected in the class or is producing results consistently superior to that normally expected of employees in the class. It does not include unusual acts or results caused by unusual conditions beyond the control of the employee, to which he/she demonstrated a normal reaction under the circumstances. This award may not be used in an attempt to solve a pay or classification inequity.



## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 5.3.3 Applicable Pay Rates**

- (1) Following promotion. When promoted, an employee begins at step A of the range into which promoted or one step higher than his/her current salary, whichever is higher. The new anniversary date is the date of promotion.
- (2) Following demotion. In the case of the demotion to a class with a lower maximum salary, an employee shall be assigned to the same salary step in the new class, assuming that his/her service has been continuous in the new class. The employee shall retain his/her previous anniversary date.
- (3) Following transfer. Where an employee is transferred from one position to another in the same class or to another class to which the same pay range is applicable, the employee retains the same pay step and anniversary date.
- (4) Following salary range increases and decreases. Where a pay range is revised upward or downward, the incumbent of a position in the affected class is entitled to a pay adjustment to the same relative step in the new pay range. The anniversary date does not change.

### **Section 5.4 Deductions**

Each deduction from an employee's wages shall be made in accordance with prevailing laws, contracts, rules and regulations.

#### **Section 5.4.1 Deductions Required by Law and Contracts**

Deductions include federal withholding tax, state withholding tax, social security tax, city retirement premium, paid family leave, and SDI.

#### **Section 5.4.2 Written Authorization From Employee**

Authorization is required for group medical, dental, hospitalization, disability, life insurance premiums, credit union, and any other deduction approved by the City Manager.

#### **Section 5.4.3 Claims**

Claims for non-payment of debts for the purpose of garnishing employees' wages shall be made to the Director of Finance under Section 710 of the Code of Civil Procedure.

### **Section 5.5 "Acting" Capacity**

An employee, who temporarily assumes the duties of a superior position for an extended period of usually one (1) month or more, may upon approval of the City Manager receive premium pay commensurate with the duties assumed.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 5.6 Terminal Pay**

An employee who is terminated is entitled to terminal pay:

- (1) That portion of the final pay period from the first day of the final pay period to the effective date of separation. The day of separation is either the working day specified for separation or the last day of the pay period if no date is specified.
- (2) Accrued vacation actually earned but not taken.
- (3) Accrued overtime.

#### **Section 5.6.1 Employees' Death**

An employee may, in writing file with Human Resources, designate a person to receive the employee's final paycheck in the event of the employee's death. The employee may change the designation from time to time. A person so designated may claim the employee's terminal pay upon proof of identity. A "person" for purposes of this section can include a corporation, trust, or estate.

An employee's surviving spouse may claim compensation due to a deceased employee by providing the City a sworn affidavit or declaration as described in Probate Code section 13601.

Absent a designated beneficiary or receipt of a qualifying claim by a surviving spouse, terminal pay will be paid to the employee's estate.

### **Section 5.7 City Property**

All City property in the employee's possession must be returned prior to separation, including keys, key fobs, identification cards, equipment, credit cards, gas cards, laptops, cell phones, pagers, and any other City equipment.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE VI

### APPLICATIONS AND APPLICANTS

#### **Section 6.1 Employment Standards**

It is the policy of the City to employ the best-qualified and most competent person available. Selection is made on the basis of merit and such applicable standards as demonstrated ability, skills and experience, training aptitude, intelligence, and character.

#### **Section 6.2 Applications**

The City shall make official application forms available in a manner, which will facilitate effective recruiting. The form shall require information covering training, education, experience, and other pertinent information, and may include references. The applicant must sign the application.

#### **Section 6.3 Application Filing**

Each person participating in a scheduled selection process for employment shall have completed and filed an official application form for that recruitment. The personnel office must receive the official application form no later than the date and time of the last filing deadline as published in the announcement. Each applicant must sign the application form certifying that all statements are correct. Persons applying for a position must comply with the following conditions:

1. Meet the general conditions pertaining to the filing of an application.
2. Meet the specific requirements as shown on the announcement for a particular position;
3. Meet the right-to-work in the United States or citizenship requirement, and
4. Be willing and able to accept the employment in the present vacant position or a future similar vacant position, if employment were offered.

The name of persons applying for City positions or the evaluation of their participation in any selection process shall not be made public. Applications will be accepted when recruitment has begun for a position.

#### **Section 6.4 Evidence of Good Character**

The City may require an applicant to furnish evidence of good character.

#### **Section 6.5 Physical and Psychiatrist Examination**

The City may require an applicant to undergo physical and/or psychiatric examination at the City's expense.

#### **Section 6.6 Credit Rating**

The City may require satisfactory credit ratings of applicants and/or employees.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 6.7 Residency**

Residence in the City at the time of application is not a requirement. However, the City Manager or department head may require certain classes of employees to live within a specified response time of the City.

### **Section 6.8 – Operation of Motor Vehicle**

If driving a vehicle is required for the job the applicant must be able to show:

- (a) The ability to possess a valid California driver's license
- (b) The ability to drive safely
- (c) The ability to operate a motor vehicle in all types of weather conditions

### **Section 6.9 Personal Integrity**

The City will consider evidence of personal integrity such as:

- (a) Refusing to yield to the temptation of bribes, gratuities, pay offs, etc.
- (b) Refusing to tolerate unethical or illegal conduct on the part of other personnel.
- (c) Showing strong moral character and integrity in dealing with the public.
- (d) Being honest in dealing with the public.

### **Section 6.10 Dependability**

The City will consider evidence of dependability such as:

- (a) Having a record of submitting reports or completing assignments on time and not malingering on jobs.
- (b) A record of being motivated to perform well.
- (c) A record of dependability and ability to follow through on assignments.
- (d) A history of taking the extra effort required for complete accuracy in all details of work.
- (e) A willingness to work the hours needed to complete a job.

### **Section 6.11 Disqualification of Applicant**

The Personnel Director may eliminate from the selection process, remove from the eligible list, or refuse to certify the name of any person:

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

- (a) Who does not meet the minimum qualifications established for the class or position to which they seek appointment;
- (b) Who has made a false statement, misrepresentation, or omission of a material fact or actual or attempted deception, fraud or misconduct in connection with his or her application
- (c) Who has improperly used or attempted to use any personal or political influence to further his or her eligibility for appointment;
- (d) Who has been terminated for good cause from previous employment.
- (e) Who has failed to submit an application correctly within the prescribed time limit;
- (f) Who has directly or indirectly obtained information regarding examinations to which applicants are not entitled;
- (g) Who has failed any part of the selection process for the same position within the last six months
- (h) Who is physically or psychologically unfit for the performance of essential functions of the position and such unfitness cannot be reasonably accommodated.
- (i) Who has been convicted, including pleas of guilty and nolo contendere, of any felony or a misdemeanor, which was of such a nature as to reflect adversely and substantially on the applicant's ability to perform the duties of the position. The City Manager may disregard such convictions if it is found and determined by the City Manager that mitigating circumstances exist.
- (j) For any other material cause which in the judgment of the Personnel Director would render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City, or significant disciplinary action.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## **RULE VII**

### **EXAMINATIONS AND ELIGIBLE LISTS**

#### **Section 7.1 Conduct of Examinations**

The Personnel Director is responsible for examinations except when the City Manager determines that an examination for a particular class should be conducted by the department concerned.

#### **Section 7.2 Nature and Types of Examination**

The selection techniques used in the examination process shall be impartial and related to those subjects which, in the opinion of the department head, fairly measure the relative capacities of the person examined to execute the duties and responsibilities of the class to which employed. Such techniques include personal interview, written examination, performance tests, work samples, physical agility tests, evaluation of training and experience, physical examination, psychological tests, background investigation, or any combination of these or other tests. The probationary period shall be considered as a portion of the examination process. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements.

##### **Section 7.2.1 Continuous Examinations**

Open-Competitive examinations may be administered periodically for a single class, as the needs of the service require.

##### **Section 7.2.2 Promotional Examinations**

It is the policy of the City to give open and competitive examinations for all positions except when the City Manager finds that there are a sufficient number of qualified candidates in city service or that the position requires special knowledge and familiarization. Promotional examinations may include any of the selection techniques mentioned in section 7.2 of this rule. Only employees who meet the requirements set forth in the examination announcements may compete.

#### **Section 7.3 Scoring Examination and Qualifying Scores**

A candidate's score in a given examination shall be the total of his or her scores on each competitive part of the examination weighted as determined for the selection process. Failure in one part of the examination shall be grounds for declaring such applicant as failing the entire examination or as disqualified for subsequent parts of an examination.

#### **Section 7.4 Notice of Examination Results**

Applicants shall be notified by mail concerning the results of their participation in the selection process. Said notification shall indicate whether or not the applicant has been placed on the employment list.

# **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

## **Section 7.5 Establishment of Eligible List**

As soon as possible after the completion of an examination, the Personnel Director or designee shall score the examination and prepare an eligible list in numerical ranking based on the candidate's grade. One of the candidates with the top five highest test scores should be appointed. If the department head chooses to appoint an individual who is not in the top five written justification shall be made to the Personnel Director. The Personnel Director shall review the written justification and recommend approval or denial to the City Manager for final action.

### **Section 7.5.1 Duration of List**

An eligible list other than one resulting from a continuous examination remains in effect for one year, unless abolished, exhausted, or extended by the City Manager. Any extension shall be for an additional period of not more than three (3) months.

### **Section 7.5.2 Re-employment List**

The name of each regular employee who has been laid off shall be placed on an appropriate re-employment list in the order of total continuous cumulative time served in probationary and regular status. The names remain for three (3) months unless the persons are sooner re-employed.

## **Section 7.6 Removal of Name From List**

The Personnel Director may remove the name of an eligible applicant from the employment list:

- (1) For ground set forth in Rule VI, Section 6.4, entitled Disqualification of applicants;
- (2) On receipt of a statement from the eligible applicant indicating a lack of interest in the class or employment.
- (3) On evidence that the eligible applicant cannot be located;
- (4) On evidence that the eligible applicant fails to respond to a notice mailed to the last designated address within five (5) working days following the mailing of notice;
- (5) On report of an unsatisfactory background investigation;
- (6) If on a promotional list and separated from employment.

The person affected shall be notified of the removal of the name by a notice mailed to the last known address.

**APPOINTMENTS**

**Section 8.1 Types of Appointments**

A vacancy is filled by original appointment, reinstatement, re-employment, transfer, promotion, or demotion.

**Section 8.2 Request to Fill Vacancy**

The Personnel Director shall be notified when a vacancy is to be filled.

**Section 8.3 Method of Appointment**

The Personnel Director may send the list of eligibles to the department head as set forth in Rule VII, Section 7.5.1. If the department head; after interview desires, to make the appointment, he/she may do so subject to the approval of the City Manager. The department head may fill a vacancy by reinstatement, transfer, demotion, promotion, or re-employment, if permissible under these rules. This request shall be made prior to the Personnel Director undertaking any other method of appointment or establishing an eligibility list. If the Personnel Director (or City Manager if the employee is reinstated) grants permission to proceed with filling the vacancy in this manner, the Personnel Director shall notify the person, not the department head. If the person is offered the appointment and does not accept the appointment in writing, or present himself/herself for duty as prescribed, the appointment is considered rejected.

**Section 8.4 Reinstatement**

A regular employee who resigns in good standing may within one (1) year of his or her resignation be reinstated in a position in the class in which he or she previously had served or in a comparable class. A person may be reinstated only if a vacancy exists, the department head recommends reinstatement, and the City Manager approves. An employee reinstated is in a probationary status and is considered a new employee for purposes of vacation, sick leave and salary increases. If the Employee returns and is granted reinstatement within thirty (30) days, employment will resume as though uninterrupted, and the employee will not be required to serve a probationary period.

**Section 8.5 Re-employment After Lay-Off**

A regular employee who is laid off in accordance with these rules is entitled to preference in filling a vacancy in the class or position previously held by that employee for a period of (3) months. An employee so re-employed retains all benefits accrued in prior service with the city. During the lay-off, no benefits accrue, and the anniversary date shall be adjusted if the lay-off time exceeds thirty (30) days.

**Section 8.6 Transfer**

An employee may be transferred from a class in one department to a position of the same class in another department. Such transfer does not result in a loss to the employee of accumulated vacation, sick leave, or overtime.



## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 8.7 Demotion**

A position may be filled by demotion of an employee in accordance with these rules and regulations. An employee may be demoted in preference to being laid off.

### **Section 8.8 Nepotism**

No person may be appointed or transferred into a position in the City contrary to the provisions of Section 22.9 of these Rules.

### **Section 8.9 Temporary or Part-Time Appointments**

Time spent under temporary or part-time appointment is not credited to the probationary period or counted toward salary eligibility. Time spent under temporary or part-time appointment is not credited to vacation, sick leave, or retirement benefits.

### **Section 8.10 Offer of Employment**

Only the Personnel Director may extend offers of employment to selected candidates. Employment offers for all positions shall be made in writing and shall include starting salary on an hourly, weekly, or monthly basis. An employment offer made in terms of annual salary shall not imply a yearly contract.

All appointments shall be classified as full-time, part-time, or temporary and are defined as exempt or non-exempt for overtime pay. Employees will not change from part-time or temporary status to another status unless specifically informed of such a change, in writing by the Personnel Director. Part-time and temporary employees serve at the will and may be terminated at any time without cause or an opportunity for a hearing.

### **Section 8.11 Fingerprints / Live Scan**

As a condition of employment, the City Manager may require a person seeking employment by the City to be fingerprinted prior to beginning employment or immediately thereafter. Refusal of an employee to be fingerprinted or failure to report for fingerprinting shall be sufficient cause for disqualification from employment or termination from employment. The Personnel Director shall establish and maintain a system for fingerprinting of employees. Fingerprint cards or live scan documents shall become a part of the employee's personnel folder to be cleared through the Bureau of Criminal Identification and Investigation of the State of California and other agencies as deemed appropriate. The fingerprint cards or live scan prints for law enforcement applicants shall be processed immediately.

### **Section 8.12 Medical Examination**

Following a conditional offer of employment, prospective employees shall be required to complete a job-related pre-placement physical and/or psychological examination. Conditional offers of employment are made contingent upon passing this examination; however, the city shall make reasonable accommodations to the special needs of any disabled individual as required by law. A licensed physician chosen by the City without cost to the prospective employee shall

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

perform such examination. The prospective employee shall be required to complete a medical history questionnaire and a medical records release as necessary to facilitate the examination. The physician will indicate the employee's fitness for employment on the examination form. In the event the examination is not completed prior to the employee's scheduled start date, only a tentative appointment may be made. The final appointment will be contingent on a satisfactory examination result.

Depending on the job-related physical characteristics required, a medical examination may be required for:

- (1) Entering employees.
- (2) Employees seeking a transfer from one position requiring general physical abilities to another position requiring different physical abilities and.
- (3) Employees returning to work from a medical leave of absence.

The physician conducting the medical examination shall be supplied with a current job description indicating the job-related duties and requirements of the position. The results of all medical examinations shall be confidential. Examination results for entering employees and employees transferring to another position shall **not** be kept in the employee's **personnel** file. No employee shall hold any position in which the employee is not able to perform the essential functions of the job **with or without reasonable accommodation if disabled**. The City Manager may require that employees take a psychological or a medical examination as it deems necessary in order to determine employees to be mentally and physically capable of performing the job without significant risk to the health or safety of themselves or others.

### **Section 8.13 Driver's License and Driving Record**

Employees who are required to drive are required to possess a valid California driver's license and maintain a satisfactory driving record as a condition of employment. Employees must immediately report to the Personnel Director any changes in driving privileges. Failure to do so may result in disciplinary actions.

### **Section 8.14 Employment Oath**

In accordance with Article XX, Section 3 of the Constitution of the State of California and California Government Code Section 3102, all employees of the City (except legally employed non-citizens) shall complete and sign the Oath or Affirmation of Allegiance of Public Officers and Employees on the first day of employment. The City Clerk or other designated individual shall administer the Oath and a signed copy shall be included in the employee's personnel file.

### **Section 8.15 Identification Cards**

The Personnel Director or department head shall issue employee identification cards to all employees of the City. Employee identification cards are to be used by employees in conducting business on behalf of the City. Employee identification cards are the property of the City and shall be surrendered to the City upon demand or separation from employment and prior to receiving payment of salary due at separation. Employees shall be required to immediately report lost or stolen identification cards to the Personnel Director.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 8.16 Keys**

Keys to City facilities will be issued to employees so designated by the City Manager or his designee. Keys are the property of the City and shall be surrendered to the City upon separation from employment and prior to receiving payment of salary due at separation. Employees shall be required to immediately report lost or stolen keys to the Personnel Director.

### **Section 8.17 Other City Property**

Other property issued to the employee belonging to the City shall be surrendered to the City upon demand or upon separation. The final salary due may be adjusted for failure to return issued property.

**PROBATIONARY PERIOD**

**Section 9.1 Purpose**

The probationary period is the final step in the selection process. It is an extension of the examination process and the employee’s performance shall be closely observed for securing the most effective adjustment of a new employee to his or her position.

**Section 9.2 Duration of Probationary Period**

Each original and promotional appointment made to a position in the competitive service shall be subject to a probationary period. The length of the probationary period shall be twelve (12) months of continuous service for all employees. The probationary period shall not include time served in any employment capacity except that of a regular full-time position. The probationary period may be for a longer period of time if extended or as established in the job description.

**Section 9.3 Successful Completion of Probationary Period**

The Personnel Director or designee shall notify the department head two weeks prior to the due date of a probationary employee’s twelve-month performance evaluation. If the employee’s performance has been satisfactory to the department head and advancement to regular status is warranted, the department head shall so state in the employee’s probationary performance evaluation report. The employee shall then be advanced to regular status on his or her anniversary date. If the employee’s performance has not been satisfactory and the department head recommends release from probation, the department head shall so state in the evaluation report. If such a statement is not filed, the employee will be deemed to have satisfactorily completed his or her probationary period.

**Section 9.4 Rejection of Probationer**

During the probationary period, an employee is considered “at will” and may be rejected at any time by the City Manager (at the recommendation of the department head) without cause or reason, without prior notice, and without any right to appeal or grievance. The probationary employee will be notified prior to the expiration of the probationary period that they have been rejected from probation.

**Section 9.5 Rejection Following Promotion**

A promoted employee who does not successfully complete a probationary period shall be restored, providing a vacancy exists, to the same or similar position in the same class from which promoted unless charges are filed, and employee is terminated in the manner provided for in the these rules.

**Section 9.6 Promotion, Demotion, and Transfer Probationary Period**

A new probationary period shall be required following demotion or transfer. When an employee transfers or demotes from one department to another department, a new probationary period shall be served in the latter department.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 9.7 Reemployment and Reinstatement Probationary Period**

Persons appointed to positions by reemployment must serve a new probationary period unless the appointment is to the same class in the same department where a probationary period has been previously served. Persons appointed to positions by reinstatement must serve a new probationary period. No credit for former employment shall be granted.

### **Section 9.8 Interrupted Probationary Period**

When the probationary period of an employee is interrupted because of a leave of absence or appointment to another class and the employee later returns to the former class in the same or a different department, a new probationary period shall be served. Credit for all or part of the previous probationary period may be granted to the employee by recommendation of the department head, and approval by the City Manager. (See 9.2).

### **Section 9.9 Extension of Probationary Period**

At the discretion of the department head and with the approval of the City Manager, the probationary period may be extended for a maximum of six (6) months and a new anniversary date will be established.

If an employee's probationary period is interrupted due to illness or injury for thirty (30) days or more the employee's probationary period will be automatically extended for the period of absence and a new anniversary date will be established.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE X

### **HOURS OF WORK; OVERTIME; HOLIDAYS**

#### **Section 10.1 Hours of Work**

The provisions in this section govern hours of work for employees. However, this provision shall not interfere with the essential services of a department. Under no condition shall regularly scheduled hours for a full-time employee for the City consist of less than 40 hours per week within five (5) consecutive days. Shifts vary as required to meet the operational requirements of the department where the employee works. When desirable, the City Manager may designate other working hours for employees whose specific duties require it.

#### **Section 10.2 Attendance**

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance record of employees, which shall be reported to the finance office in the form and on the dates specified.

##### **Section 10.2.1 Job Abandonment**

An employee is deemed to have resigned from their position if they are absent for three (3) consecutive scheduled work shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at their 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 agency's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Personnel Director 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.

#### **Section 10.3 Holidays**

The holidays observed in the City shall be posted each year. See specific M.O.U. Memorandum of Understanding.

##### **Section 10.3.1 Paid Holiday**

A paid holiday is paid time off for certain designated holidays or pay in lieu of holidays for personnel who are assigned to work on holidays. If any supervisor deems that adequate need exists and requests an employee to work on a holiday, the employee has no right to decline. An employee who is required to work on a paid holiday will receive an extra day of pay for the holiday worked, or the day may be taken at a later time as the employee and the department head see fit. As far as practical, holiday work shall be equally distributed among employees. No department head or supervisor is free to leave his department to observe a holiday until a necessary level of staffing has been achieved.

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### **Section 10.3.2 Holiday Falling On Weekend**

When a holiday falls on a Sunday, the holiday will be observed on the following regular business day (typically Monday). If a holiday falls on a Saturday, the holiday will be observed on the preceding regular business day (typically Friday).

### **Section 10.3.3 Overtime Compensation for Holidays Worked**

Employees who work on a holiday, because it occurs during their regular work schedule in addition to regular pay, are entitled to either pay at straight time or one day's compensatory time.

All other overtime compensation for time worked on holidays shall be paid the rate of 1-1/2 times the hourly rate based on the employee's monthly salary, unless an employee prefers compensatory time.

### **Section 10.3.4 Employee Request**

A city employee who wishes to observe holidays specific to his or her culture, national origin, or religion may do so with the approval of his/her department head. This time off is charged to compensatory time or vacation.

### **Section 10.4 Overtime**

It is the policy of the City's to compensate non-exempt employees who work authorized overtime either by payment of wages for each hour worked over forty (40) in a work week or as agreed in the applicable Memorandum of Understanding ( M.O.U. ), or by the allowance of accrual of compensatory time off. Overtime is compensated at one and one-half times the Fair Labor Standards Act regular rate of pay. In order to qualify for either, the employee must make the appropriate entry on the time sheet, as soon as practical after overtime is worked.

### **Section 10.5 Compensatory Time Off Policy**

#### **Section 10.5.1 Supervisor Approval Required Before Work**

A non-exempt employee may opt to accrue compensatory time-off ("CTO") in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

#### **Section 10.5.2 Accrual Rate**

CTO accrues at the rate of 1.5 hours for each hour worked over 40 hours of actual work in the employee's work week. CTO cannot be accumulated in excess of 100 hours at any given time.

#### **Section 10.5.3 Employee Requests to Use CTO**

The City will grant an employee's request to use accumulated CTO provided that: (1) the department can accommodate the use of CTO on the day requested without undue disruption; and (2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off, the City will provide the employee the opportunity to cash out the CTO requested at the end of the current pay period.

**CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

**Section 10.5.4 City Cash Out**

The City reserves the right to cash out accumulated CTO at any time.

**Section 10.5.5 Employee Cash Out**

During employment, CTO is cashed out at the employee’s current FLSA regular rate of pay (including all FLSA-applicable salary differentials). Employees separating from City service shall be compensated for all accrued, unused compensatory hours at the current FLSA regular rate of pay, or the average regular rate for the prior three years, whichever is higher.

**Section 10.6 General Overtime Policy**

No non-exempt employee is authorized to “volunteer” work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime period or immediately thereafter. Working overtime without approval is grounds for discipline.

**Section 10.7 Employees Responsibility**

Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor.

**Section 10.8 Supervisors Responsibility**

The supervisor who verifies the overtime earned shall approve the request. After the entry has been made on the employee’s time sheet, the time sheet shall be forwarded to the department head for final approval.

**Section 10.9 Accounting for Overtime Worked**

Employees are to record the actual time worked in an overtime status. In some cases, an M.O.U. or other contract provides that minimum time will be paid, (e.g. two hours, for call out). The supervisor will enter the actual time worked.

**Section 10.10 Accounting for Portions of an Hour**

Partial hours for overtime worked are to be accounted for in quarters of an hour. One quarter is equivalent to fifteen minutes as indicated by the following chart.

<u>TIME WORKED</u>	<u>INDICATE ON TIMESHEET</u>
1 – 15 Minutes	¼ hour
16 – 30 Minutes	½ hour
31 – 45 Minutes	¾ hour
46 – 60 Minutes	1 hour



## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 10.11 Variations in Time Reported**

Where two or more employees are assigned to the same activity and the amount of time for which payment is requested varies from that reported by the other employee, the supervisor may require each employee to include the reason for variation on the back of the overtime payment request.

### **Section 10.12 Off-Duty Employment**

No City employee may accept gainful employment during off-duty hours unless prior approval is obtained from department head and City Manager.

**CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

**RULE  
XI**

**LEAVES OF ABSENCE**

**Section 11.1 Vacation Leave of Employee**

Full time employees receive ten (10) days of vacation for the first five years of employment. Full time employees with five (5) years of continuous service will receive eleven (11) days per year. Full time employees with seven (7) years of continuous service will receive thirteen (13) days per year of vacation. Full time employees with ten (10) years of continuous service will receive fifteen (15) days per year of vacation.

**Section 11.1.1 When Vacation Leave is Earned**

Full time employees accrue vacation leave while in paid status, including while on paid sick leave or other forms of paid leave. No vacation leave is earned while an employee is on an unpaid leave of absence, or a leave covered by a private disability insurance plan

Temporary, emergency, and extra help employees do not earn vacation leave.

Part time employees earn pro-rated vacation leave after 5 years of uninterrupted service.

**Section 11.1.2 Effect of Holiday on Vacation Leave**

An employee is not charged vacation leave for a holiday occurring during his vacation leave.

**Section 11.1.3 Changing Vacation Leave to Sick Leave**

Vacation leave may be changed to sick leave upon submission of a doctor’s certificate stating that the employee is ill and unable to work. Such change in leave shall be approved by the City Manager.

**Section 11.2 Sick Leave**

Sick leave is paid leave from work that an employee may use for the following purposes:

- (a) Diagnosis, care, or treatment of an existing health condition of, or preventative care for the employee themselves or any of the following family members of the employee: a child of any age or dependency status; a parent; a parent-in-law; a spouse; a registered domestic partner; a grandparent; a grandchildren; or a sibling; or
- (b) For an employee who is a victim of domestic violence, sexual assault, stalking, or other crime in order for the employee to engage in any of the following activities: (1) 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 their child; (2) obtain medical attention or psychological counseling, services from a shelter, program or crisis center, or (3) participate in safety planning or other actions to increase safety.

**Section 11.2.1 Accrual of Sick Leave**

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Regular employees accrue sick leave beginning on the first day of employment at the rate of 3.08 hours per pay period (10 days per year).

All other employees who have worked for the City for thirty or more days within a year will accrue one hour of paid sick leave for every 30 hours worked. Accrued and unused sick leave carries over to the following year of employment but the employee will stop earning sick leave once they have accrued 48 hours or six work days/shifts, whichever is greater.

### **Section 11.2.2 Use of Sick Leave**

An employee may use accrued sick leave, in a minimum increment of two hours, beginning on the 90th day after the first day of employment with the City, subject to the limits and request provisions in this policy.

### **Section 11.2.3 Sick Leave Request**

If the need for leave is foreseeable, an employee must give their immediate supervisor reasonable advance written or oral notice. If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable. If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by this policy without good reason, may result in the employee being treated as absent without leave.

### **Section 11.2.4 Certification of Sick Leave**

The department head or Personnel Director may require a physician's certification to support any absence due to illness or injury for more than three calendar days, or if the City suspects there is an abuse of sick leave. Employees who use paid leave to address issues related to domestic violence, sexual assault, stalking, or other crimes and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter, as outlined in Labor Code section 230, subsection (d).

### **Section 11.2.5 Return to Employment after Sick Leave**

On return to duty after a leave of absence due to illness or injury, an employee may be required to take an examination by a physician designated by the City to determine the employee's fitness for duty. On the basis of authoritative medical advice, the City Manager shall determine whether an employee is physically fit to perform for the duties of his/her position and when the employee can be reasonably accommodated if disabled and may take the action he/she considers appropriate.

### **Section 11.2.6 Sick Leave on Separation from Employment**

Unused sick leave is not cashed out upon termination, resignation, retirement, or other separation from employment. Unused sick leave may be converted to retirement service credits only as may be permitted under applicable retirement system laws and regulations.

Employees shall not be permitted to exhaust sick leave in order to extend the effective date of a disability retirement. Employees who are qualified for a disability retirement, regardless of

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whether the disability retirement application is employer or employee originated, may be retired by the City immediately without exhausting their sick leave.

If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of six (6) days or 48 hours, whichever is greater, will be reinstated. An employee who worked at least 90 days in the initial employment with the City may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with the City must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave.

### **Section 11.3 Extended Medical Leave**

In the case of an employee's continued illness after the expiration of sick leave, his or her absences may then be charged to compensatory time accrued or vacation leave accrued with the approval of department head. Employees may also be entitled to extended medical leave under state or federal law, or in appropriate cases as an accommodation for a qualifying disability. The City may, to the extent permitted by law, run paid leave accruals concurrently with statutory leave rights.

### **Section 11.4 On-Duty Injuries**

The purpose of this policy is to provide for the reporting of on-duty injuries or death to Risk Management, ensure proper medical attention is received, and document the circumstances of the incident. An employee injured in the course of his/her employment must report the accident to his supervisor as promptly as possible. The employee must be given the State "Employee's Claim for Workers' Compensation Benefits" form within twenty-four (24) hours of notification by the employee. The form must be given out regardless of whether or not the employee receives first aid, seeks medical treatment, or loses any time from work.

#### **Section 11.4.1 Pay**

An employee is entitled to receive a full day's pay for the day injured. Thereafter the injured employee may use sick leave or other accrued leaves. If the employee has exhausted or elects not to use accrued leaves, the City may place the employee on unpaid industrial accident leave.

#### **Section 11.4.2 Injuries Requiring Medical Care**

All work-related injuries requiring medical care must be reported to the City of Lindsay Risk Management Office and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

#### **Section 11.4.3 Liability For Failure To Comply**

Labor Code section 5400 makes failure to comply with the 24-hour reporting procedure a misdemeanor. Additionally, disciplinary action may be taken for an employee's failure to comply with this procedure.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 11.4.4 Accident Defined**

“Accident” is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur, e.g. exposure where no immediate injury is apparent.

### **Section 11.4.5 Employee’s Responsibility**

Any employee sustaining any work-related injury or involved in any accident while on duty shall report such injury or accident as soon as practical to his/her supervisor. An employee who fails to promptly report an accident to his supervisor within a specified time may be in eligible for paid industrial accident leave.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury that requires relief from duty is required to be examined/treated by a doctor.

When appropriate, an employee being treated for an on-duty injury is to advise the attending physician that “light duty” may be available.

An injured employee shall report as soon as practical to their immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if they are known.

### **Section 11.4.6 Supervisor’s Responsibility**

The supervisor is responsible for promptly notifying the finance office and Personnel Director, submitting a statement signed by the employee or supervisor giving all details.

For work-related accidents or injuries not requiring professional medical care, A City of Lindsay “Supervisor’s Report of Injury” form shall be completed in triplicate. All copies of the completed form shall be forwarded to Risk Management.

When accident or injury is reported initially on the “Supervisor’s Report of Injury” form and the employee subsequently requires professional medical care, the State of California Employer’s Report of Occupational Injury or Illness” form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an “Employee’s Claim for Workers’ Compensation Benefits Form” (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to Risk Management as soon as they are completed.

A supervisor who fails to report an accident after being notified by the employee is subject to disciplinary action.

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### **Section 11.4.7 Department Head's Responsibility**

The department head shall review and forward copies of the report to the personnel department and retain a copy in the employee's personnel file.

### **Section 11.4.8 Injuries Requiring No Medical Attention**

Those injuries not requiring medical attention shall be recorded on a Supervisor's Report of injury, a city form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

### **Section 11.4.9 Injury Caused by Other**

When an employee sustains work-related injuries caused by another person, and is then approached by such person or an agent, insurance company or attorney, and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible.

### **Section 11.4.10 No Settlement Without Prior Approval**

In no case shall the employee accept a settlement without receiving prior approval of the Director of Personnel. It must first be determined that the offered settlement will not affect any claim the City of Lindsay may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury. The objective of this policy is to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

### **Section 11.5 Bereavement Leave**

All regular employees, and all other employees who have been employed by the City for at least 30 days, may utilize up to five days of bereavement leave upon the death of a family member. An employee who wishes to use bereavement leave shall notify their immediate supervisor, department head, or Personnel Director of the intent to use such leave.

#### **Section 11.5.1 Family Member, Defined**

"Family member" means a spouse or a child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law.

#### **Section 11.5.2 Terms of Leave**

Employees may use up to five days of bereavement leave upon the death of a family member. The days of leave need not be consecutive, but must be completed within three months of the date of death of the family member.

The City may request documentation of the death of the family member. On request, the employee shall provide documentation within 30 days of the first day of the leave. Documentation may take the form of a death certificate, published obituary, written verification

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of death, burial, or memorial services, or other equivalent documentation. Any information or documentation provided to the City shall be maintained as confidential.

### **Section 11.5.3 Compensation During Bereavement Leave**

For a regular full-time employee, the first three (3) working days of bereavement leave are a paid leave of absence.

For all other employees, or for leave beyond three (3) days, bereavement leave is unpaid, but an employee may use vacation, compensatory time, sick leave, or any other paid leave that would otherwise be available.

### **Section 11.5.4 Bereavement Leave for Other Than Immediate Family**

A department head may allow a regular full-time employee leave of absence up to one day to attend the funeral of a person other than a member of his/her immediate family, chargeable to sick leave, compensatory time, or vacation.

## **Section 11.6 Jury Leave – Notice**

When an employee is called for jury duty, he or she shall be granted leave for this purpose upon presenting the jury notice to his or her department head. The department head shall notify the Personnel Director.

### **Section 11.6.1 Pay**

A regular full-time employee is entitled to receive jury leave with full pay if he or she remits to the city compensation received from duty. Compensation for mileage is not considered compensation for jury duty. The employee may elect to retain jury duty compensation, but if he or she does so he or she is not entitled to salary while on jury leave. The time spent on jury duty is not work time for the purpose of calculating overtime.

### **Section 11.6.2 Without Pay**

An employee who is not a regular full-time employee takes jury leave without pay.

### **Section 11.6.3 Partial Day**

If jury duty permits, the employee is expected to work a partial day.

## **Section 11.7 Military Leave**

Military leave shall be granted in accordance with the provisions of federal and state law. Employees entitled to military leave shall give the department head an opportunity within the limits of military regulations to determine when such leave shall be taken. Employees who served in the U.S. military organizations or state militia groups may take the necessary time off with pay to fulfill this obligation. These employees may apply accrued personal leave and unused earned vacation time to the leave if they wish; however they are not obliged to do so. Reinstatements of individuals returning from military leave shall be done in accordance with the Military and Veterans Code of California.

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Employees are eligible for reemployment after completing military service, provided the employee provides copies of the military orders to the department head upon receipt; military service is entered directly from employment with the City and active duty service is satisfactorily completed; and re-employment is applied for and take place within ninety (90) days after discharge from active duty. If you are returning from up to six (6) months active duty for training, you must apply within thirty (30) days after discharge.

### **Section 11.8 Family and Medical Care Leave**

#### **Section 11.8.1 Statement of Policy**

The City provides family and medical care leave for eligible employees as required by federal and state law. Employees who misuse or abuse family and medical care leave may be disciplined, up to and including termination. Employees who fraudulently obtain or use family and medical care leave are not protected by statutory job restoration or maintenance of health benefits provisions.

This policy is supplemented by the Federal Family and Medical Leave Act (“FMLA”), the California Family Rights Act (“CFRA”), and state and federal regulations implementing both Acts. Unless otherwise stated in this policy, “Leave” means leave pursuant to the FMLA and/or CFRA. To the extent permitted by law, the City will run each employee’s FMLA and CFRA leaves concurrently.

#### **Section 11.8.2 Definitions**

- A. “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.
- B. “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.
- C. “Family member” for FMLA leave means an employee’s child, parent, and spouse. “Family member” for CFRA leave means an employee’s child, parent, parent-in-law, spouse, domestic partner, grandchild, grandparent, and sibling.
- D. “Child”:
  - a. Under the FMLA, “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.



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- b. Under the CFRA, “child” means a child of another person regardless of age or capacity for self care. An employee’s child means a biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.
  
- E. “Designated person” means any individual related by blood or whose association with the employee is the equivalent of a family relationship, identified by an employee in advance or at the time the employee requests the leave. An employee may identify only one “designated person” in one 12-month period.
  
- F. “Parent” means the biological 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.
  
- G. “Parent-in-law” means the parent of a spouse or domestic partner of the employee.
  
- H. “Spouse” means one or two persons to a marriage, regardless of the sex of the persons. For purposes of CFRA leave, “spouse” includes a registered domestic partner as defined below.
  
- I. “Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.
  
- J. “Grandparent” means a parent of the employee’s parent.
  
- K. “Grandchild” means a child of the employee’s child.
  
- L. “Sibling” means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.
  
- M. “Serious health condition” means an illness, injury impairment, or physical or mental condition that involves:
  - 1. Inpatient Care (i.e., admission to a facility that includes or is expected to include 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 there from); or
  - 2. 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:
    - a) A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days, and any subsequent

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treatment or period of incapacity relating to the same condition, that also involves:

- i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
  - ii) Treatment by a health care provider on at least one occasion which 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.
- b) Any period of incapacity due to pregnancy or for prenatal care (Note: FMLA only; under California law, an employee incapacitated by pregnancy is entitled to pregnancy disability leave, not CFRA leave; see Section 11.10 below).
- c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
- i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
  - ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - iii) 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.
- d) 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 of, but need not be receiving active treatment by, a health care provider.
- e) Any period of absence to receive multiple treatments (including any period of recovery there from) 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

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likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

- G. “Health Care Provider” means:
1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
  2. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition;
  3. 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 State law;
  4. Nurse practitioners and nurse-midwives and clinical social workers 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;
  5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
  6. 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.
- H. “Covered active duty” means: (1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or (2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain conditions as specified by regulation.
- J. “Covered Servicemember” means (1) 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 (2) 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 .
- K. “Outpatient Status” means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical

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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.

- L. “Next of Kin of a Covered Service Member” means the nearest blood relative other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA.
  
- M. “Serious Injury or Illness” means: (1) 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 service member 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 service member 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.

### **Section 11.8.3 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, or spouse, who has a serious health condition;
4. (CFRA only) Leave to care for a domestic partner, grandparent, grandchild, parent-in-law, sibling, or designated person who has a serious health condition.
5. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
6. Leave for a “qualifying exigency” arising out of the fact that an employee’s spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty status in the National Guard or Reserves in support of a contingency operation;
7. (CFRA only) Leave for a “qualifying exigency” arising out of the fact that an employee’s domestic partner is on covered active duty or has been notified of an

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impending call or order to covered active duty status in the National Guard or Reserves in support of a contingency operation.

8. 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 that (a) was incurred in the line of duty while on active military duty, or (b) 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. This leave can run up to 26 weeks of unpaid leave during an employer’s 12-month period.

### **Section 11.8.4 Employees Eligible For Leave**

An employee is eligible for leave if the employee:

1. Has worked for at least 12 months; and
2. Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

### **Section 11.8.5 Amount of Leave**

Eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered service member) of leave during any 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

#### **A. Minimum Duration of Leave**

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, parent-in-law, spouse, domestic partner, grandparent, grandchild, designated person, or the employee themselves with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

#### **B. Spouses Both Employed By the City (FMLA only)**

Spouses who are eligible for FMLA leave and who are both employed by the City may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement, or to care for the employee's parent with a serious health condition.

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Spouses who are eligible for FMLA leave and who are both employed by the City may be limited to a combined total of 26 workweeks of leave during the single 12-month period described in Section 11.8.2(B) if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement, to care for the employee's parent with a serious health condition, or to care for a covered service member with a serious injury or illness.

The above limitations apply only where leave is solely protected by the FMLA for one of the specified reasons, and do not apply to leave that qualifies under the CFRA or to FMLA leave taken under any other circumstances.

### **Section 11.8.6 Employee Benefits While on Leave**

Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City group health insurance to the same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will extend for the duration of pregnancy disability leave (see Section 11.10 below) and during any FMLA/CFRA leave.

The City does not pay for benefit plans that are not part of the group health plan for any employee on unpaid leave. As a result, employees will not continue to be covered under the City's other non-health benefit plans that are not provided pursuant to the City's group health plans while the employee is on unpaid leave.

Employees may make the appropriate contributions for continued coverage under the preceding benefit plans by payroll deductions (if the employee is using their paid leave) or direct payments (if the employee is not using their paid leave). Depending on the particular plan, the City will inform you whether the premiums should be paid to the carrier or to the City. Your coverage on a particular plan may be dropped if you are more than 30 days late in making a premium payment. However, you will receive a notice at least 15 days before coverage is to cease, advising you that you will be dropped if your premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control.

### **Section 11.8.7 Substitution of Paid Accrued Leaves**

Although family and medical care leave under this policy is unpaid, an employee may elect and the City will require an employee to concurrently use paid accrued leaves as described below.

#### **A. Employee's Right To Use Paid Leaves Concurrently With Family Leave:**

An employee may use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical care leave. An employee is entitled to use sick leave concurrently with family and medical care leave for the

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employee's own serious health condition or that of the employee's parent, parent-in-law, spouse, domestic partner, child, grandparent, grandchild, or sibling.

### **B. City's Right To Require An Employee To Use Paid Leave**

Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave, with two exceptions:

1. Where an employee is on leave and is eligible for a disability leave benefit, pursuant to a disability plan, that pays a portion of the employee's salary, the employee may agree to – but is not required to – use paid leave to cover the unpaid portion of their salary; and
2. An employee must agree to use accrued sick leave to care for a child, parent, spouse or domestic partner, grandparent, grandchild, or sibling.

### **C. City's Right To Require An Employee To Exhaust FMLA/CFRA Leave Concurrently With Other Leaves**

If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the City may designate that non-FMLA/CFRA leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers and firefighters who are on paid industrial injury leave pursuant to Labor Code § 4850.

### **D. City's and Employee's Rights If An Employee Requests Accrued Leave Without Mentioning Either the FMLA or CFRA**

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.

## **Section 11.8.8 Medical Certification**

### **A. Content of Certification**

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

1. **Employee's Own Serious Health Condition:** Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of

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the essential functions of their position. Upon expiration of the time period the health care provider originally estimated that the employee needed for their own serious health condition, the employee must obtain recertification if additional leave is requested.

2. **Family Member Serious Health Condition:** Employees who request leave to care for a child, parent, parent-in-law, domestic partner, spouse, grandparent, grandchild, or sibling who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, spouse, grandparent, grandchild, or sibling and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, domestic partner, spouse, grandparent, grandchild, or sibling. The term “warrants the participation of the employee” includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.
3. **Service member Serious Injury or Illness:** Employees who request FMLA leave to care for a covered service member who is a child, spouse, parent or “next of kin” of the employee, must provide written certification from a health care provider regarding the injured service member’s serious injury or illness. The City will verify the certification as permitted by the FMLA regulations.
4. **Qualifying Exigency:** The first time an employee requests leave because of a qualifying exigency, an employee may require the employee to provide a copy of the military member’s active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member’s active duty service. A copy of the new active duty orders or similar documentation shall be provided to the City 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 military member. The City will verify the certification as permitted by the FMLA and CFRA regulations.

### **B. Time To Provide A Certification**

When an employee's leave is foreseeable and at least 30 days notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the City within the time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless



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it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

### **C. Consequences For Failure To Provide An Adequate Or Timely Certification**

If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

### **C. Recertification**

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

### **D. Personnel Director's Review of Certification for Employee's Own Serious Health Condition**

**Complete and Sufficient:** The employee must provide a certification for their own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the Personnel Director will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

**Authentication and Clarification:** After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the Personnel Director may contact the health care provider who provided the certification to clarify and/or authenticate the certification. "Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Personnel Director may not ask for additional information beyond that required on the certification form.

### **E. Second and Third Medical Opinions for Employee's Own Serious Health Condition**

If the City has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the City may require a

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medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. The City must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee.

### **F. Intermittent Leave Or Leave On A Reduced Leave Schedule**

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

#### **Section 11.8.9 Employee Notice of Leave**

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days’ notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable. If the City determines that an employee failed to provide timely notice of a foreseeable leave, absent an emergency need, the City may delay the start of the leave until the City can, in its discretion, adequately cover the position with a substitute.

#### **Section 11.8.10 Reinstatement Upon Return From Leave**

- (a) **Reinstatement to Same or Equivalent Position:** Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.
- (b) If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.
- (c) **Employee’s Obligation to Periodically Report on Their Condition:** 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.

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- (d) **Fitness for Duty Certification:** As a condition of reinstatement of an employee whose leave was due to the employee’s own serious health condition, which made the employee unable to perform their job, the employee must obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.
- (e) **Reinstatement of “Key Employees”:** Under the FMLA only, the City may deny reinstatement to a “key” employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City’s intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. This provision applies to FMLA leave only, and does not apply during or upon the expiration of CFRA leave.

### **Section 11.8.11 Required Forms**

Employees must complete any applicable forms to receive family and medical care leave. The forms are available from the Human Resources Department.

### **Section 11.9 Authorized Leave of Absence Without Pay**

A department head may grant an employee a leave of absence without pay for not more than ten (10) days when it is in the best interest of the city, and on approval of the City Manager. Any leave of absence in excess of ten (10) days can only be granted by the City Manager.

#### **Section 11.9.1 Return From Leave**

Return from leave:

- (a) Failure of an employee to return to duty upon the termination of authorized leave of absence is an unauthorized leave of absence and is cause for discharge.
- (b) Upon return an employee may be required to submit to medical examination to determine whether or not he/she is still capable of performing the duties of his/her position. When a physical examination discloses that an employee is not physically capable of performing his/her duties, the City shall offer him/her any vacant position in the city for which he/she is qualified. If an employee is no longer physically capable of performing the duties of a vacant position, he or she shall be terminated.

### **Section 11.10 Pregnancy Disability Leave**

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for the number of hours the employee would normally work within four calendar months (one-third of a year or 17 1/3 weeks). For a full-time employee who works 40 hours per week, “four months” means 693 hours of leave entitlement, based on 40 hour per week times 17 1/3 weeks. An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave.

#### **Section 11.10.1 Notice & Certification Requirements**

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1. Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice and must be approved by the employee's supervisor or department director before the leave begins. The request must be supported by a written certification from the attending physician stating (1) that the employee is disabled from working by pregnancy, childbirth or a related medical condition, (2) that: (1) the employee is disabled from working by pregnancy, childbirth or a related medical condition; (2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and (3) the estimated duration or end date of the leave.
2. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the department director prior to being taken. Requests for an extension of leave must be submitted in writing to the department director prior to the agreed date of return and must be supported by a written certification of the attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition. The maximum pregnancy disability leave is four months.

### **Section 11.10.2 Compensation During Leave**

Pregnancy disability leaves are without pay. However, the employee may first use accrued sick leave, vacation leave, and then any other accrued paid time off during the leave.

### **Section 11.10.3 Benefits During Leave**

1. **Group Health Insurance:** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the FMLA and/or CFRA.
2. **Sick and Vacation Leave Accrual:** Sick leave and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.
3. **Employee Status during Leave:** The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

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### **Section 11.10.4 Reinstatement**

1. Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave.
2. If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and geographic location as the employee's original position.
3. If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation.
4. An employee who fails to return to work after the termination of her leave loses her reinstatement rights.

### **Section 11.11 Unauthorized Leave of Absence**

An unauthorized leave of absence is treated as time not worked. For an unauthorized leave of absence, the City shall deduct from the employee's pay an amount equal to time absent.

### **Section 11.12 Sick Leave Donations**

In the event, an employee is unable to work due to catastrophic illness or surgery (either their own or that of a qualifying family member), City employees may donate their accrued sick leave to another employee under the following conditions:

- Employee will be out of work in excess of two weeks (80 hours).
- The sick/injured employee has exhausted all of his/her accrued sick, vacation, and compensatory time.
- Individual employees may donate sick leave hours, which are in excess of forty (40) accrued hours with a cap of twenty (20) hours per fiscal year.
- Employees, who are terminating their employment with the City, may not donate their sick leave hours to another employee.
- Any employee requesting a donation of sick leave hours shall submit a written request to the Department head requesting authorization to obtain the donation of sick leave hours from their fellow employees.
- Once hours are donated and received, the donation is irrevocable.

### **Section 11.13 Leave Requests**

The following procedure shall apply for all leave requests other than for sick leave:

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- A) Leave requests shall be made in writing using the City of Lindsay Leave Request Form, which will be available at each department work site. No leave will be considered approved until the form is signed by the employee's department head or his/her designee and a copy of the form is returned to the requesting employee.
- B) Vacation requests should be made at least two weeks in advance. In those cases where multiple employees are requesting the same time period off, the order in which the requests are received shall determine which employees are granted vacation leave.
- C) Special request for one day off which was not a planned vacation may be made at any time prior to the day to be taken. The leave request form must be submitted and approved prior to the employee taking the day off.
- D) Upon receiving a leave request, the department head shall approve/deny the request and forward a copy to the requesting employee and to the finance department. In the case of denial, the department head shall indicate on the form the reasons for the denial.
- E) Employees who are denied a leave request may appeal to the Personnel Director.

### **Section 11.14 Temporary and Part-Time Employees Not Eligible**

Temporary employees, including emergency and extra help employees, are not eligible for paid benefits, including paid leaves of absence unless the law requires otherwise Part-time employees are not eligible for benefits or leaves of absence other than vacation after five years of service.

**TRANSFER AND DEMOTION**

**Section 12.1.1 Involuntary Transfer**

The City may initiate employee transfers when the transfer is in the best interest of the City. City initiated transfers shall not serve the required probationary period in accordance with Rule 9. Upon approval of the Personnel Director and City Manager, the department head may transfer an employee anytime from one position to another position in a comparable class where the salary range is the same, involves the performance of similar duties and requires substantially the same basic qualifications. However, the employee shall be consulted prior to any transfer. Any employee who is transferred from one position to another position in the same or similar class shall be compensated at the same step and salary range the employee received in the previous position. The salary anniversary date shall not change. Employees may appeal the transfer within five (5) days to the City Manager whose decision is final.

**Section 12.1.2 Voluntary Transfer**

An employee's request for transfer to another type of work or department normally will be considered only after successful completion of the probationary period. Employees requesting a transfer shall submit a memorandum to the Personnel Director and City Manager detailing the request for transfer and reasons for the request. Upon receipt of the transfer request, the Personnel Director will notify the employee's Department Head. Job performance, qualifications, attendance, and other factors shall be evaluated to ensure the most effective use of the employee's capabilities in evaluating the transfer request. The Personnel Director will communicate to the employee whether the request is granted. When the foregoing factors are substantially equal, transfers shall be determined by City seniority. Employees transferred to a vacant position at their request shall serve a new probationary period in accordance with Rule 9.

If the transfer involved a change from one department to another, both department heads must consent thereto unless the City Manager orders the transfer.

A transfer shall not be used to effectuate a promotion or demotion, each of which may be accomplished only as provided in the personnel rules and regulations.

**Section 12.2 Demotion**

The City Manager may demote an employee for disciplinary purposes. No employee shall be demoted to a position for which they do not possess the minimum qualification. Disciplinary demotion action shall be in accordance with Rule 14.

Demotion is the removal of an employee from his or her present position to a lower-paying position. A Department Head may request the City Manager demote an employee for any of the following reasons:

- (a) At the request of an employee, provided the employee possesses the minimum qualifications for the demoted position.
- (b) Failure to meet the job-related standards of a promotional probation.
- (c) For disciplinary actions (see Rule 14).

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(d) For displacement.

Employees requesting a voluntary demotion shall submit a memorandum to the Personnel Director and City Manager detailing the request for voluntary demotion and reasons for the request. Upon receipt of the request for voluntary demotion, the Personnel Director will notify the employee's department head. If the request for voluntary demotion involves a change from one department to another, both department heads must consent thereto unless the City Manager orders the demotion. Employees demoted at their own request shall be placed at the same step unless another step is mutually agreed to. If the employee has held regular status in the classification to which he or she is voluntarily demoted, probation can be waived upon approval of the City Manager.





**SEPARATION FROM SERVICE**

**Section 13.1 Abandonment of Position**

An employee may be separated from employment if the employee fails to report for duty and is absent from work without approved leave for more than three consecutive work shifts, or fails to report for work upon the expiration of a vacation or a leave of absence where the employee did not notify his or her department head of the reason for the absence. This will be deemed to be a resignation and may result in termination of employment. The Personnel Director shall provide written notice of the proposed action to be taken due to the abandonment to the employees last known address. Said notice shall provide the employee the Skelly prep disciplinary due process.

**Section 13.2 Disciplinary Action**

An employee may be separated from employment for disciplinary reasons by the City Manager as provided in Rule 14.

**Section 13.3 Layoff**

An employee may be separated from employment because of changes in duties or organization, abolishment of position, shortage of work, or funds.

**Section 13.3.1 Statement of Intent**

Whenever, in the judgment of the City Council, it becomes necessary to abolish any position or employment, the employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal.

**Section 13.3.2 Notification**

Employees to be laid off will be given, whenever possible, at least fourteen (14) calendar days prior notice.

**Section 13.3.3 Order of Layoff**

Employees will be laid off in the inverse order of their seniority in their classification in the department. Seniority is determined based upon date of hire in the classification and higher classifications in the department. A lay off out of the inverse order of seniority may be made if, in the City’s judgment, retention of special job skills are required. Within each class, employees will be laid off in the following order, unless special skills are required: temporary, part-time, probationary, and regular. In cases where there are two or more employees in the classification in the department from which the lay off is to be made who have the same seniority date, such employees will be laid off on the basis of the last evaluation rating in the class, providing such rating has been on file at least thirty (30) days and no more than twelve (12) months prior to lay off, as follows:

First, all employees having ratings of “improvement needed;” second, all employees having ratings of “competent;” third, all employees having ratings of “outstanding.”

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## **Section 13.3.4 Re-employment Rights for Laid-off Employees**

Regular employees, who have received a satisfactory or better evaluation for the 12 months prior to layoff, have completed their probationary period and who have been laid off shall be automatically placed on a re-employment list for two (2) years for the classification from which they were laid off.

## **Section 13.4 Resignation**

An employee wishing to leave employment in good standing shall file with the City Manager a written resignation stating the effective date and reasons for leaving, at least two weeks before leaving the service, unless approval for a shorter notice is obtained. Resignation shall be deemed accepted upon submission. A resignation made with the notice required may be regarded as cause for denying the resigning employee future employment with the City, and is a resignation not in good standing.

## **Section 13.5 Disability and Disability Accommodations**

### **A. POLICY**

The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. The City may separate a disabled employee if the employee cannot perform the essential functions of the job with reasonable accommodation.

### **B. PROCEDURE**

#### **1. Request for Accommodation**

An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Human Resources Department. The request must identify: a) the job-related functions at issue; and b) the desired accommodation(s).

#### **2. Reasonable Documentation of Disability**

Following receipt of the request, the Human Resources Department may require additional information, such as reasonable documentation of the existence of a disability.

#### **3. Fitness for Duty Examination**

The City may require an employee to undergo a fitness for duty examination to determine whether the employee can perform the essential functions of the job with or without reasonable accommodation. The City may also require that a City-approved physician conduct the examination.

#### **4. Interactive Process Discussion**

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After receipt of reasonable documentation of disability and/or a fitness for duty report, the City will arrange for a discussion, in person or via telephone conference call, with the employee, and his or her representative(s), if any. The purpose of the discussion is to work in good faith to fully discuss all feasible potential reasonable accommodations.

### **5. Case-by-Case Determination**

The City determines, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of accommodation(s) to provide. The City will not provide accommodation(s) that would pose an undue hardship upon City finances or operations, or that would endanger the health or safety of the employee or others. The City will inform the employee of its decision as to reasonable accommodation(s) in writing.

### **Section 13.6 Retirement**

Retirement from employment shall be subject to the terms and conditions of the City's retirement plan. Whenever an employee meets the conditions set forth in the City's retirement plan regulations, they may elect to retire and receive benefits earned under the retirement plan.

### **Section 13.7 Exit Interviews**

Whenever possible, the Personnel Director shall conduct exit interviews with employees upon separation from employment.

**DISCIPLINARY PROCEDURES**

**Section 14.1 Policy**

The City’s policy on disciplinary actions is founded on the premise that the actions are to be corrective, and any disciplinary actions should reinforce and shape employee behavior in the reasonable and necessary direction to actualize the City’s goals.

The tenure of every employee shall be based on reasonable standards of person conduct and job performance. Failure to meet such standards shall be grounds for appropriate disciplinary action. Disciplinary actions should be progressively more severe, and commensurate with the seriousness of the offense and with due consideration of the employee’s prior performance record. However, the City may disregard progressive discipline for a serious offense. A serious offense may result in severe discipline. All suspensions, demotions, reductions in salary and terminations of persons with regular status shall be made according to these rules. Employees who are probationary, temporary, part time, or serve pursuant to a contract may be disciplined at any time without cause or right of appeal unless their contract provides otherwise.

**Section 14.2 Basis for Disciplinary Action**

Basis for disciplinary actions include, but shall not be limited to, the reasons listed below and in accordance with procedures listed in these rules.

- (a) Failure to meet work performance standards and requirements; unsatisfactory or careless work; failure to meet production or quality standards as given by employee’s supervisor; or mistakes due to carelessness or failure to get necessary instructions.
- (b) Discourteous or disrespectful treatment of other employees, citizens, suppliers, or visitors, or behavior which does not foster cooperation.
- (c) Insubordination or refusing to obey supervisor’s directions pertaining to work; refusal to perform assigned work or to follow a direct order; or insulting or demeaning the authority of a supervisor or manager.
- (d) Willful or negligent disobedience of any law, City or department rule or regulation.
- (e) Failure to maintain a neat and clean appearance in terms of the standards established by the employee’s supervisor; any departure from accepted conventional modes of dress or personal grooming; or wearing improper or unsafe clothing.
- (f) Excessive use of City telephone for personal calls.
- (g) Posting, removing or altering notices on any bulletin board on City property without permission of an officer of the City.
- (h) Soliciting during working hours and/or in working areas; selling merchandise or collecting funds of any kind for charities or others without authorization during

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business hours, or at a time or place that interferes with the work of another employee on City premises.

- (i) Conducting a lottery or gambling on City premises.
- (j) Misappropriation or damage of public property or waste of public funds or property through negligent or willful misconduct.
- (k) Absence without approved leave; leaving workstation during work hours without supervisor's permission, except to use the restroom; leaving work before the end of a workday or not being ready to work at the start of a workday without supervisor's approval; or stopping work before time specified for such purposes.
- (l) Failure to report an absence or late arrival; excessive absenteeism; or tardiness.
- (m) Practicing deception or fraud in the securing of a job appointment or promotion; or failure to supply full information as to character, reputation, or acts which, if known at the time of appointment might have resulted in a disqualification of the employee for the job to which appointment was made.
- (n) Falsification or misrepresentation of a relevant official statement, document, reports or records, and employment application, including the omission of information in an attempt to deceive or mislead, or the willful omission of information that, if known, could affect the outcome.
- (o) Misappropriation of found property; theft of City property or the property of other employees; unauthorized possession or removal of any City property, including documents, from the premises without prior permission from management; unauthorized use of City equipment or property for personal reasons; or using City equipment for profit.
- (p) Violation of the City's or a department's confidentiality policies, or disclosure of confidential City information to any unauthorized person or entity .
- (q) Lying about sick or personal leave; falsifying reason for a leave of absence or other data requested by the City; or alteration of City records or other City documents.
- (r) Failure to use or alteration of time cards, attendance documents or other records; altering such records of another employee, or causing someone to alter such records which is considered theft of time.
- (s) Neglect of duties.
- (t) Being intoxicated or under the influence of intoxicants, drugs or narcotics while at work; or use, possession or sale of such in any quantities while on City premises except medications prescribed by a physician, which do not impair work performance. Possessing or using alcohol in City offices or facilities.
- (u) Smoking while on duty in an area where smoking is prohibited or at non-designated times, as specified by department rules.

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- (v) Incompetency.
- (w) Inefficiency.
- (x) Dishonesty.
- (y) Malicious gossip and/or spreading rumors; engaging in behavior designed to create discord and lack of harmony; interfering with another employee on the job; or willfully restricting work output or encouraging in other to do the same.
- (z) Improper withdrawal or limitation of service or any action that interferes with or is disruptive of the City mission or the public service.
- (aa) Any act or statement, oral or written, which tends to bring the City, its employees or officers into disrepute or ridicule.
- (bb) Use of coarse, obscene, profane, or insolent language or gestures to any Other employee or the public; indifference or rudeness towards the public or any other employee; or any disorderly/antagonistic conduct on City premises.
- (cc) Sleeping while on duty; or loitering or loafing during working hours.
- (dd) Improper political activity.
- (ee) Unauthorized possession of dangerous or illegal firearms, weapons or explosives on City property or while on duty, or displaying or brandishing any firearm or weapon, whether in jest or otherwise, in any manner which can be construed as careless, threatening or dangerous except in the performance of official duties.
- (ff) Receiving or accepting, directly or indirectly, any money, gift, reward, service, gratuity, favor, hospitality, loan or other consideration for any service or official action rendered by the employee, without first securing the written permission from the City Manager.
- (gg) Use of influence of position with the City for private gain or advantage, or the use of time, facilities, equipment or supplies for private gain or advantage.
- (hh) Engaging in an act of sabotage; or negligently causing the destruction, damage, loss or misuse of City property, or the property of any employees, customers, suppliers, or visitors; or the failure to immediately report damage, loss or an accident involving City equipment.
- (ii) Negligence or any careless action which endangers the life or safety of another person; willful violation of security or safety rules or failure to observe safety rules or safety practices; failure to wear required equipment; or tampering with safety equipment or other devices.
- (jj) Fighting, horseplay, or provoking a fight while on duty.

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- (kk) Conviction of a felony or misdemeanor when there is a nexus to the workplace. The word, “convicted” shall be construed to mean pleas of guilty, or nolo contendere, regardless of whether any sentence is imposed by the court.
- (ll) Engaging in criminal conduct or acts of violence, or making threats of violence toward anyone on City premises or when representing the City.
- (mm) Threatening, intimidating or coercing other employees on or off the premise at anytime, for any purpose.
- (nn) Immoral conduct or indecency on City property; or failure to exhibit acceptable behavior either during or outside duty hours such that the employee’s ability to perform his or her duties is impaired; or the ability of the City to perform its’ mission is or may be impaired; or causes the discredit to the City.
- (oo) Refusal to take and subscribe any oath or affirmation, which is required by law in connection with employment.
- (pp) Unlawful discrimination, harassment or retaliation.
- (qq) Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the City.
- (rr) Any conduct that impairs, disrupts or causes discredit to the City, to the public service, or other employee’s employment .
- (ss) Working overtime without authorization or refusing to work assigned overtime.
- (tt) Any violation or action inconsistent with these personnel system rules or officially promulgated City rules, regulations or policies.

### **Section 14.3 Types of Discipline**

The following are types of counseling, reprimands and discipline which the City may impose:

1. **Counseling:** The immediate supervisor usually counsels the employee. Counseling is informal discussion with an employee designed to assist the employee to fully develop his or her skills and abilities. The discussion may include, but shall not be limited to, clarifying standards, setting expectations and areas of concern, seeking information, or problem solving. Counseling is usually the action taken to assist the employee in clarifying the need for improvement.

To provide both the supervisor and employee with a permanent record of a counseling, a written memo may be sent to the employee to clarify verbal agreements and the need for possible behavior change. No record of the counseling is placed in the employee’s permanent personnel file unless disciplinary action of at least a written reprimand is later issued on the same problem.

A counseling memo is not considered “punitive action” under the Public Safety Officers Procedural Bill of Rights Act

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2. **Verbal Reprimand:** A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.
3. **Written reprimand:** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue..

The content of the written warning shall define what occurred, the date and time of event which is the cause of the reprimand, what was violated by the employee, what the employee is directed to do to correct the situation, and the employee's right to respond in writing within five (5) working days of the reprimand. The written reprimand shall be signed by the employee's supervisor, or department head, countersigned by the employee, and filed with the personnel officer. If the employee refuses to sign, this shall be noted on the memorandum. When the written warning is issued, the employee shall receive one copy with both signatures affixed and a copy will be placed in the employee's permanent personnel file. The employee has the right submit a written rebuttal to the Personnel Director or designee within 5 working days. Such rebuttal shall be attached to and stored alongside the reprimand in the employee's personnel file. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below.

4. **Suspension Without Pay:** A department head may suspend an employee from his or her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the discipline is final. An employee subject to suspension will receive prior written notice and right of appeal as provided herein. Employees who are exempt from FLSA overtime requirements will only be subject to suspension where a suspension is consistent with FLSA regulations.
5. **Demotion:** A department head may demote an employee from his or her position for cause. Documents related to a demotion shall become part of the employee's personnel file when the discipline is final. An employee subject to demotion will be entitled to prior written notice and right of appeal as provided herein.
6. **Reduction in Pay or Paid Leave Accruals:** A department head may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of two forms: (1) a decrease in salary to a lower step within the salary range;(2) a decrease in salary paid to an employee for a fixed period of time; or (3) loss of accrued paid vacation or administrative leave, floating holiday, or other general-purpose paid time off. Documents related to a reduction in pay shall become part of the employee's personnel file when the discipline becomes final. An employee subject to a reduction in pay is entitled to prior written notice and right of appeal as provided herein. Employees who are exempt from the FLSA overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.



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7. Discharge: A department head may discharge an employee from his or her position for cause. Documents related to discharge shall become a part of an employee's personnel file when the discipline becomes final. A discharged employee is entitled to prior written notice and right of appeal as provided herein.

### **Section 14.4 Written Notice of Intent to Discipline**

Only regular, for-cause employees have the right to the conference and appeal process outlined in Sections 14.4, 14.5, and 14.6. Written notice of the proposed disciplinary action (Suspension, Demotion, Reduction in Pay, or Termination) shall be given to the employee. Such notice shall include:

- (a) A statement which clearly defines the intent to take action, the proposed action to be taken and the effective beginning and ending time of intended action.
- (b) A statement of the specific grounds and particular facts upon which the proposed disciplinary action will be taken.
- (c) A copy of all written materials, reports or documents upon which the intended discipline is based.
- (d) A statement that the employee will be afforded the right to respond, either orally, in writing, or both within five (5) working days upon receipt of the intended disciplinary action, to the department head, either by requesting a *Skelly* conference, by providing a written response, or both.
- (e) The date and time of the *Skelly* conference with the department head.
- (f) Notice that the failure to respond within five (5) working days shall constitute a waiver of the right to respond prior to the imposition of discipline.
- (g) Notice of the employee's right to have a representative of their choice at the *Skelly* conference.

The employee's signature on the notice of intent to render discipline shall acknowledge receipt of said notice by the employee. If the employee refused to sign it shall be noted as such on the notice of intent to discipline. The signature documentation on said notice shall acknowledge that the employee received the notice.

### **Section 14.5 Employee Response**

Within five (5) working days the employee shall have the right to respond, in writing, or at the conference to the department head concerning the proposed action (Suspension, Demotion, Reduction in Pay, Termination).

If, within the five (5) working days response period, the employee, does not indicate a desire to participate in the pre-disciplinary *Skelly* process, the proposed action of the City should be considered conclusive and shall take effect as prescribed.

The employee's failure to make an oral response at the arranged conference time, or the employee's failure to cause his or her written response to be delivered by the date and time

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specified in the notice, constitutes a waiver of the employee's right to respond prior to the imposition of the discipline. In that case, the proposed disciplinary action will be imposed on the date specified.

### **Section 14.6 Final Notice of Discipline**

Within 5 calendar days of receipt of the employee's timely written response or within 5 calendar days of the conference, the department head will (1) dismiss the notice of intent and take no disciplinary action against the employee, (2) modify the intended disciplinary action, or (3) impose the intended disciplinary action. In any event, the department head will prepare and provide the employee with a notice that contains the following:

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

### **Section 14.7 Relief of Duty**

The Personnel Director, or their designee, may place the employee on administrative leave with pay pending the completion of an investigation or opportunity to respond as may be required to determine if disciplinary action is to be taken. In the event of an oral notice, the City Manager shall confirm the action by giving the employee written notice. In the event that the Personnel Director has a conflict of interest, the Finance Director will determine, and confirm with the City Manager, whether it is appropriate to place an employee on administrative leave.

### **Section 14.8 Appeal**

#### **Section 14.8.1 Request for Appeal Hearing**

A regular, for-cause employee may appeal from a final notice of discipline in the form of suspension, demotion, reduction in pay, or termination by delivering a written answer to the charges and a request for appeal to the Personnel Director, or their designee, who will forward the appeal to the City Manager. The written answer and request for appeal must be received no later than 10 calendar days from the date of the department director's decision. In the event that the Personnel Director has a conflict of interest, request for an appeal hearing should be delivered to the Finance Director.

#### **Section 14.8.2 Date and Time of the Appeal Hearing**

The City Manager will set a date for an appeal hearing within a reasonable time after receipt of a timely request for appeal but no later than sixty (60) days. An employee who, having filed a

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timely request for appeal, has been notified of the time and place of the appeal hearing, and who fails to appear personally at the hearing, may be deemed to have abandoned his or her appeal. In such a case, the City Manager may dismiss the appeal.

The appeal hearing officer shall be the City Manager or an individual designated by the City Manager, so long as the City Manager did not serve as the *Skelly* officer for the discipline at issue or has a conflict of interest. In those cases, the appeal hearing officer shall be an impartial individual designated by the City Council.

### **Section 14.8.3 Identification of Issues, Witnesses and Evidence**

No later than 10 days prior to the appeal hearing, each party will provide each other and the hearing officer a statement of the issues to be decided, a list of all witnesses to be called (except rebuttal witnesses), a brief summary of the subject matter of the testimony of each witness, and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing.

The City will use numbers to identify its evidence; the employee shall use alphabet letters.

Neither party will be permitted to call any witness during the hearing who has not been identified pursuant to this section, nor use any exhibit not provided pursuant to this section, unless that party can show that they could not have reasonably anticipated the need for the witness or exhibit. The Personnel Board will state at the beginning of the hearing the decision as to the precise issue(s) to be decided.

### **Section 14.8.4 Conduct of the Appeal Hearing**

#### **a. Subpoenas**

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

#### **b. Continuances**

The hearing officer may continue a scheduled hearing only upon good cause shown.

#### **c. Record of the Proceedings**

All disciplinary hearings may, at the discretion of the parties, be either recorded by a court reporter or tape recorded. Any party who requests a transcript of the proceedings must pay for his/ her/ its own copy of a transcript.

#### **d. The Hearing Officer's Authority During the Hearing**

The hearing officer has the authority to control the conduct, but shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.

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### e. Conduct of the Hearing

- i. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner the hearing officer decides is the most conducive to determining the truth.
- ii. Any relevant evidence may be admitted if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.
- iii. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in civil actions. An objection is timely if made before submission of the case.
- iv. The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
- v. Irrelevant and unduly repetitious evidence may be excluded.
- vii. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon the request of either party.
- viii. All witnesses shall be sworn in for the record prior to testifying at the hearing.

### f. Burden of Proof at the Hearing

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

### g. Right to Due Process

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

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

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### i. Presentation of the Case

All parties and their counsel or representatives shall not disparage the intelligence, morals, or ethics of their adversaries or the hearing officer. The hearing shall proceed in the following order unless the hearing officer directs otherwise:

- i. The City shall be permitted to make an opening statement.
- ii. The employee shall be permitted to make an opening statement.
- iii. The City shall produce its evidence.
- iv. The employee shall produce his or her evidence.
- v. The City, followed by the employee, may offer rebuttal evidence.
- vi. Closing arguments of no more than 20 minutes shall be permitted at the discretion of the hearing officer. The City shall have the right to argue first, the employee may argue second, and the City may reserve a portion of its argument time for rebuttal.

### j. Hearing Demeanor and Behavior

All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or members of the Board.

### k. Written Briefs by the Parties

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

## **Section 14.8.5 Written Findings and Decision**

The hearing officer shall render a statement of written findings and recommended decision within 14 days after the hearing has been completed and the briefs, if any, have been submitted.

If the City Manager was neither the appeal hearing officer or the *Skelly* officer the City Manager shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. In such case, or if the City Manager was the hearing officer, the City Manager's decision is final. There is no process for reconsideration.

If the City Manager was the *Skelly* officer, the City Council shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The decision of the City Council is final. There is no process for reconsideration.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 14.8.6. Proof of Service of the Written Findings and Decision**

The City Manager shall send the final statement of written findings and decision, along with a proof of service of mailing, to each of the parties and to each of the parties' representatives.

### **Section 14.8.8. Judicial Review; Statute of Limitations**

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

**CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**



**CITY – OWNED EQUIPMENT**

**Section 15.1 Motor Vehicles – Use**

Each city vehicle may be used only on city business and shall be stored in prescribed locations on city property when not in use. Normally, only the City Manager and a department head are allowed to take a vehicle home. The City Manager may make exceptions.

**Section 15.2 Assignment**

The City Manager shall assign each vehicle into the custody of a department head. The department head is responsible for proper use and safeguarding of that vehicle.

**Section 15.3 Operation**

Only an employee may operate a city vehicle. No officer or employee shall allow an unauthorized person to rent, borrow or use a city vehicle or permit a hitchhiker or other person not having business with the city to ride in a vehicle. An employee operating a city vehicle who is involved in an accident must report the accident immediately to the police department and the Personnel Director. No city employee may drive a city vehicle who does not have in his/her possession a valid driver’s license. Each city employee shall comply with all city and state laws regarding the operation of city vehicles and is personally responsible for payment of a fine incurred while driving a city vehicle.

**Section 15.4 Equipment Other Than Motor Vehicles**

No city equipment, instruments, tools, supplies, machines or other items which are the property of the city may be used by an officer or employee engaged in outside employment. No employee shall take city property for personal use without permission of the appropriate department head. If permission is granted, the employee is responsible for its safe return. No officer or employee shall allow an unauthorized person to rent, borrow, or use city property except with prior permission of the City Manager or appropriate department head.

**POLITICAL ACTIVITY**

**Section 16.1 Prohibited Conduct:**

The City prohibits:

1. Employees and officers from engaging in political activities during work hours;
2. Political campaigning in City buildings or on premises adjacent to City buildings; and
3. An employee or officer from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

**Section 16.2 Examples of Prohibited Conduct**

1. Participate in political activities of any kind while in uniform;
2. Participate in political activities during working hours;
3. Participate in political activities on City worksites;
4. Place or distribute political communications on City property;
5. Use equipment to make political communications;
6. Solicit a political contribution from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee;
7. Favor or discriminate against any employee because of political opinions or affiliations;
8. Interfere with any election; or
9. Attempt to trade job benefits for votes

**16.3 Examples of Permitted Conduct**

1. Express opinions on all political subjects or candidates;
2. Become a candidate for any local, state, or national election;
3. Contribute to political campaigns;
4. Join and participate in the activities of political organizations;
5. Request, during off-duty time, political contributions, through the mail or other means, from City officers or employees if the solicitation is part of a solicitation



## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

made to a significant segment of the public which may include City officers or employees;

6. Solicit or receive, during off-duty time, political contributions from a City employee organization if the funds, when collected, were not earmarked for a clearly identifiable candidate for a federal, state or local office; or
7. Solicit or receive, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of City officers or employees.

**TRAINING OF EMPLOYEES**

**Section 17.1 Responsibility for Training**

It is the policy of the City to encourage the training of employees. The City Manager and department heads have responsibility for developing training programs for employees. Training may include lecture courses, demonstrations, assignment of reading matter or other devices available for the purpose of improving the effectiveness and broadening the knowledge of a municipal officer or employee in the performance of his or her duties.

**Section 17.2 Credit for Training**

Participation in and successful completion of special training courses may be considered in making advancements and promotions. The employee shall file evidence of training programs with the personnel officer.

**Section 17.3 Training Costs**

When in the opinion of the City Manager a training course to be taken by an employee will benefit the City, the City Manager may authorize payment by the City of tuition charges, fees and textbooks. Textbooks purchased by the City become the property of the City. When tuition is paid by the City, the employee must file with the Personnel Department written evidence of his or her satisfactorily passing the course or he or she may be required to refund money paid by the City for the course. If the employee is separated from the city service within six (6) months after completing the course. This includes training for peace officers where none of the training or only a portion of the training was reimbursed by P.O.S.T. The employee will be responsible for the portion not reimbursed to the City.

**GRIEVANCE PROCEDURE**

**Section 18.1 PURPOSE**

The grievance procedure will give regular employees assurance that the City recognizes their right to be heard and assist them in achieving job satisfaction. The purpose of this procedure is to provide a just and equitable method for the resolution of grievances or complaints without prejudice. The intent of this policy is to:

- (a) Promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations:
- (b) Give each employee a systematic means of obtaining further consideration of problems after every reasonable effort has failed to resolve them through discussion;
- (c) Settle grievances as near as possible to point of origin.
  1. Supervisors shall make every effort to resolve grievances informally at their level.
- (d) Provide that appeals shall be conducted as informally as possible.

**Section 18.2 Definition of Grievance**

Subject to the exclusions listed, a grievance is defined as any dispute that: (1) is job-related, (2) is wholly or partially within the province of the City to rectify or remedy, (3) concerns terms and conditions of employment, (4) involves the interpretation, application, or alleged violation of these rules or a current Memorandum of Understanding (MOU) between the City and a recognized employee organization representing City employees, and (5) is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

**Section 18.3 Grievance Procedure**

In every case involving a grievance, the employee shall first make an effort to resolve the grievance with his/her supervisor without delay. If the employee does not believe the problem is satisfactorily resolved, he/she may appeal in writing on the grievance form to the department head. The appeal must be filed within thirty (30) days of the date the employee knew or should have known of the circumstances giving rise to the grievance.

**Section 18.4 Investigation of Facts/Decision of Department Head**

The department head shall investigate the facts and issues and shall decide the matter at the earliest date consistent with the nature of the investigation but in any event, within 5 working days. The Department Head shall personally notify the employee of his/her decision in writing on the grievance form.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 18.5 Appeal to Personnel Director, Designee, or Finance Director**

If the employee desires to pursue the matter further, he/she shall notify the Personnel Director, or designee, in writing on the grievance form within five (5) working days of the Department Head's decision. In the event that the Personnel Director has a conflict of interest, the employee shall notify the Finance Director.

### **Section 18.6 Employee Meeting**

Within ten (10) days after the Personnel Director, designee, or Finance Director receives the grievance complaint, he/she will arrange a meeting of the employee, employee representative (if any,) and department head. At the meeting an earnest effort shall be made to arrive at a satisfactory resolution of the issue.

### **Section 18.7 Written Decision**

If a resolution is not reached at the employee meeting, the Personnel Director, designee, or Finance Director shall make his/her decision in writing five (5) working days after the date of the meeting. The decision of the Personnel Director, designee, or Finance Director is final.

### **Section 18.8 Regulations During Grievance Procedure:**

The following regulations apply during the grievance procedure:

- (a) An employee may request the assistance of another person of his/her own choosing in preparing and presenting the appeal at any level of the review;
- (b) The employee and his/her representative may use a reasonable amount of work time, determined by the appropriate department head, in conferring about and presenting the grievance.
- (c) The time limits specified in this rule may be extended to a definite date by mutual written agreement of the parties;
- (d) An employee may drop proceedings upon written notice at any state of the procedure;
- (e) The result of final adjudication shall be in writing and acknowledged by the signature of all parties;
- (f) Copy of the grievance complaint, department head conclusion and Personnel Director, designee, or Finance Director's decision maintained in a file containing grievances;
- (g) There may not be discrimination, reprisal, or retaliation against any employee for availing himself/herself of the grievance procedure.

**REPORTS AND RECORDS**

**Section 19.1 Personnel Files**

The Personnel Director shall maintain a personnel record for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, disciplinary action, performance evaluation, and such other information as may be considered pertinent by the Personnel Director. Personnel records are confidential and access to personnel records shall be limited to the extent permitted by law.

**Section 19.2 Access to Administrative Records**

The City Attorney and the Personnel Director shall have access to all departmental records, documents, and papers pertaining to employees, the examination of which will aid in the discharge duties. All administrative records shall be maintained in a manner, which will preserve their confidentiality.

**Section 19.3 Employee Access to Their Personnel Records**

**Section 19.3.1 Inspection of File**

An employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals. An employee who wishes to review his or her file should contact the Personnel Officer to arrange an appointment. The review must be done in the presence of a designated employee of Personnel.

**Section 19.3.2 Copies**

On request, an employee is entitled to receive a copy of any employment related document he or she has signed. An employee who wishes to receive such a copy should contact a designated employee of Personnel. On request, the City will also provide an employee single copies of any other documents in his or her personnel file. The City may charge a reasonable fee for the copies.

In the event the employee wishes to have another person/representative inspect his or her personnel file, the employee must provide the person/representative with written authorization. The employee will be notified of the date, time and place of the inspection in writing. It is the employee's responsibility to notify the person to whom the employee has given written authorization of the date, time and place of the inspection.

Under no circumstances is the employee and/or the employee's designee permitted to add or remove any document or other item from the employee's personnel file during the inspection.

**Section 19.4 Access to Personnel Records by Department Heads**

A Department Head shall have access to all records, documents, and papers pertaining to employees in his or her department, if the examination will aid in the discharge of his or her duties. The Department shall maintain this confidentiality.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 19.5 Destruction of Records**

Upon approval of the City Attorney, all other records relating to personnel may be destroyed as prescribed by law.

### **Section 19.6 Purging of Employee Discipline Records**

Only written reprimand may be expunged upon sustained corrective behavior after one year. The employee wishing to have a written reprimand purged shall make a written request to the City Manager. The City Manager shall consult with the employee's department head to substantiate that corrective behavior has been sustained for the one-year period. The City Manager shall obtain the concurrence of the department head before the records are expunged.

### **Section 19.7 Address Notification**

Employees shall notify the personnel office of any change of name, address, or telephone number within five (5) calendar days of the change.

### **Section 19.8 Performance Evaluations**

It is the policy of the City to evaluate employee performance on a regularly scheduled basis. The performance evaluation shall normally be conducted by the employee's immediate supervisor and shall be discussed with the employee. The employee's immediate supervisor shall consider performance in relation to the duties outlined in the employee's position description.

A performance evaluation shall be completed prior to the completion of the probationary period, and annually thereafter. A performance evaluation shall be completed on at least an annual basis for regular employees and prior to the promotion or transfer of an employee. The Personnel Director will notify the employee's department head approximately thirty (30) days prior to the due date for an employee's evaluation, as defined in Section 4.9. It is the department head's responsibility to assure that the performance evaluation is completed and returned to the employee for signature prior to the employee's evaluation date. Special evaluation, as needed, may be given.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS



## **HARASSMENT, DISCRIMINATION AND RETALIATION POLICY**

### **Section 20.1 Purpose**

It is the City’s intent and the purpose of this Policy to provide all employees, applicants, and contractors with an environment that is free from any form of discriminatory harassment, discrimination or retaliation as defined in this Policy. This Policy prohibits harassment or discrimination on the basis of any of the following protected classifications: an individual’s race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual) or any other category protected by law. It is also the policy of the City to provide a procedure for investigating alleged harassment, discrimination and retaliation in violation of this Policy. The protection from discrimination includes the protection from retaliation for having taken action either as a complainant, or for assisting a complainant in taking action, or for acting as a witness or advocate on behalf of an employee in a legal or other proceeding to obtain a remedy for a breach of this policy.

### **Section 20.2 Policy**

The City has zero tolerance for any conduct that violates this, Policy. Conduct need not rise to the level of a violation of law in order to violate this, Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. If you are in doubt as to whether or not any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor or the Personnel Director, designee, or Finance Director.

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

### **Section 20.3 Definitions**

#### 1. Protected Classifications:

This Policy prohibits harassment or discrimination because of an individual’s protected classification(s). “Protected Classification” includes race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual). For purposes of this policy, “race” includes traits historically associated with race, including but not limited to protective hairstyles such as twists, locks, or braids.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

2. Policy Coverage:

This Policy prohibits elected officials, officers, employees and contractors from harassing or discriminating against applicants, officers, officials, employees and contractors because: (1) of an individual's protected classification, (2) of the perception of an individual is protected classification, or (3) the individual associates with a person who has or is perceived to have a protected classification.

3. Discrimination:

This Policy prohibits treating individuals differently because of the individual's protected classification as defined by this Policy.

4. Harassment:

Harassment means unsolicited words or conduct which subjectively and objectively offend another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:

- a. Verbal harassment, such as epithets (nicknames and slang terms), derogatory or suggestive comments, propositioning, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his or her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those of a protected classification.
- b. Visual forms of harassment, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of a protected classification. Visual harassment includes mimicking the way someone walks or talks because of their protected classification.
- c. Physical harassment, such as assault, touching, impeding or blocking movement, grabbing, patting, leering, making express or implied job-related threats in return for submission to physical acts, taunting, or any physical interference with normal work or movement.
- d. Sexual harassment, such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or any of the above described conduct when:
  - i. Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or
  - ii. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or



## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

- iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating or offensive work environment, or
  - iv. By definition, sexual harassment is not within the course and scope of an individual's employment with the City's.
5. Discrimination/harassment does not include the following:
- 1. Bona fide acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and California Fair Employment and Housing Commissions Guidelines.
  - 2. Bona fide requests or demands by a supervisor that the employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with city or departmental rules or regulations, or any other appropriate work-related communication between supervisor and employee.

Individual employees may be held personally liable for discriminatory acts, including sexual harassment.

### **Section 20.4 Retaliation**

Retaliation against a person (and his or her associates) who reports or provides information about harassment or discrimination is strictly prohibited. Any act of reprisal violates this Policy and will result in appropriate disciplinary action. Examples of actions that might be retaliation against a complainant, witness or other participant in the complaint process include: (1) singling a person out for harsher treatment; (2) lowering a performance evaluation; (3) failing to hire, failing to promote, withholding pay increases, assigning more onerous work, abolishing a position, demotion or discharge; or (4) real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

Well-intentioned attempts to insulate or protect a complainant by changing his or her work environment or schedule or duties or by transferring the complainant to another office may be retaliatory. Before a supervisor takes such action, the supervisor should contact the Personnel Director, or their designee. In the event that the Personnel Director has a conflict of interest, the supervisor may contact the Finance Director.

Any act of retaliation will be treated as a separate and distinct incident, regardless of the outcome of the harassment or discrimination complaint.

### **Section 20.5 Reporting Harassment, Discrimination or Retaliation**

An applicant, employee, officer, official or contractor who feels he or she has been harassed, discriminated against, retaliated against, or desires to raise a grievance of conduct in violation of this Policy should report the conduct immediately as outlined below so that the complaint can be resolved quickly and fairly.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

All employees involved in the complaint process may be represented by a person of their choosing and at their own expense.

### 1. Object to the Conduct

Sometimes an individual is unaware that his/her conduct is offensive. The offensive behavior may be eliminated by simply informing the offender that the conduct or language in question is unwelcome and offensive and request that it be discontinued immediately. A person who believes he/she is being harassed is encouraged to use this process.

When the conduct in question continues after the offending person has been informed it is offensive, or if a person does not feel comfortable talking to the offending person directly, the employee should make a report in accordance with subsection 2 below or go directly to the formal reporting process.

### 2. Oral Report

If a person who believes that this Policy has been violated does not want to confront the offending person, he/she should report the conduct to a supervisor, department head or any City management employee. The individual may also seek the advice, assistance or consultation of a supervisor, department head, or any City management employee. Any supervisory or management employee who receives such a report must in turn direct it to the Personnel Director of Human Resources, or their designee. The Personnel Director, or their designee, will determine what level of investigation and response is necessary. In the event that the Personnel Director has a conflict of interest, a report may be turned in to the Finance Director, and the Finance Director, will determine what level of investigation and response is necessary.

### 3. Written Process

An individual who believes this Policy has been violated may provide a written complaint to a supervisor, department head or any management employee who in turn must direct the complaint to the Human Resources Department, or their designee. Individuals are encouraged to use the Confidential Complaint Form for this purpose. In the event that the Personnel Director has a conflict of interest, the complaint may be directed to the Finance Director.

### 4. Option to Report to Outside Administrative Agencies

Applicants, employees, officers, officials and contractors have the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department (CRD).

Additionally, they have the option to make a report via the City of Lindsay WeTip Anonymous Reporting Solution Line online at [www.WeTip.com](http://www.WeTip.com) or via phone at (909)987-5005. The Employee Protection Line is an effective risk management tool that allows employees to anonymously report workplace wrongdoing 24 hours-a-day, seven days-a-week.

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## **Section 20.6 Supervisory Resolution**

Whenever possible, employees who believe they are experiencing discrimination, discriminatory harassment or retaliation are encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or highly inappropriate. If this does not resolve the concern or if an employee feels uncomfortable, threatened, or has difficulty expressing his/her concern, assistance should be sought from a supervisor or manager.

## **Section 20.7 Formal Investigation/Response**

### **1. Investigation**

Upon receipt of a complaint of alleged harassment, discrimination or retaliation, the Personnel Director, designee, or Finance Director will be responsible for coordinating a thorough investigation (unless he/she is named in the complaint). The Personnel Director, designee, or Finance Director may coordinate the investigation with the complainant's department head and may hire an outside investigator if the City deems it appropriate. The type of investigation undertaken, and the party chosen to conduct the investigation will depend on the nature of the complaint made and will be determined by the Personnel Director, designee, or Finance Director. The Personnel Director, designee, or Finance Director will report the status of investigations to the City Manager as appropriate.

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

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

### **2. Remedial and Disciplinary Action**

If the investigation determines that the alleged conduct occurred and that the conduct violated this Policy, the City will notify the complainant and perpetrator of the general conclusion(s) of the investigation and take effective remedial action that is designed to end the violation(s). Any employee or officer determined to have violated this Policy will be subject to disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this

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Policy. Any official or contractor found to have violated this Policy will be subject to appropriate sanctions.

### 3. Closure

At the conclusion of the investigation, the Personnel Director, designee, or Finance Director will notify the complainant in general terms of the outcome of the investigation.

### 4. Confidentiality

Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate potential Policy violations and take effective remedial action. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Personnel Director, designee, or Finance Director. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

## **Section 20.8 Responsibilities of Employees, Management and Supervisory Employees**

### 1. Employees

In order to establish and maintain a professional working environment, while at the same time preventing harassment, discrimination, and retaliation, employees are expected to:

- Set an example of acceptable conduct by not participating in or provoking behavior that violates this Policy. Try not to be angry or insulted if an individual tells you that your behavior is offensive. People have different ethical values and standards and may be offended by behavior you think is proper. Tell the individual you did not realize your behavior was offensive, and immediately cease the conduct.
- Let fellow employees know when you consider behavior offensive. The City hires people from a wide variety of cultural and ethnic backgrounds, and an individual may not realize behavior he or she thinks is proper could be seen by others as offensive.
- Report harassment, discrimination or retaliation as quickly as possible, whether the employee is the target of the conduct or a witness.
- If an employee witnesses harassment, he or she should tell the individual being harassed that the City has a policy prohibiting such behavior, and that he or she can demand that the harasser cease the behavior.
- Maintain confidentiality as required by this Policy.

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- Fully cooperate with the City’s investigation of complaints made under this Policy.

### 2. Managers and Supervisors

In addition to the responsibilities listed above, managers and supervisors are responsible for the following:

- Implementing this Policy by taking all complaints seriously and modeling behavior that is consistent with this Policy. Direct all complaints to the Personnel Director, designee, or Finance Director.
- Taking positive steps to eliminate any form of harassment, discrimination or retaliation observed or brought to his/her attention.
- Making sure no department director, supervisor or other employee retaliates through any action of intimidation, restraint, coercion or discrimination.
- Monitoring the work environment and taking appropriate action to stop potential Policy violations.
- Following up with those who have complained to ensure the behavior complained of has ceased.
- Informing complainants of their option to contact the EEOC or CRD regarding a potential Policy violation.
- Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- Ensuring that his/her subordinates understand their responsibilities under this policy.
- Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

### C. MANDATORY TRAINING

As part of its commitment to ensuring a work environment free from harassment and discrimination, the City requires that all of its employees receive training on this Policy during scheduled training. Human Resources will schedule training sessions each year to ensure that employees are able to complete the mandatory training. Attendance at the training will be documented.

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All employees shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provision during hi//her term of employment with the City of Lindsay.

1. Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.
2. All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1
3. If the required training is to be provided by CRD online training courses, the Training Supervisor should ensure that employees are provided the link or website address to the training course (Government Code § 12950).

### **Section 20.9 Disposition of Complaints**

Only one of the following four (4) dispositions will be used to classify the disposition of an allegation of harassment:

- (a) Sustained Complaints- If the complaint is substantiated, this policy and procedure prohibiting discrimination/harassment will be reviewed with the offender. Appropriate disciplinary action and/or training, will be taken pursuant to disciplinary procedures.
- (b) Not Sustained Complaints- If there is insufficient evidence to either prove or disprove the allegation(s), both parties to the complaint will be informed of the reason(s) for this disposition.
- (c) Unfounded Complaint- If it is determined that an act reported pursuant to this policy/procedure did not in fact occur, a finding of unfounded shall be made.
- (d) Exonerated Complaints- If it is determined that an act reported pursuant to this policy/procedure did in fact occur, but was lawful and proper within the guidelines established herein, a finding of exonerated shall be made.

Should it be determined that the reporting party maliciously filed the complaint knowing that it was false or frivolous at the time of the complaint, that employee shall be subject to discipline up to, and including termination.

### **Section 20.10 Documentation of Complaints**

All complaints or allegations shall be documented on forms and in manner designated by the Director of Personnel, designee, or Finance Director. All reports shall be:

- Approved by the Director of Personnel, designee, or Finance Director

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- Maintained for a minimum of five (5) years

### **Section 20.11 Questions Regarding Discrimination or Harassment**

Employees having questions are encouraged to contact a supervisor, manager, their department head, Personnel Director or designee, Finance Director, or the City Manager, or they may contact the California Civil Rights Department at (800) 884-1684 or the Equal Employment Opportunity Commission (800) 669-6820.

### **Section 20.12 Workplace Violence**

The City of Lindsay is committed to providing a safe work environment that is free of violence and the threat of violence. The top priority in this process is effectively handling critical workplace incidents, especially those dealing with actual or potential violence. The department of public safety will be notified of all incidents.

This policy sets forth the City's position regarding workplace violence and provides guidance to all employees, supervisors and managers in addressing workplace violence issues.

- A. Violence or the threat of violence, against or by any employee of the City or any other person is unacceptable.
  - (1) Should a non-employee, on City property, demonstrate or threaten violent behavior he/she may be subject to criminal prosecution.
  - (2) Should an employee, during working hours, demonstrate or threaten violent behavior he/she may be subject to disciplinary action in addition to criminal prosecution.
- B. The following actions are considered violent acts and are explicitly prohibited.
  - (1) Striking, punching, slapping, or assaulting another person.
  - (2) Fighting or challenging another person to fight.
  - (3) Grabbing, pinching or touching another person in an unwanted way whether sexually or otherwise.
  - (4) Engaging in dangerous, threatening or unwanted horseplay.
  - (5) Possession, use or threat of use, of a gun, knife or other weapon of any kind on the city property, including parking lots, other exterior premises, city vehicles, or unless such possession or use is a requirement of the job.
  - (6) Threatening or harming another person, or any other action or conduct that implies the threat of bodily harm.
- C. Any employee who is victim of any violent threatening or harassing conduct, any witness to such conduct, or anyone receiving a report of such conduct, whether

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the perpetrator is a city employee or non-employee person in the chain of command.

The appropriate person in the chain of command may include:

- (1) Immediate Supervisor
- (2) Department Head
- (3) Personnel Director, Designee, or Finance Director
- (4) City Manager

If no one in the chain of command can be reached, the employee should report to the personnel department. In case of emergencies, the employee should call 911 immediately.

- D. No one, acting in good faith who initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.
- E. In the event the City fears for the safety of the perpetrator or the safety of others at the scene of the violent act, law enforcement will be called for assistance.
- F. Employees who violate this policy may be subject to disciplinary action up to and including termination.



# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE XXI

### **SUBSTANCE ABUSE POLICY**

#### **Section 21.1 Introduction**

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any City Employee or member of the public. The City of Lindsay discourages alcohol and drug abuse and strives to achieve a work force free from the influence of drugs and alcohol.

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's morale or damage to the City's reputation. Substance abuse includes the use of or possession of illegal drugs, alcohol or controlled substance, which could impair an employee's ability to perform his or hers job safely, effectively and efficiently.

The City of Lindsay believes that its employees are its most important assets. 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 satisfactory job performance level.

#### **Section 21.2 Purpose**

This policy sets forth the City's position regarding substances abuse and provides guidance to all employees, supervisors and managers in addressing substance abuse issues.

#### **Section 21.3 Policy**

It is the City's policy that no employee shall:

- (a) Report to work under the influence of alcohol or drugs;
- (b) Be under the influence of alcohol or drugs while on standby;
- (c) Possess drugs while on duty or while on standby;
- (d) Use alcohol or drugs while on duty or while on standby;
- (e) Sell, distribute or provide alcohol or drugs to any employee or person while on duty or while on standby;
- (f) Sell, distribute or provide alcohol or drugs to any employee or person while on duty or while on standby;
- (g) Have their ability to work impaired as a result of the use of alcohol or drugs.

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While use of medically prescribed medication and drugs is not per se a violation of the policy, failure by the employee to notify his/her supervisor before beginning work when taking such medication or drugs which may interfere with the safe and effective performance of duties is a violation of this policy. 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 will be required.

The City reserves the right to search, 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 or illegal drugs. Areas in which the City maintains full control include but are not limited to all City owned equipment. Areas jointly controlled by the City and employees 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 in his/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 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 may be grounds for disciplinary action, up to and including discharge. Refusal to submit immediately to a drug and/or alcohol test 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 ground for discipline up to and including termination.

The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact the Personnel Director or their supervisors for additional information. The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled.

### **Section 21.4 Application**

This policy applies to all City of Lindsay employees as well as applicants for positions with the City of Lindsay. 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 function of the job.

### **Section 21.5 Employee Responsibilities**

An employee shall:

- (a) 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.
- (b) 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 personnel vehicle or City vehicle on City business;

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- (c) 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;
- (d) Submit immediately to a drug and/or alcohol test when directed by a responsible City supervisor or management representative;
- (e) 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; and;
- (f) 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.

### **Section 21.6 Employee Complaint**

- (a) Any employee may file a complaint with their department head regarding any employee whose performance is being affected by substance abuse.
- (b) 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 and/or alcohol.
- (c) Complaints, which are determined to be malicious or vexatious will not be tolerated and will subject the complaining individual to disciplinary action.

### **Section 21.7 Management Responsibilities and Guidelines**

- A. Manager and supervisors are responsible for consistent enforcement of this policy.
- B. Managers and supervisors may direct an employee to submit to a drug and/or alcohol test 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 so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

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 City property;

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- (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.
- C. Any manager or supervisor directing an employee to submit to a drug and/or alcohol test shall, within 24 hours, document in writing the acts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs and/or alcohol. Any manager or supervisor encountering an employee who refuses to submit to a drug and/or alcohol test upon request shall remind the employee of the requirements and consequences of this policy.
- (j) Managers or supervisors shall not physically search employees.
  - (k) Managers and supervisors shall notify the appropriate law enforcement agency when they have reasonable suspicion or 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.
  - (l) Managers and supervisors may search areas jointly or fully controlled by the City.
  - (m) Managers and supervisors shall not confiscate, without consent, prescription drugs or medication from an employee who has a prescription.

### **Section 21.8 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 of Lindsay wishing confidential assistance for a possible alcohol or drug problem may contact personnel, their insurance provider or the Employee Assistance Program for additional information.

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, supervisors, union or other parties be notified.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

The employee's compliance with the 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.

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

### **Section 21.9 Confidentiality**

The City recognizes the confidentiality and privacy due employees, and disclosure of any information relating to chemical abuse treatment, except on a need-to-know basis, shall only be with the expressed written consent of the employee involved or pursuant to lawful process.

### **Section 21.10 Compliance**

Employees must, as a condition of employment, abide by the terms of this policy, and report any conviction under a criminal drug statute for violations occurring on or off city premises while conducting City Business. A report of a conviction must be made as soon as possible, but in no case more than five (5) days after the conviction.

**MISCELLANEOUS RULES**

**Section 22.1 Dress Code**

Employees of the City are required to dress appropriately for the jobs they are performing. Unless required to wear a uniform, City employees in the office are expected to adhere to a business, business casual, or smart casual dress code. Therefore, failure to follow the dress regulations contained in this section shall be grounds for discipline.

- (1) All clothing must be neat, clean, and in good repair. For example, employees are not permitted to wear hooded sweatshirts, sweatpants, torn clothing, ripped or faded jeans.
- (2) Prescribed uniforms and safety equipment must be worn.
- (3) Footwear must be appropriate for the work environment and functions performed. Flip flop sandals are not permitted unless approved by the Department Head.
- (4) Hair must be neat, clean and well-groomed.
- (5) Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion.
- (6) Jewelry is acceptable except where it constitutes a health or safety hazard.
- (7) Good personal hygiene is required.
- (8) All clothing must be appropriate for the professional work environment, avoiding excessively revealing or provocative attire. This includes avoiding clothes midriff or back, transparent or see-through or excessively tight clothing. . For example, employees are not permitted to crop tops, tank tops, min skirts, short dresses, or leggings (except under items).
- (9) No tattoos are allowed anywhere on the head, face, or neck.
- (10) Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang related. Any non-conforming tattoos shall be covered with clothing or a bandage while at work or removed.
- (11) For employees working with the public, no objects, articles, jewelry or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth. However, employees may wear up to two reasonably sized earrings in each lobe and a stud in the nose. Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

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If an employee has a question about how the piercing policy is applicable to them, the matter should be immediately raised with their supervisor for consideration and determination.

### **Section 22.2 Outside Activities**

A full-time employee may not carry on concurrently with his/her public service, any private business or undertaking, attention to which affects the time or quality of his/her work or which casts discredit upon or creates embarrassment for the city government.

### **Section 22.3 Other Public Offices**

An employee may not accept appointment to a county or state or position or otherwise incur an obligation of civil public service outside his/her regular municipal employment without first obtaining the recommendation of his/her department head and approval of the City Manager.

### **Section 22.4 Official Badge or Insignia**

An official or employee who wears a badge or other official insignia as evidence of his/her authority may not permit the badge or insignia to be used or worn by another person without approval of the department head. The department head may not grant approval except to a person regularly and formally appointed by the City Manager to the position designated by the badge or insignia. The employee shall return the badge or insignia to the department head when he/she terminates.

### **Section 22.5 Purchase Order**

No officer or employee may order services or merchandise without first being authorized to do so and obtaining a purchase order. An employee who orders services or merchandise without a purchase order is personally responsible for payment.

### **Section 22.6 Operating City Vehicles**

Employees whose duties include the driving of a city vehicle shall possess a valid driver's license issued by the State of California, such license shall be carried at all times when so engaged.

### **Section 22.7 False Information**

No employee of the City of Lindsay shall make false official reports or knowingly enter or cause to be entered in any department books, records, or reports, any inaccurate, false or improper information. A failure to enter information as required by an employee is also deemed to be false information.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 22.8 Release of Information**

It is the City's policy that all requests for information concerning current or former employees, either by telephone or in writing, are to be referred to the Personnel Director.

It is the City's policy to state only that a person is (was) employed with the City, the date of employment and verification of title or position.

When a valid authorization for release of information, as determined by the Personnel Director is submitted, additional information may be release. All requests for references must be made in writing. Generally only written references will be provided and then only in conformance with the specific provisions of the former employees' authorization to release information.

Only job-related issues are to be discussed. Job-related issues include attendance, work habits, quality and quantity of work, supervision required and initiative.

### **Section 22.9 Employment of Related Persons**

A policy concerning the employment of related persons applicable to personnel practices is desirable since employment decisions and/or supervision involving a related person may create potential conflicts of interest, create a negative or unprofessional work environment, or present concerns regarding supervision, safety, security or morale.

#### **Section 22.9.1 Definition of "Related Person"**

"Related Person" shall include: mother, father, grandmother, grandfather, or grandchild of the employee or spouse or domestic partner of the employee, and the son, son-in-law, daughter, daughter-in-law, brother or sister of the employee, or any other person living in the immediate household of the employee.

#### **Section 22.9.2 Prohibited Conduct**

- (a) Related person will not be eligible for employment with the City where potential problems of supervision, safety, security or morale, or potential conflicts of interest exist.
- (b) Related persons may not be employed in the same department nor under the same immediate supervisor where potential problems of supervision, safety, security or morale, or potential conflicts of interest exist.
- (c) One related person may not supervise another person where the potential for creating adverse impact on supervision, safety, security or morale exists.



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### **Section 22.10 Meals and Breaks Periods**

All employees except for police and fire personnel, are not on call during meal breaks unless directed otherwise by a supervisor. The time spent for a meal period shall not exceed the authorized time allowed.

Each employee is entitled to a 15-minute break, near the midpoint, for each four-hour work period. Only one 15-minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last two hours of an employee's shift unless approved by a supervisor.

### **Section 22.11 Time Sheets**

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Time sheets shall be completed and submitted to Administration no later than Monday on a bi-weekly basis, unless specified otherwise. Department heads are responsible for the accurate and timely submission of the time sheets for the payment of wages.

### **Section 22.12 Seatbelts**

All employees shall wear available safety restraints whenever operating a City vehicle or equipment.

### **Section 22.13 Smoking**

Smoking and other use of tobacco products is not permitted inside City facilities or on City property. It shall also be the responsibility of all employees to ensure that no person smokes or uses any tobacco product inside city facilities.

### **Section 22.14.1 Conditional Offer of Employment Examinations**

After a conditional offer of employment has been extended to an applicant, the City may, in compliance with all applicable laws, require the applicant to submit to a fitness for duty examination prior to conferring appointment.

### **Section 22.14.2 Current Employee Examinations**

The Personnel Director or a designee may require an employee to submit to a fitness for duty examination to determine if the employee is able to perform the essential functions of his or her job when: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his or her job; and 2) there is reason to question the employee's ability to safely or efficiently complete work duties.

### **Section 22.14.3 Role of Health Care Provider**

A City-selected health care provider will examine the employee at City expense. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the employee's job. The health care provider will examine the employee and provide the City with non-confidential information regarding whether:

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

- 1) the employee is fit to perform essential job functions;
- 2) there are any reasonable accommodations that would enable the employee to perform essential job functions; and
- 3) the employee's continued employment poses a threat to the health and safety of him or herself or others. Should the health care provider exceed the scope of the City's request and provide confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

### **Section 22.14.4 Medical Information**

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

### **Section 22.14.5 Medical Information from the Employee's Health Care Provider**

An employee may submit confidential medical information to the City from his or her personal health care provider. If the employee provides written authorization, the Personnel Director will submit the information that the employee provides to the City-paid health care provider who conducted the examination. The Personnel Director will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

### **Section 22.14.6 Interactive Process Discussion**

After receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any) the Personnel Director will arrange for a discussion or discussions, in person or via conference telephone call, with the employee and his or her representatives, (if any). The purpose of the discussions will be in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the Personnel Director will also discuss, if relevant, alternate available jobs for which the employee is qualified, or whether the employee qualifies for disability retirement or family and medical leave.

### **Section 22.14.7 Determination**

After the discussions, the Personnel Director will review the information received, and determine if there is a reasonable accommodation that would enable the employee to perform essential job functions, or if the accommodations would pose an undue hardship on City finances or operations. The Personnel Director will inform the employee of his or her determination. The Personnel Director will use his or her discretion based upon the particular facts of each case.

**COMPUTER, INTERNET, ELECTRONIC MAIL, AND VOICE MAIL**

**Section 23.1 Introduction**

The City of Lindsay, hereinafter (City), is committed to providing employees with the business tools necessary in order to enhance efficiency in job performance and best serve the citizens of Lindsay.

**Section 23.2 Purpose**

This policy sets forth the City’s policy with respect to the use of computers, electronic mail (e-mail), intranet (internal messaging systems), mobile messaging, telephonic voice mail and Internet access and other electronic communications systems provided by the City of Lindsay.

**Section 23.3 Applicability**

The provisions of this policy apply to all employees of the City of Lindsay, including full-time and temporary employees, as well as volunteers, agents and vendors.

**Section 23.4 General Provision**

With the rapidly changing nature of electronic media, and the “etiquette” which is developing among users of external on-line services and the Internet, this policy cannot lay down rules to cover every possible to be applied to use of computers, electronic mail (e-mail), intranet (internal messaging systems), and mobile messaging systems, telephonic voice mail and Internet access and other electronic communications systems provided by the City of Lindsay.

**Section 23.5 No expectation of Privacy**

The city respects the individual privacy of its employees. However, employee privacy does not extend to the employee’s work-related conduct or to the use of City-provided equipment or supplies.

**Section 23.6 Ownership**

E-mail, telephonic voice mail, internal messaging systems, Internet access and other electronic communications systems are provided only for the purpose of conducting City business. All electronic communications of any sort or type generated by employees with City equipment or stored on city equipment are the property of the City of Lindsay.

The City recognizes that there may be incidental or occasional personal use of e-mail or voice mail but these messages will be treated the same as other messages. The City reserves the right to access and disclose as necessary all messages sent over its e-mail or voice mail system, without regard to content. Since your personal messages can be assessed by the City management without prior notice, you should not use e-mail or voice mail to transmit any messages you would not want read, or listened to by a third party. Misusing the Internet e-mail system, or telephonic voice mail systems will subject you to disciplinary action up to and including termination.

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All software programs, computer files and other documents created by City employees on City computer or other electronic systems are the property of the City and therefore exclusively owned by the City.

### **Section 23.7 Prohibited Uses**

All employees are prohibited from:

- (a) Installation of programs on the City's computer systems (including virus checking and screen savers) without prior written consent of the department head.
- (b) Copying City Software programs for personal use;
- (c) Use another employee's password to attempt to gain access to the employee's computer electronic mail (e-mail), Internet access or other electronic communications systems;
- (d) Connecting computers (including laptops and personal computers) not owned or leased by the City to the City's information system network without prior written consent;
- (e) Using the access code, log-on or password of other employees to gain access to their e- mail or computer records, without prior consent.
- (f) Disclosing access codes, log-on or password of otherwise make the City electronic resources available to persons not authorized to have such access;
- (g) Infringing on others' access and use of the City's information systems, including, but not limited to:
  - 1. Sending of excessive messages, either locally or off-site;
  - 2. Unauthorized modifications of system facilities, operating systems or disk partitions;
  - 3. Attempting to crash or tie up a City computer or network;
  - 4. Attempting or gaining unauthorized access to or damaging or vandalizing City computing facilities, equipment, software, or computer files;
  - 5. Installing or using a modem on City owned or leased computers without the prior written consent.
  - 6. Violating any federal, state or local laws in the use of City information systems;
  - 7. Violating any copyright or license to software, information (including, but not limited to, text images, icons, programs, etc.) whether created by the City or any other person or entity;

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

- (h) Exposing others, either intentionally or unintentionally, to material which is offensive, obscene or in poor taste;
- (i) Any use that would be offensive to a reasonable person because it involves an individual's race, religion, color, sex, gender identity, sexual orientation, ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, medical condition (cancer or HIV/AIDS related), genetic characteristics, and physical or mental disability (whether perceived or actual);
- (j) Communication of confidential City information to unauthorized individuals within or outside the City;
- (k) Sending messages with content that conflicts with any City policies, rules or other applicable laws;
- (l) Unauthorized attempts to access City data or systems;
- (m) Theft or unauthorized copying of electronic files or data;
- (n) Initiating or sustaining chain letters, and
- (o) Intentionally misrepresenting one's identity for improper or illegal acts.

### **Section 23.8 Violations of This Policy**

Violations of any provision of this policy may result in disciplinary action up to and including termination of employment.

### **Section 23.9 VIDEO AND AUDIO SURVEILLANCE POLICY**

#### **Introduction**

Through this Policy, the City informs all employees that it maintains cameras with video and audio surveillance capabilities located throughout the City's facilities. This policy aims to ensure the safety and security of our employees, visitors and assets and maintain transparency.

#### **Purpose**

The purpose is to establish clear guidelines and procedures for the use of video and audio surveillance within city-owned facilities. This policy aims to deter and investigate criminal activity, enhance the safety of individuals and property.

1. The City may use these cameras for security, investigations, or for any other purpose that would assist the City in performing its duties.
2. Cameras may be discreet or obvious. Employees should not assume that there are no cameras if they cannot see one. Employees should assume, for privacy purposes, that there are active cameras in their workplaces.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

3. The City will NOT install any cameras where the law prohibits it. The City will not install any audio or video recording devices in restrooms, locker rooms, or any other rooms designated for changing clothes, unless authorized by a court order.
4. Due to the City’s strong security interests, agreement to this Policy is a job requirement for all City employees. By accepting employment with the City, and continuing to be employed, each employee acknowledges that City facilities use video and audio recording devices in accordance with this Policy.
5. Access to surveillance footage should be limited to authorized personnel responsible for security, law enforcement, or administration purposes.
6. Personnel responsible for operating surveillance systems should receive appropriate training on the policy guidelines, privacy considerations, and their responsibilities. The retention period for surveillance footage should be determined based on the provisions within the City of Lindsay Records Retention Policy.

### **Section 23.10 SOCIAL MEDIA POLICY (City Council Resolution No. 22-48)**

#### **Introduction**

This policy establishes guidelines for the establishment and use by the City of Lindsay of social media sites (including but not limited to Facebook and Instagram) as a means of conveying City of Lindsay (“City”) information to its citizens. The intended purpose behind establishing City of Lindsay social media sites is to disseminate information from the City, about the City, to its citizens. The City of Lindsay has an overriding interest in deciding what is “spoken” on behalf of the City on City social media sites. For purposes of this policy, “social media” is understood to be content created by individuals, using accessible, expandable, and upgradable publishing technologies, through and on the Internet. Examples of social media include, but are not limited to, Facebook, Instagram, YouTube, Twitter, LinkedIn, and blogs. For purposes of this policy, “comments” include information, articles, pictures, videos or any other form of communicative content posted on a City of Lindsay social media site, either as its own post or attached to another post.

#### **General**

1. The establishment and use by any City department of City social media sites are subject to approval by the City Manager or his/her designees. All City of Lindsay social media sites shall be administered by City of Lindsay designated staff.
2. City social media sites should make clear on their respective profile pages that they are maintained by the City of Lindsay and that they follow the City’s Social Media Policy.
3. Wherever possible, City social media sites should link back to the official City of Lindsay website for forms, documents, online services and other information necessary to conduct business with the City of Lindsay.
4. Designated staff will monitor content on City social media sites to ensure adherence to both the City’s Social Media Policy and the interest and goals of the City of Lindsay.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

5. The City reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy or any applicable law. Any content removed based on these guidelines must be retained by the City Clerk for a reasonable period of time, including the time, date and identity of the poster, when available.
6. These guidelines must be displayed to users or made available by hyperlink. The City will approach the use of social media tools as consistently as possible, enterprise wide.
7. The City of Lindsay's website at <https://www.lindsay.ca.us/> will remain the City's primary and predominant internet presence.
8. All City social media sites shall adhere to applicable federal, state and local laws, regulations and policies.
9. City social media sites are subject to the California Public Records Act. Any content maintained in a social media format that is related to City business, including a list of subscribers, posted communication, and communication submitted for posting, may be a public record subject to public disclosure.
10. Employees representing the City government via City social media sites must conduct themselves at all times as a representative of the City and in accordance with all City policies.
11. This Social Media Policy may be revised at any time.
12. Comments on topics or issues not within the jurisdictional purview of the City of Lindsay may be removed.
13. Any posts deemed to be offensive, derogatory, hostile, or anything that is construed as discriminatory on the basis of any protected category, i.e. race, sex, disability, or religion will be removed.
14. The City does not endorse any links or advertisements that may show up on its social media page.

### **Comments**

By posting or commenting on the City of Lindsay's Facebook page, or other City of Lindsay social media, you agree to the terms of use of the City of Lindsay's social media policy as provided herein.

1. As a public entity the City must abide by certain standards to serve all its constituents in a civil and unbiased manner.
2. The City of Lindsay Facebook and other social media pages are intended to be "family friendly," so please keep your comments clean by following these simple rules. In addition to keeping it family friendly, we require that you follow our posting guidelines here. Please note that we utilize Facebook's automatic content filtering feature. All City of Lindsay social media content is subject to monitoring.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

3. Comments posted to City of Lindsay social media pages will be monitored, and inappropriate content as defined above will be removed as soon as possible and without prior notice. Please note, comments posted to pages are monitored and our Facebook settings will automatically hide a comment if profanity is used within the post.
4. If you need to contact the Lindsay Police Department, please call their front desk at (559) 562-2511, or if it is an emergency, call 911 and ask for assistance. While comments posted on the City's social media pages are monitored, posting a comment is neither the recommended nor best way to contact the City or Lindsay Police Department.
5. Departments shall monitor their social media sites for comments requesting responses from the City and for comments in violation of this policy.
6. All comments posted to any City of Lindsay Facebook site are bound by Facebook's Statement of Rights and Responsibilities and Community Standards, located at [www.facebook.com/terms.php](http://www.facebook.com/terms.php), and [www.facebook.com/communitystandards](http://www.facebook.com/communitystandards), respectfully. The City of Lindsay reserves the right to report any violation of Facebook's Statement of Rights and Responsibilities and/or Community Standards to Facebook with the intent of Facebook taking appropriate and reasonable responsive action.

By posting or commenting on the City of Lindsay social media platforms you agree to our terms of use. You participate by your own choice, taking personal responsibility for your comments, your username and any information you provide therein.



**FEDERAL HEALTH CONTINUATION REQUIREMENTS; THE CONSOLIDATED OMNIBUS RECONCILIATION ACTS OF 1985**

**Section 24.1 Continuation Rights as an Employees**

The Employee covered by the City group health plan, has the right to choose Continuation Coverage if the employee losses his/her group health coverage because of a reduction in hours of employment or termination of employment, except for reasons of gross misconduct.

**Section 24.2 Continuation Rights as a Spouse**

The spouse of an employee covered by a group health plan, has the right to chose Continuation coverage if the employee’s group health coverage is lost due to:

- (1) The death of the employee
- (2) Termination of the employee’s employment (for reason other than gross misconduct) or reduction in his or her hours of employment;
- (3) Divorce or legal separation; or
- (4) The employee’s entitlement to Medicare.

**Section 24.3 Continuation Rights as a Dependent Child**

A dependent child of an employee covered by a group health plan has the right to Continuation Coverage if the employee’s group health coverage is lost due to:

- (1) The death of the employee
- (2) Termination of the employee’s employment (reasons other than gross misconduct) or reduction in his or her hours of employment;
- (3) Divorce or legal separation;
- (4) The employee’s entitlement to Medicare; or
- (5) The dependent ceasing to be dependent child as defined under this group health plan.

**Section 24.4 Notice Requirements**

The law requires that the employee or family member inform the Plan Administrator, within 60 days, of a divorce, legal separation or when a child is no longer a dependent as defined under group health plan. If the Plan Administrator is someone other than the employer, then the employer has the responsibility to notify the Plan Administrator, within 30 days, in the case of employee’s death, termination of employment, reduction in hours or Medicare entitlement. When the Plan administrator is notified that one of these events has happened, the Plan Administrator will in turn notify the employee within 14 days, that he/she has the right to choose Continuation Coverage. The employee then has 60 days from the date they would lose coverage or the date of the notice, whichever is greater, to elect Continuation Coverage.

Each person who loses group health coverage has a separated right to make an election. If Continuation Coverage is not elected, group health coverage may end.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 24.5 Premium Payment**

A person electing Continuation Coverage may be responsible for the payment for the continued coverage. In most cases the maximum amount that may be charged for Continuation Coverage is 102% of the applicable group premium.

The first premium for Continuation Coverage is due by the 45<sup>th</sup> day following the date the person elects Continuation Coverage.

The employee has the right to make all future premium payments on a monthly basis. However, annual, semi annual or quarterly payments may also be made if the employee and employer so agree. A grace period of 30 days (or one equal in length to the employer grace period, if longer) will be allowed for late payment of any monthly premium.

Failure to pay the premium by the end of the grace period may cause termination of Continuation Coverage.

### **Section 24.6 Length of Continuation Coverage**

The maximum length for Continuation Coverage is 18 months when the cause for loss of coverage is termination of employment or reduction in the hours of the employee. In all other cases, the Continuation Coverage period 36 months. Continuation Coverage, however, may terminate before the end of the 18 or 36 month period when:

- (1) The former employer no longer provides group health coverage to any of its employees;
- (2) The premium for Continuation Coverage is not paid by the end of the grace period;
- (3) The employee becomes covered under another employer sponsored health plan, except when the new plan has a pre existing condition provision; or
- (4) The employee becomes entitled to Medicare.

When Continuation Coverage terminates, the employee will be allowed to convert to an individual health conversion policy, if a health conversion privilege is available to similarly situated active employees.

### **Section 24.7 Extension of Continuation Coverage**

If the employee and his/her spouse or dependent children have elected Continuation Coverage for 18 months due to termination of employment or reduction in hours and before the end of the 18 month period:

- (1) The employee dies
- (2) The employee divorces or becomes legally separated; or
- (3) The employee becomes entitled to Medicare,

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

The spouse and dependent children may extend Continuation Coverage. Additionally, during the 18 month period, if a child loses dependent status, the child may also extend Continuation Coverage.

In these instances, Continuation Coverage will extended up to 36 months from the date coverage was originally lost, subject to payment of up to 102% of the applicable group premium.

### **Section 24.8 Pre-existing Medical Conditions**

If the employee's Continuation Coverage terminates because the employee became covered under another employer sponsored health plan and that plan limits or reduces the employee's coverage due to a pre-existing medical condition, the employee may maintain Continuation Coverage for the balance of the applicable 18 or 36 months period.

Continuation Coverage will then pay benefits for the pre-existing medical condition without regard to any other group health coverage. All other benefits will be coordinated with the new group health plan so that no more than 100% of allowable expenses under both group health plans will be payable.

### **Section 24.9 Social Security Disability**

If the employee, his/her spouse or dependent child are disabled at the time of termination in employment or reduction in hours, the disabled person may be entitled to 29 months of Continuation Coverage instead of 18 months.

To qualify for this extension, he or she must apply for disability status under the Social Security Act and notify the Plan Administrator when a determination of disability is made. This notice must be provided to the Plan Administrator within 60 days after the date of determination and prior to the end of the 18- month continuation period. The disabled person must also notify the Plan Administrator within 30 days of the date the Social Security Administration determines that he or she is no longer disabled. This extended Continuation Coverage will then terminate on the first day of the month, which begins after the 30 days of the date of final determination by Social Security.

The first 18 months of Continuation Coverage may require payment of up to 102% of the applicable group premium. The next 11 months may require payment of up to 150% of the applicable group premium.

### **Section 24.10 State Continuation Rights**

Several, but not all states, have continuation options from which the employee may choose as alternatives to Continuation Coverage. If the group health plan requires the employer to offer a state continuation option, there should be an explanation in the employee's group health booklet. The employee may elect either the State Continuation or Continuation Coverage but the employee cannot elect both.

This policy is intended to provide the employee with a brief explanation of COBRA. It is not intended to provide the employee with legal advice.

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Any notice of change of address, change of marital status, or children's status should be sent to the employer at:

City of Lindsay  
251 E. Honolulu  
P.O. Box 369  
Lindsay, CA 93247