



AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF
MORENO VALLEY

September 21, 2010

STUDY SESSION – 6:00 P.M.

City Council Closed Session

First Tuesday of each month – 6:00 p.m.

City Council Study Sessions

Third Tuesday of each month – 6:00 p.m.

City Council Meetings

Second and Fourth Tuesdays – 6:30 p.m.

City Hall Council Chamber - 14177 Frederick Street

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to Mel Alonzo, ADA Coordinator at 951.413.3027 at least 48 hours before the meeting. The 48-hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Robin N. Hastings, Mayor Pro Tem
Jesse L. Molina, Council Member

Bonnie Flickinger, Mayor

Richard A. Stewart, Council Member
William H. Batey II, Council Member

**AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO
VALLEY**

**STUDY SESSION - 6:00 PM
SEPTEMBER 21, 2010**

(or as soon thereafter as the meeting may be called to order following the Special Meeting of the City Council)

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

INTRODUCTIONS

PUBLIC COMMENTS ON MATTERS UNDER THE JURISDICTION OF THE CITY COUNCIL

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council Member, staff member or other person.

SPECIAL ORDER OF BUSINESS

1. REINSTATING THE STREET BANNER PROGRAM (PW/ 15 MIN.)
2. A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO LIMITATIONS ON ENGINE IDLING (CA/ 10 MIN.)
3. PROPOSED REVISIONS TO THE CITY OF MORENO VALLEY PERSONNEL RULES AND REGULATIONS TO CLARIFY RELEVANCE TO COUNCIL MEMBERS AND DIRECT APPOINTEE EMPLOYEES (HR/ 10 MIN.)
4. CITY COUNCIL REQUESTS AND COMMUNICATIONS

(Times shown are only estimates for staff presentation. Items may be deferred by Council if time does not permit full review.)

❖ Oral Presentation only – No written material provided

***Materials related to an item on this Agenda submitted to the City Council/Community Services District/Community Redevelopment Agency after distribution of the agenda packet are available for public inspection in the City Clerk's office at 14177 Frederick Street during normal business hours.**

CLOSED SESSION

A Closed Session of the City Council, Community Services District and Community Redevelopment Agency of the City of Moreno Valley will be held in the City Manager's Conference Room, Second Floor, City Hall. The City Council will meet in Closed Session to confer with its legal counsel regarding the following matter(s) and any additional matter(s) publicly and orally announced by the City Attorney in the Council Chamber at the time of convening the Closed Session.

- **PUBLIC COMMENTS ON MATTERS ON THE CLOSED SESSION AGENDA UNDER THE JURISDICTION OF THE CITY COUNCIL**

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council member, staff member or other person.

The Closed Session will be held pursuant to Government Code:

- 1 SECTION 54956.9(b)(1) - CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION

Number of Cases: 2

- 2 SECTION 54956.9(c) - CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION

Number of Cases: 2

- 3 SECTION 54957 - PUBLIC EMPLOYEE APPOINTMENT/PUBLIC EMPLOYMENT

a) City Manager Recruitment

REPORT OF ACTION FROM CLOSED SESSION, IF ANY, BY CITY ATTORNEY

ADJOURNMENT



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Ret</i>
CITY MANAGER	<i>WDB</i>

Report to City Council

TO: Mayor and City Council

FROM: Chris A. Vogt, P.E. Public Works Director/City Engineer

AGENDA DATE: September 21, 2010

TITLE: Reinstating the Street Banner Program

RECOMMENDED ACTION

Staff recommends that the City Council review and discuss the presented Street Banner Program materials and offer direction with respect to desired modifications as appropriate.

BACKGROUND

This is a follow-up to a request by Council Member Batey, where staff was directed to present requirements and impacts associated with reinstating the Street Banner Program.

The City's Street Banner Program was established and approved by the City Council on August 22, 1989. On June 20, 1995 revisions to the program were approved to reduce costs associated with the banner installation and to have the work performed by City forces. High wind pressures caused numerous banner failures, thereby generating increased costs with staff overtime, banner replacement, and police response due to unsecured banners. In April, 2006, due to potential safety risks that may be created by wind-torn errant banners, the program was recommended to be temporarily discontinued.

DISCUSSION

The banner program established four locations for displays (see Attachment "A") facing two directions of travel:

- Graham north of Alessandro
- Heacock north of Hemlock
- Perris Boulevard north of Fir
- Sunnymead Boulevard east of Graham

The program was intended to allow promotion of cultural and civic events sponsored by non-profit groups reflecting general community interest. The banners, with specific size, material, and connection requirements, were secured to the cable system, and stretched across the roadways. A typical banner installation is depicted in City Standard No. 416 (see Attachment "B"). A typical installation would require the following procedural steps:

1. Application is sent to the City Engineer for review and approval.
2. Applicant would be notified of approval and permit fee would be collected.
3. A minimum of five working days notice would be given to Public Works staff.
4. Applicant would deliver banner to the City Yard five working days prior to desired installation date.
5. Staff would remove banner at requested date and return it to the applicant.

Each banner location had two installed poles and related mounting wires. Due to wind gusts, one of the poles at the Perris Boulevard location failed and subsequently fell to the ground. Banner poles on Sunnymead Boulevard were removed due to the conflict with the recently completed beautification project.

To reinstate the program, services of a structural engineer would be required to properly design the pole foundations, pole dimensions, and related connection hardware details. Initial discussions with a local structural engineering firm indicated a typical design plan could be prepared for a cost between \$3,000 and \$5,000. This typical design plan would be based upon the most conservative design, absent of exact wind speeds and geotechnical data, and could be utilized at all of the existing or potentially new locations. After completion of the design, each location with existing pole and foundation infrastructure (poles still remain at the two locations) would have to be reconstructed to meet the upgraded design. The cost to perform this work is estimated at approximately \$15,000 - \$25,000 per location. To counter the wind stress on the banners, there may be a need for added structural stability, over and above the traditional wiring systems. The cost is difficult to estimate at this time without a recommendation from a structural engineer and unknown geotechnical conditions.

FISCAL IMPACT

Re-establishing the Street Banner Program would generate a one-time fiscal impact of somewhere in the range of \$60,000 – \$100,000. This is based upon the four established locations remaining within the modified structure construction. If further locations are identified, or a new banner system is devised, then additional costs are anticipated based upon the previous discussion.

Currently, there is no funding source identified to pay for the initial installation. It is anticipated that the General Fund would be the only funding source available at this time as transportation related monies are not eligible for this use.

It is expected that costs associated with permitting and installing the banners and the maintenance of the related infrastructure would be recovered through normal user fee collection. The existing fee structure for banner installation, which has not been revised since 2004, imposes the following costs for a typical banner installation:

\$34.75 permit fee
 \$197.75 per location for installation and removal
 \$34.75 per location per week site rental fee (for-profit Corporations only)

The requesting entity would be required to provide the banner that meets the City's specification requirements.

If it is the desire of the City Council to maintain full cost recovery for this program, then the fee schedule would be revisited to reflect current labor and equipment use cost rates and revised accordingly. A typical banner installation requires two field staff members using bucket trucks (approximately 4 man-hours labor).

CITY COUNCIL GOALS

ADVOCACY: Develop cooperative intergovernmental relationships and be a forceful advocate of City policies, objectives, and goals to appropriate external governments, agencies, and corporations.

POSITIVE ENVIRONMENT: Create a positive environment for the development of Moreno Valley's future.

ATTACHMENTS

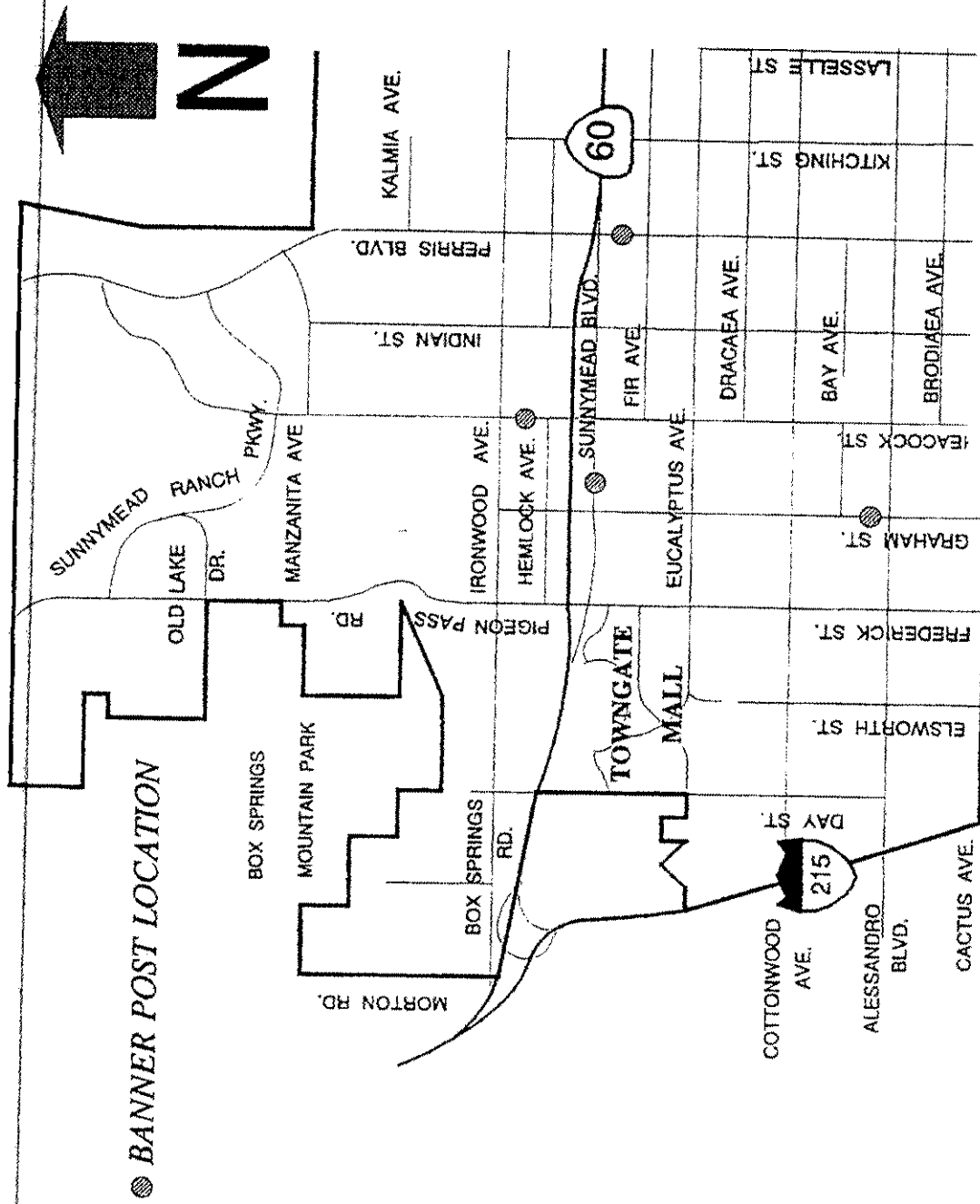
Attachment A – Map of Original Banner Locations
 Attachment B – City Standard Plan 416

Prepared By:
 Eric Lewis, P.E., T.E.
 City Traffic Engineer

Department Head Approval:
 Chris A. Vogt, P.E.
 Public Works Director/City Engineer

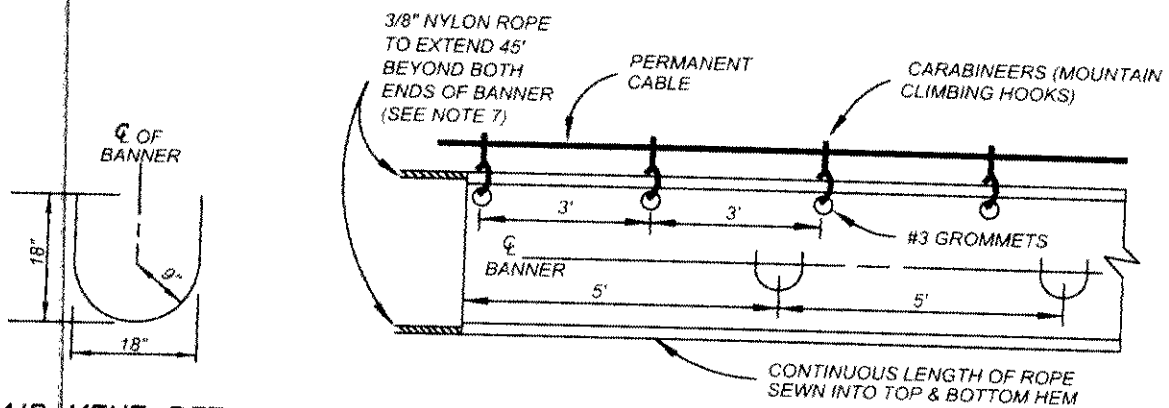
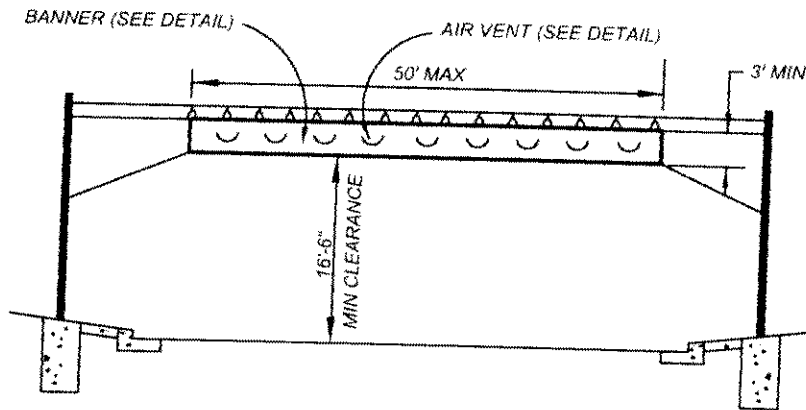
Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

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● BANNER POST LOCATION

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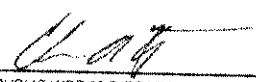


AIR VENT DETAIL

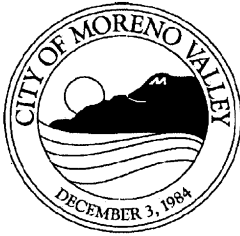
BANNER DETAIL

BANNER CONSTRUCTION SPECIFICATIONS:

- 1.) MAXIMUM SIZE: 3 FEET BY 50 FEET.
- 2.) MINIMUM 16.0 OZ. DOUBLE FACED VINYL.
- 3.) 18" x 18" AIR VENTS PLACED EVERY 5 FEET ON CENTER.
- 4.) NO. 4 GROMMETS MAY BE PLACED IN ALL 4 CORNERS.
- 5.) CARABINEERS (MOUNTAIN CLIMBING HOOKS) USED EVERY 36"
- 6.) MINIMUM 3/8" ROPE SEWN ON TOP AND BOTTOM OF BANNER.
- 7.) 45 FEET OF 3/8" ROPE TO EXTEND OUT ON ALL 4 CORNERS. IF BANNER IS LESS THAN 50 FEET, TOTAL LENGTH OF ROPE MUST EXCEED 140 FEET.

TRANSPORTATION		DATE	1/10	CITY OF MORENO VALLEY PREPARED BY CAPITAL PROJECTS
APPROVED BY	 PUBLIC WORKS DIRECTOR CITY ENGINEER	DIVISION MANAGER INITIAL	EL	
				BANNER DETAIL
				416

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RH</i>
CITY MANAGER	<i>WBS</i>

Report to City Council

TO: Mayor and City Council

FROM: Robert Hansen, City Attorney

AGENDA DATE: September 21, 2010 (continued from August 17, 2010)

TITLE: A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO LIMITATIONS ON ENGINE IDLING.

BACKGROUND

In May, 2007, our office prepared a report to the City Council addressing the question of whether or not the City of Moreno Valley could lawfully adopt an Ordinance regulating and restricting the idling of diesel engines within the City. Our office came to the conclusion that as long as the proposed Ordinance addressed a public nuisance or was more stringent than state or federal regulations, such regulation would be within the City's powers to enact and enforce.

Recently, our office was asked to prepare a draft ordinance regulating the idling of diesel engines within the City.

DISCUSSION

Currently, California state law limits all vehicles with a gross weight of over 10,000 pounds from idling within the state for a period in excess of five minutes. Up until January, 2008, sleeper berths were exempt from this limitation. However, this exemption has since been removed and now all trucks exceeding 10,000 pounds are prohibited from idling in excess of 5 minutes. State law is enforced through the California Air Resources Board (ARB) and local air quality management districts.

The Ordinance presented for Council review is based on a model ordinance proposed by the Sacramento Air Quality Management District and in use in several Northern California cities. In its present form, it appears to be the most restrictive regulation in place at a municipal level. The proposed ordinance would apply the 5 minute rule to **all** diesel fueled vehicles, regardless of weight and to all vehicles in excess of 14,000 pounds regardless of fuel type being used. The proposed ordinance also creates similar restrictions on the use of certain off-road equipment including construction equipment and refrigeration equipment within 1,000 feet of a residential area or school.

The proposed ordinance does provide for exemptions for certain activities including idling in traffic, for testing or maintenance purposes, to cool down a turbo charged engine, for health and safety or to operate integral equipment, such as lifts, cranes, pumps, drills etc.

If the proposed ordinance were adopted, enforcement of its regulations could be performed by Moreno Valley Police or by an enforcement department designated by the City Manager such as Code Enforcement or Public Works staff. The proposed ordinance also authorizes local air quality management district staff to cite for violations as well. Criminal prosecution would be handled by the City Attorney's office.

ALTERNATIVES

The City Council may consider the following alternatives:

1. Place the proposed ordinance on the Council Agenda as written for Council action.
2. Direct staff to make changes to the ordinance and return to City Council meeting or study session on a later date with a revised Ordinance.
3. Take no action.

FISCAL IMPACT

Additional staff time in enforcement and prosecution would likely be offset by collection of fines. No significant fiscal impact is anticipated.

ATTACHMENTS/EXHIBITS

1. A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO LIMITATIONS ON ENGINE IDLING.

Prepared By:
Paul Early
Deputy City Attorney III

Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO LIMITATIONS ON ENGINE IDLING.

The City Council of the City of Moreno Valley does ordain as follows:

SECTION 1. MUNICIPAL CODE ADDED:

1.1 Chapter 12.50 of the Moreno Valley Municipal Code is hereby added to read as follows:

“Section 12.50.010 – Findings and Purpose

The City Council of the City of Moreno Valley finds that:

- (A) Air pollution is a major public health concern in California. Air pollution can cause or aggravate lung illnesses such as acute respiratory infection, asthma, chronic bronchitis, emphysema, and lung cancer. In addition to the health impact, air pollution imposes significant economic costs and negative impacts on our quality of life.
- (B) Exhaust from vehicles, both on and off road, is a public nuisance that is a substantial source of carbon monoxide, ozone precursors, particulate matter, toxic air contaminants, and greenhouse gases. Although new engines have become cleaner due to new technologies; the slow turn over in their inventory and the number of miles/hours the vehicles drive/idle each year is hindering progress toward regional air quality.
- (C) A study of idling exhaust emissions conducted by the U.S. Environmental Protection Agency (EPA420-R-02-025, October 2002) indicates that a typical 1980s – 2001 model year truck operating on diesel fuel emits 144 grams per hour of nitrogen oxide and 8224 grams per hour of carbon dioxide emissions and consumes about 0.82 gallons of diesel fuel while idling.
- (D) Truck idling further creates a public nuisance by creating a noise disturbance.

Section 12.50.020 – Definitions

- (A) “Driver” means any person who drives, operates, or is in actual physical control of a vehicle.
- (B) “Emergency” means a sudden, urgent, usually unforeseen occurrence.
- (C) “Equipment Operator” means any person who is in actual physical control of a piece of off-road equipment.

Ordinance No.
Date Adopted:

- (D) "Gross Vehicle Weight Rating" means the weight specified by the manufacturer as the loaded weight of a single vehicle.
- (E) "Heavy-Duty Vehicle" means any on-road motor vehicle with a manufacturer's Gross Vehicle Weight Rating greater than 14,000 pounds.
- (F) "Idling" means the engine is running while the vehicle is stationary or the piece of off-road equipment is not performing work.
- (G) "Medium-Duty Vehicle" means any on-road motor vehicle with a manufacturer's Gross Vehicle weight rating of 6,001 to 14,000 pounds.
- (H) "Official Traffic Control Device" means any sign, signal, marking or device, consistent with Section 21400 of the California Vehicle Code, placed or erected by authority of a public body or having official jurisdiction, for the purpose of regulating, warning, or guiding traffic, but does not include islands, curbs, traffic barriers, speed humps, speed bumps, or other roadway design features.
- (I) "Official Traffic Control Signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and proceed and which is erected by authority of a public body or official having jurisdiction.
- (J) "Off-Road Equipment" means all non-road equipment with a horsepower rating of 50 or greater.
- (K) "Transport Refrigeration Unit" or "TRU" means a refrigeration system powered by an engine designed to control the environment of temperature sensitive cargo. A TRU is a piece of off-road equipment regardless of its horsepower rating.
- (L) "Vehicle" means any on-road, self propelled vehicle that is required to be registered and have a license plate by the California Department of Motor Vehicles.
- (M) "Vehicle / Equipment Owner" means the registered owner, lessee, licensee, or bailee of any heavy- or medium-duty vehicle or piece of off road equipment who operates or directs the operation of any such vehicle or equipment on either a for-hire or not-for-hire basis.

Section 12.50.030 – Applicability

This Chapter shall apply to the operation of all diesel fueled vehicles regardless of gross vehicle weight rating, all heavy-duty vehicles fueled by either gasoline or diesel, all off-road diesel-powered equipment regardless of horsepower rating, and all off-road equipment regardless of fuel being used, except as provided in Section 12.50.050. Additionally, this Chapter shall apply to Transport Refrigeration Unit ("TRU") engines as specified in Section 12.50.040(C).

Section 12.50.040 – Idling Limitation

- (A) A driver of a vehicle:
 - 1) Must turn off the engine upon stopping at a destination; and,
 - 2) Must not cause or allow an engine to idle at any location for:
 - a) More than five consecutive minutes; or

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- b) A period or periods aggregating more than five minutes in any one-hour period.
- (B) An equipment operator of an off-road piece of equipment not identified in (A) above must not cause or allow an off-road piece of equipment to idle at any location for:
 - 1) More than five consecutive minutes; or
 - 2) A period or periods aggregating more than five minutes in any one-hour period.
- (C) An equipment operator of a TRU must not cause or allow a TRU to operate within 1,000 feet of a residential area or school unless the operator is actively engaged in the process of loading or unloading and the cargo will be loaded or unloaded within thirty (30) minutes.
- (D) An owner of a vehicle, an off-road piece of equipment, or a TRU must ensure that:
 - 1) The vehicle operator or equipment operator, upon employment and at least once per year thereafter, is informed of the requirements of Section 12.50.040(A), (B) and (C), and of the consequences, under this section and the fleet owner's terms of employment, of not complying with those requirements; and,
 - 2) Upon rental or lease of a vehicle or piece of equipment, written notification is provided of the requirements of Section 12.50.040(A), (B) and (C); and,
 - 3) All complaints of non-compliance with, and enforcement actions related to, the requirements of Section 12.50.040(A), (B) and (C) are reviewed and remedial action is taken as necessary.
- (E) A private property owner shall not allow a vehicle, an off-road piece of equipment or a TRU located on the owner's property to violate Sections 12.50.040(A), (B) or (C). A private property owner shall notify owners and operators of vehicles, off-road pieces of equipment and TRUs entering the owner's private property of the requirements of Sections 12.50.040 (A), (B) and (C).

Section 12.50.050 – Exemptions

This Chapter does not apply to a vehicle or piece of equipment for the period or periods during which:

- (A) Idling is necessary while stopped:
 - 1) for an official traffic control device;
 - 2) for an official traffic control signal;
 - 3) for traffic conditions over which the driver has no control, including, but not limited to, stopped traffic, stopped at railroad crossings, or stopped at a construction zone; or,
 - 4) At the direction of a peace officer.
- (B) Idling is necessary to ascertain that the vehicle and/or the off-road equipment is in a safe operating condition and equipped as required by all provisions of law, and all equipment is in good working order, either as part of the daily vehicle inspection, or as otherwise needed;

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Date Adopted:

- (C) Idling is necessary for testing, servicing, repairing or diagnostic purposes;
- (D) Idling is necessary, for a period not to exceed three to five minutes (as recommended by the manufacturer) to cool down a turbo-charged heavy-duty vehicle before turning the engine off;
- (E) Idling is necessary to accomplish work for which the vehicle / equipment was designed, other than transporting goods, including, but not limited to, operating a lift, crane, pump, drill, hoist, ready-mixed concrete mixer or other auxiliary equipment other than a heater or air conditioner.
- (F) Idling is necessary to operate a lift or other piece of equipment designed to ensure safe loading and unloading of goods and people;
- (G) Idling is necessary to operate defrosters, heaters, air conditioners, or other equipment to prevent a safety or health emergency, but not solely for the comfort of the driver or passengers except:
 - 1) For driver comfort when a driver is required to have rest time by law. In such case, the driver may only idle at a designated rest area or truck stop and shall not idle within 1,000 feet of a residential area or school.
 - 2) For passenger comfort in a paratransit vehicle with a passenger on board with a disability or health condition that would be critically aggravated if the vehicle were not maintained at an adequate temperature.
- (H) Idling is necessary solely to recharge a battery or other energy storage unit of a hybrid electric vehicle or equipment
- (I) Idling is necessary to operate equipment that runs intermittently.
- (J) Idling is necessary for emergency services vehicles.

Section 12.50.060 – Relationship to other Laws

Nothing in this Chapter allows idling in excess of other applicable laws, including, but not limited to:

- (A) Title 13 California Code of regulations Section 1226;
- (B) Title 13 California Code of Regulations Section 2480;
- (C) California Vehicle code Section 22515; or,
- (D) Any other local, state or federal law or regulation as stringent as, or more stringent than this Chapter.

Section 12.50.070 – Penalties

Any violation of the provisions of the Chapter shall be subject to the fines and penalties set forth in Chapters 1.01 and 1.10 of this Code.

Section 12.50.080

This chapter may be enforced by any peace officer or enforcement officer as designated by the City Manager, the California Air Resources Board, or the local air pollution control or air quality management district.”

Ordinance No.
Date Adopted:

SECTION 2. EFFECT OF ENACTMENT:

2.1 Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

SECTION 3. NOTICE OF ADOPTION:

3.1 Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be publicly posted in three places within the city.

SECTION 4. EFFECTIVE DATE:

4.1 This ordinance shall take effect thirty days after the date of its adoption.

APPROVED AND ADOPTED this ____ day of _____, 20__.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

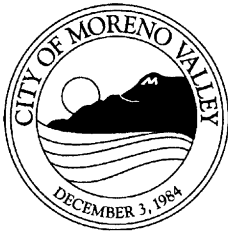
Ordinance No.
Date Adopted:

ORDINANCE JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this ordinance should follow this jurat.]

Ordinance No.
Date Adopted:



APPROVALS	
BUDGET OFFICER	<i>CAF</i>
CITY ATTORNEY	<i>[Signature]</i>
CITY MANAGER	<i>[Signature]</i>

Report to City Council

TO: Mayor and City Council

FROM: John Ruiz, Interim Human Resources Director

AGENDA DATE: September 21, 2010

TITLE: Proposed revisions to the City of Moreno Valley Personnel Rules and Regulations to Clarify Relevance to City Council Members and Direct Appointee Employees

RECOMMENDED ACTION

Staff requests that the City Council review and clarify the relevance of City Personnel Rules and Regulations to Council members and Direct Appointee employees.

BACKGROUND

A review of the current Personnel Rules and Regulations requires clarification on those policies that are relevant to Council Members and Direct Appointee employees.

DISCUSSION

Staff and the City's legal counsel have reviewed the current Personnel Rules and Regulations and have provided recommendations (Exhibit A) which provides clarification as to those rules and regulations that are relevant to Council Members and Direct Appointee employees.

ALTERNATIVES

1. Accept staff's recommendations on those policies that apply to Council members and Direct Appointee employees.
2. Do not accept staff's recommendations.

FISCAL IMPACT

The proposed recommendations will have no fiscal impact on the City's budget.

ATTACHMENTS

Exhibit "A" – Personnel Rules and Regulations revisions.

Prepared By:
John Ruiz
Interim HR Director

Concurred By:
William L. Bopf
Interim City Manager

Department Head Approval:
John Ruiz
Interim HR Director

Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

ADD TO SECTION 1.20 DEFINITIONS OF TERMS:

Employee: A person occupying a position in the City employment providing services to the City or its residents. This excludes City Council Members, commissioners, members of advisory boards, positions appointed directly by the City Council, independent contractors and outside contractors.

Direct Appointee: A person occupying a position in the City employment selected by the City Council. Direct Appointees include the City Manager, City Clerk, City Treasurer, City Attorney, and any assistant or deputies to the City Attorney.

Elected Official: The Mayor and members of the City Council Members of commissions and advisory bodies appointed by the City Council or City Manager shall be included in this definition for use in these Rules only.

Staff recommends that the following provisions of the Personnel Rules and Regulations apply to Elected Officials and Direct Appointees:

Elected Officials:

- 1.65 Political Activities
- 1.75 Drug and Alcohol Free Workplace
- 1.80 Equal Employment Policy
- 1.85 Discrimination and Anti-Harassment Policy
- 1.90 Workplace Violence Policy
- 1.95 Smoking Policy
- 4.50 Driving Safety Check
- 7.60 On-The-Job Injuries and Workers' Compensation Coverage
- 13.15 Access to Files
- 13.20 Disclosure of Information

Direct Appointees:

- 1.55 Conflicts of Interest and Acceptance of Gifts and Other Gratuities
- 1.60 Incompatible Employee Activities
- 1.65 Political Activities
- 1.75 Drug and Alcohol Free Workplace
- 1.80 Equal Employment Policy
- 1.85 Discrimination and Anti-Harassment Policy
- 1.90 Workplace Violence Policy
- 1.95 Smoking Policy
- 4.50 Driving Safety Check
- 4.65 Pre-Employment Physical
- 4.70 Employment Eligibility Verification
- 4.80 Criminal Conduct – Ineligibility for Employment
- 4.85 Fingerprinting
- Section 7 Leaves
- 7.60 On-The-Job Injuries and Workers' Compensation Coverage

13.15 Access to Files
13.20 Disclosure of Information
Section 14 Employee Benefit Policies

5. Volunteers and Interns.

- C. The crossing guard manual contains specific personnel policies for crossing guards. It is an extension of these rules. Violations of those written policies are also considered violations of these rules as well.

1.40 ADOPTION AND AMENDMENT OF RULES

Pursuant to the Personnel Ordinance, the City Council may adopt Personnel Rules to provide for the implementation of a personnel system for City employees. Recognized employee organization-proposed amendments to these Rules shall be submitted to that organization for review and recommendation prior to submittal to the City Council. Advance notice and an opportunity to meet and confer shall be given to recognized employee organizations concerning any amendments which affect matters subject to meet and confer such as, wages, hours, and other terms and conditions of employment. Upon request, the Human Resources Director shall provide the opportunity for review and comment and consult with any recognized employee organization so requesting prior to consideration by the City Council.

As provided in Section 3500 et seq. of the California Government Code, in cases of emergency, when the City Council determines that amendment(s) to these Rules must be adopted immediately without prior notice or meeting with a recognized employee organization, the City shall provide such notice and opportunity to meet at the earliest practical time following the adoption of the amendment(s). Amendments shall become effective upon adoption by the City Council or at such other time as the adopting resolution may provide.

With the written approval of the City Manager, Department Heads may promulgate rules not in conflict with these Rules for the effective and efficient operation of their departments.

1.45 VALIDITY OF RULES (SEVERABILITY)

If any section, subsection, sentence, clause, phrase or portion of these rules is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these rules. The City Council of Moreno Valley hereby declare that it would have adopted these rules and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

1.50 VIOLATION OF RULES

Violation of these Rules may be grounds for disciplinary action, subject to the applicable appeals procedure provided herein.

1.55 CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS AND OTHER GRATUITIES

City employees should serve the needs and respond to the wishes of all citizens equally without regard to their personal gain. City employees should perform their duties in an

impartial manner, free from bias caused by their own financial interests or the financial interests of other persons. Therefore, it is the policy of the City of Moreno Valley that all City employees shall avoid situations which might be interpreted as involving or creating a conflict of interest between the employee's duties and responsibilities as a public employee, and the employee's personal and private interest.

Employees should not take part in the consideration of any application, proceeding or other matter involving their own personal property, real estate, investment or other interest, or that of any relative or close personal acquaintance. In all such situations, the employee should disclose the nature of the relationship to his or her immediate supervisor and request to be relieved of any responsibility or involvement in such matter.

The acceptance of gifts, favors, or any form of compensation or gratuity may be viewed as influencing or compromising or attempting to influence or compromise the judgment of an employee. To prevent such a conflict, employees shall discourage any offer of a gift, favor or any form of compensation or gratuity. Gifts that can and will be shared with office staff, such as boxes of candy, flowers, and food, may be viewed as exceptions. Being hosted by a City contractor or potential City contractor is not a conflict of interest, provided that all financial disclosure laws and regulations are complied with.

Employees who receive or are offered an unanticipated gift, favor or gratuity, should consult their Department Head to determine an appropriate response to the donor.

City employees shall not solicit or accept donations for City sponsored events unless waived for specific events by express written authorization of the City Manager.

1.60 INCOMPATIBLE EMPLOYEE ACTIVITIES

During an employee's work day, the employee is expected to devote his or her full time, attention and efforts to the performance of his or her assigned duties as a City employee. At no time shall any outside employment or activity be conducted on City time. No employee shall engage in any employment, outside activity, or enterprise which is inconsistent, incompatible, in conflict with, or interferes with his or her ability to perform the duties, functions, or responsibilities of his or her position as a City employee, nor shall he or she engage in any outside activity which may directly or indirectly contribute to the lessening of his or her effectiveness as a City employee. Employees who undertake outside employment shall notify their immediate supervisors in writing of the nature, duties, and hours of that employment before undertaking such employment, including military service in the Reserves or Guard.

No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly permitted by the City Manager, Federal or State law, Memorandum of Understanding, or City Council directive.

1.65 POLITICAL ACTIVITIES

No restrictions shall be placed on the political activities of any employee of the City of Moreno Valley other than the following.

- A. No person who holds, or who is seeking election or appointment to, any office or employment with the City shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position within the City, upon consideration or condition that the vote or political influence or action of such a person or another shall be given or used on behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration (Government Code 3204).
- B. No employee shall directly or indirectly solicit political funds or contributions from other employees of the City. Employees, however, are not prohibited from requesting political funds or contributions to a significant segment of the public which may include officers or employees of the City (Government Code 3205).
- C. No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer or arrange for any increase in compensation or salary for an employee of a state or local agency in exchange for, or a promise of, a contribution or loan to any committee controlled, directly or indirectly, by the person who holds, or is seeking election or appointment to office. (Government Code 3205.5)
- D. No employee shall participate in any political activities while in uniform (Government Code 3206)
- E. No employee shall engage in political activity during working hours or on City premises (Government Code 3207).
- F. No employee shall engage, during his or her working hours, in the solicitation or receipt of political funds or contributions to promote the passage or defeat of any ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of the employees of the City; nor shall entry be permitted on City premises during working hours for such purposes (Government Code 3209).

1.70 SAFETY AND HEALTH

Each employee shall comply with all applicable safety laws, rules, and regulations. All employees shall follow safety practices, use personal protective equipment as required, render every possible aid to safe operations, and report to proper authority all unsafe conditions or practices.

- A. Management may request a fitness-for-duty examination and repeat examinations as necessary to safeguard the employee and co-workers when there is a concern about an employee's ability to perform his or her job, based on the observations of a supervisor, manager, or physician. Specific reasons for the fitness-for-duty request must be stated.

1.75 DRUG AND ALCOHOL FREE WORKPLACE

Because drug and alcohol use can detrimentally affect job performance and employee safety, the City is committed to achieving and maintaining a drug and alcohol free workplace. While the City has no intention of intruding into the private lives of its employees, it will be firm in identifying and disciplining those employees whose impaired mental or physical condition, as a result of drug or alcohol use, may endanger the health or safety of fellow employees and the public at large, or interfere with the operations of the City.

This policy applies to all City employees (including part-time, temporary and hourly employees) and to all applicants for positions with the City.

While on paid duty time, the employee shall not be under the influence of any substances, drugs, medications, legal or illegal which could impair an employee's ability to effectively and safely perform the functions of the job. The use of prescription drugs which would not alter an employee's work performance is acceptable if prescribed by a qualified physician.

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

The unlawful manufacture, distribution, dispensing, possession, or use of any illegal drug or "controlled substance" is prohibited on the job, in the City's workplace, or while subject to duty (i.e., stand-by).

For the purposes of this Section, the following shall be defined as:

- A. "Controlled Substance" denotes any substance which could potentially impair the employee's ability to effectively and safely perform the functions of his or her duties, including, but not limited to: alcohol, coca leaves, cocaine, marijuana, opium and opiates, amphetamines, methamphetamines, lysergic acid (L.S.D.), etc. As outlined below, certain prescription drugs and medications shall also be classified as controlled substances.
- B. "Conviction" is a finding of guilt (including a plea of no contest), an imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
- C. "Criminal Drug Statute" is a criminal statute involving the manufacture, distribution, dispensation, use, or possession of any illegal drug or controlled substance.

Please refer to the City of Moreno Valley's Personnel Rules & Regulations, Appendix A-D, for a detailed description of the City's Drug and Alcohol Free Workplace Policy.

1.80 EQUAL EMPLOYMENT POLICY

It is the policy of the City of Moreno Valley to offer equal opportunity in all matters of employment. Employment with the City is based solely upon the qualifications of the individual applicant, regardless of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or a mental or physical disability, unless sex, mental, or physical ability is a bona fide occupational qualification.

All employees are to be treated with respect and dignity. The City of Moreno Valley prohibits any harassment of employees in the workplace. Activities and occurrences which may constitute harassment, whether written or oral, include, but are not limited to disparaging comments on the basis of one's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or mental or physical disability. Such harassment activities, which may have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the Human Resources Director.

The City shall not unlawfully discriminate against a qualified individual with a disability in job applications, hiring, advancement, compensation, training, discharge, and other terms, conditions, or privileges of employment. A disabled person is one who has mental or physical impairment that limits at least one major life activity, who has a record of impairment, or who is regarded as having impairment. A qualified individual with a disability is a person, who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Violation of this policy will result in appropriate disciplinary action pursuant to Section 8 of these Rules.

1.85 DISCRIMINATION AND ANTI-HARASSMENT POLICY

The City of Moreno Valley is committed to providing a work environment that is free of discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting any form of harassment, including sexual harassment, of all employees. Furthermore, the City prohibits harassment in any form, including verbal, physical, visual, or sexual harassment or retaliation against an employee for filing a harassment and/or discrimination complaint.

Harassment of an employee by a co-worker, supervisor, management employee, or other agent of the City, or a customer, on the basis of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or a mental or physical disability will not be tolerated. **Such harassment activities, which may have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the Human Resources Director.**

Harassment includes, but is not limited to:

- A. Verbal Harassment- For example, epithets, derogatory comments or slurs on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity, age, or denial of family and medical care leave and denial of pregnancy disability leave.
- B. Physical Harassment- For example, assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity or age.
- C. Visual Forms of Harassment- For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity or age.
- D. Sexual Harassment- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employee benefit, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or an offensive work environment.

The City shall ensure that each employee has a copy of the City's anti-harassment policy which will include information on its internal complaint procedure.

Any employee who believes he or she has been harassed by a co-worker, a supervisor, a management employee, any other agent of the City, or customer should promptly report the facts of the incident or incidents and names of persons involved to his or her supervisor and/or the division manager/department head, and/or the Human Resources Director. If the offending party is a department head or higher, the complaint should be addressed to the offending party's supervisor. Any supervisor, division manager, or department head is obligated to immediately report any complaints and/or incidents of harassment to the Human Resources Director. Failure to make such a report when required by this Section may provide grounds for disciplinary action.

Upon receiving notification of a harassment complaint, the Human Resources Director shall:

- A. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with:
 - 1. the complainant;
 - 2. the accused harasser; and
 - 3. any other persons the Human Resources Director has reason to believe have relevant knowledge concerning the complaint. This may include victims of similar conduct.

- B. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual, or sexual conduct, and the context in which the alleged incidents occurred.
- C. Report the results of the investigation, and the determination as to whether harassment occurred, to appropriate persons, including the complainant, the alleged harasser, the supervisor, the department head, and the City Manager. If discipline is imposed, the discipline will not be communicated to the complainant.
- D. If the harassment occurred, take and/or recommend to the appointing authority prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the offense.
- E. Take reasonable steps to protect the complainant from further harassment.
- F. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- G. If appropriate, take action to remedy the victim's loss, if any, which resulted from the harassment.

If the employee is not satisfied with the action taken, the employee shall have the right to file a formal grievance in accordance with Section 12.55. If the allegation of harassment implicates any person rendering a decision at any Step in the Grievance Procedure, the employee may omit that particular Step and proceed to the next Step in the Grievance Procedure.

Dissemination of Policy

All employees, shall receive a copy of this Discrimination and Anti-Harassment Policy when they are hired and regularly thereafter. All supervisors hired after January 1, 2005, shall receive harassment training within six (6) months of hire. All supervisors shall receive interactive anti-harassment training at least every two years.

1.90 WORKPLACE VIOLENCE POLICY

This organization does not tolerate workplace violence. We define workplace violence as actions or words that endanger or harm another employee or result in other employees having a reasonable belief that they are in danger. Such actions include:

- Verbal or physical threats, or intimidation;
- Assaults or other violence; and
- Any other behavior that causes others to feel unsafe (e.g., bullying, sexual harassment).

City policy requires an immediate response to all reports of violence. All threatening incidents will be investigated and documented. Counseling may be provided.

The following disciplinary actions may also be taken:

- Oral reprimand;
- Written reprimand;
- Suspension; or
- Termination.

Employees are expected to behave in a professional manner. It is the responsibility of all employees to report all threatening behavior to management immediately. The goal of this policy is to promote the safety and well-being of all people in our workplace.

1.95 SMOKING POLICY

In compliance with all CALOSHA regulations, smoking is prohibited in all City facilities and in all City vehicles and rolling stock. Consistent with CAL OSHA regulations no one may smoke less than 20 feet from doorways.

Except as hereinafter provided, an employee who has been terminated in good standing because of the operation of this Section, may be reinstated to the position which such employee held at the time of termination, or to a position of equal seniority, status, and pay. In order for the employee to be eligible for reinstatement, he or she must be reinstated to a position in a department, division, or office where a prohibited relationship would not be established (or re-established), the position must be open, and the employee must still meet the qualifications for the position. This right of reinstatement shall be effective only through the ninety (90) days immediately following the effective date of the employee's termination in good standing, and shall take precedence over a right of reinstatement which has been derived from a voluntary resignation in good standing. Commencing on the ninety-first (91st) day after the effective date of the termination, the terminated employee shall have a co-equal right of reinstatement with employees who have voluntarily resigned in good standing, up to an additional nine (9) months.

With the exception of the Human Resources Director's review, as provided in this section, any decision to transfer, voluntarily demote, resign, or terminate an employee in good standing (pursuant to this Section), is not subject to any appeal or grievance procedure.

4.50 DRIVING SAFETY CHECK

A verifiable and acceptable driving record and proof of liability insurance shall be required of each final candidate for employment whose position requires the employee to drive a City vehicle or if the employee receives a vehicle allowance or mileage reimbursement. Verification of acceptable driving records of all employees may be conducted periodically. Driving a City vehicle without possessing a valid driver's license is not permitted and may result in disciplinary action up to and including termination. An employee shall notify his/her supervisor immediately if his/her licenses expires, is suspended, or revoked.

4.55 ELIGIBILITY LISTS

Lists of applicants to be considered for job openings in a particular classification may be established for open competitive or promotional competitive positions. An eligibility list shall be a list of persons who have taken an open competitive or promotional competitive examination for an advertised City position and have qualified for said classification. Each such list shall bear an expiration date. The hiring department may appoint any candidate on the eligibility list, provided all candidates with higher rankings have been interviewed. The best qualified candidate, as determined by the hiring manager, on the eligibility list shall be hired.

Non-Management eligibility lists shall remain in effect for six (6) months or until exhausted, whichever occurs first. Management eligibility lists shall remain in effect for three (3) months. An eligibility list may be terminated at any time when less than three (3) eligible candidates remain. The Human Resources Director shall have the right to extend an eligibility list for one or more periods not to exceed in total one (1) year from the original date of certification.

The Human Resources Director may remove a name from an eligibility list for any of the following reasons:

shall also apply to changes of employment within the City when the new position places substantially more physical demands upon the employee.

4.70 EMPLOYMENT ELIGIBILITY VERIFICATION

In compliance with law and with regulations of the United States Department of Justice and the Immigration and Naturalization Service, the City of Moreno Valley requires that each person hired by the City complete Section I of the Employment Eligibility Verification Form I-9 to verify that the person is eligible for employment in the United States.

4.75 PROBATIONARY PERIOD

The first six (6) months, or any duly extended longer period, of all new and promotional employment in a career position shall be deemed a probationary period. The probationary period shall commence upon the effective date of the appointment.

During the probationary period, an employee may be terminated without the right of appeal, hearing or resort to any grievance procedure if his or her performance is deemed in any way unsatisfactory or below City standard by the City Manager, upon recommendation of the Department Head. At the conclusion of the probationary period, if the employee's performance does not meet City standards but is not altogether unsatisfactory, the probationary period may be extended up to an additional six (6) months, at the discretion of the City Manager. The decision to extend the length of an employee's probationary period must be based on justifiable reasons and must be made prior to the expiration of the original six (6) month probationary period. Such a decision shall not be appealable or grievable.

An employee who fails to complete his or her promotional probationary period satisfactorily shall be reinstated to the position in the same classification from which he or she was promoted unless discharged from City service as provided in these Personnel Rules. Before an employee may promote, they must first successfully complete original probation.

Crossing Guards shall be required to serve a 650-hour probationary period after becoming regular crossing guards. At the end of a successful probationary period, Crossing Guards shall become eligible for a merit pay increase. An Alternate Crossing Guard shall be deemed "at will/part-time" regardless of the number of hours worked.

4.80 CRIMINAL CONDUCT – INELIGIBILITY FOR EMPLOYMENT

Except as otherwise hereinafter provided, no person convicted of a misdemeanor involving moral turpitude or a felony shall be eligible for employment in the service of the City; however, the City Manager may disregard such conviction if he/she finds and determines that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction.

Only the City Manager, Employee Relations Officer, City's Attorneys, Human Resources Director, and other Human Resources staff are authorized to have access to the "State

Summary Criminal History Information” as provided for in Section 11105 of the Penal Code of the State of California.

4.85 FINGERPRINTING

To facilitate the City’s ability to perform complete background checks on its employees, new City employees will be fingerprinted and their backgrounds researched to ensure that there is nothing which would hinder their ability to perform their job satisfactorily or create any unnecessary liability for the City.

4.90 RESIGNATION

Employees who desire to terminate their service with the City shall submit a written resignation to the Department Head at least two weeks prior to the effective date of the resignation. Failure to comply with this requirement may be cause for denying future employment with the City.

4.95 REHIRE

Any career employee who voluntarily or involuntarily resigns or separates and is later rehired, may forfeit all previous seniority and benefits and does not need to be rehired at his/her former classification or pay level, except in the case of lay-off. The rehired employee may be considered the same as a new hire. With approval of the City Manager, a former employee who is eligible for rehire may be rehired by appointment rather than competitively, but may still be placed on six months probation upon return.

SECTION 7: LEAVES

7.10 ANNUAL LEAVE

In lieu of accruing separate banks of holiday, floating holiday, vacation, sick hours, and administrative leave time where applicable, employees will accrue annual leave. Effective December 14, 2007, accrued vacation banks for current employees will be converted to annual leave on an hour-for-hour basis.

Annual Leave Usage

Some of the appropriate uses of this leave time include the following:

- A. To enable employees to get paid on days so designated as legal holidays by the City Council which includes New Year's Day (January 1), Dr. Martin Luther King, Jr. Day (3rd Monday in January), President's Day (3rd Monday in February), Memorial Day (last Monday in May), Independence Day (July 4th), Labor Day (1st Monday in September), Veteran's Day (November 11th), Thanksgiving (4th Thursday in November), Day after Thanksgiving (Friday after Thanksgiving), Christmas Eve (December 24th), and Christmas Day (December 25th).
- B. To provide recuperation time for an employee incapacitated due to illness, injury, or other medical disability;
- C. To allow for the quarantine of an employee exposed to a contagious disease which results in the enforced quarantine of an employee in accordance with public health regulations;
- D. To attend to the urgent health needs of immediate family members;
- E. To attend medical or dental office appointments;
- F. To enable employees to conduct important personal business during normal working hours;
- G. To provide time for periods of rest and relaxation; or
- H. In other instances consistent with all existing Rules and Regulations as authorized by the employee's Executive Manager or representative.

When personal emergencies or situations of personal necessity arise, annual leave may be granted over the telephone within 30 minutes of start time unless special and extenuating circumstances prohibit employees from calling in, but the caller must identify the specific reason for the emergency or necessity and follow up with a written request. Employees are encouraged to accrue annual

leave balance as a protection against the adverse affects of short- or long-term absences due to a major illness or injury.

Minimum Use: During each calendar year, each full time career employee shall use at least 168 hours of annual leave, with approximately, 88 hours of this leave provided to enable employees to get paid on days so designated as legal holidays by the City Council when City facilities are closed. Part-time career employees are required to use forty (40) hours of annual leave. Part-time career employees should use a portion of these hours for holidays, as appropriate. Further, employees are urged to retain a reasonable bank of annual leave in case of unexpected illnesses or injuries to either themselves or family members.

All employees shall generally make a request for said leave to the executive manager in sufficient time to plan work schedules. Consequently, executive management is responsible for planning work schedules to allow each employee to take that leave each calendar year and each employee is responsible for using it. Failure to use the minimum required hours of such leave shall result in City Manager review of the circumstances surrounding such failure. Failure to follow the minimum usage may result in disciplinary action if conditions warrant.

Paid annual leave shall continue to accrue in accordance with the provisions during any authorized period of leave with pay. All annual leave shall be scheduled and taken in accordance with the best interest of the City and the department or division in which the employee is assigned.

If an employee needs to be absent from work on a given day due to any unexpected reason, he/she must notify the supervisor by telephone within the first half hour of normal reporting time or earlier if possible.

Reporting Annual Leave: The reporting of the use of annual leave should normally be in increments of a quarter of an hour for non-exempt employees and one hour increments for exempt employees will be used whether the employee works a full or partial day.

Physician's Certificate: An employee absent on unscheduled annual leave in excess of three (3) consecutive working days due to illness or injury, may be required by his/her executive manager to submit a written statement by a physician certifying that the employee's condition prevented the employee from performing his/her duties. The executive manager may also require a written statement that such employee is able to resume his/her normal duties. Management must list reasons for requesting the doctor's excuse for annual leave of less than three (3) consecutive working days. An employee may be placed on medical certification in instances when leave has not been pre-approved and the employee has exceeded the minimum use requirement for Annual Leave.

Leave Donation: Up to 24 hours of annual leave may be voluntarily donated from one employee to another out of a humanitarian need when the recipient employee has no leave accrued per City Manager's approval. No more than 480 total hours of leave may be donated to an individual employee. Donated annual leave will be taken from the forfeitable portion of leave balances.

Annual Leave Accrual

Annual leave time will accrue on a bi-weekly basis for twenty-six (26) pay periods a year. Each career employee shall have annual leave time accrue for each pay period starting from the first day of probationary appointment. Accrual rates are based on years of service.

Employees shall receive annual leave benefits on a pro-rata basis, calculated by the number of hours paid as a percentage of a forty (40) hour workweek. Employees, as outlined in the City's Benefit Plan, shall receive annual leave accruals as follows:

- A. Executive Management Employees shall ~~earn~~^{earn} 14.77 hours of annual leave per pay period of service (approximately 384 hours per year). This accrual shall extend to 16.31 hours per pay period (approximately 424 hours per year) at the beginning of the sixth year and extend to 17.85 hours per pay period (approximately 464 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 2,080 hours of annual leave. This 2,080 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

- B. Division Management Employees shall earn 13.85 hours of annual leave per pay period of service (360 hours per year). This accrual shall extend to 15.38 hours per pay period (approximately 400 hours per year) at the beginning of the sixth year and extend to 16.31 hours per pay period (approximately 424 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 2,080 hours of annual leave. This 2,080 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

Division Management Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 16.92 hours per pay period (approximately 440 hours per year), and may accrue up to 2,080 hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

- C. Professional / Administrative shall earn 13.08 hours of annual leave per pay period of service (340 hours per year). This accrual shall extend to 14.62 hours per pay period (approximately 380 hours per year) at the beginning of the sixth year and extend to 15.54 hours per pay period (approximately 404 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 2,080 hours of annual leave. This 2,080 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

PAM Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 16.15 hours per pay period (approximately 420 hours per year), and may accrue up to 2,080 hours of annual leave.

- D. Non-Exempt Employees shall earn 10.77 hours of annual leave per pay period of service (approximately 280 hours per year). This accrual shall extend to 12.31 hours per pay period (approximately 320 hours per year) at the beginning of the sixth year and extend to 13.23 hours per pay period (approximately 344 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the annual leave accrual rate as a recruitment tool. Employees in these categories may accrue up to 2,080 hours of annual leave. This 2,080 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

Non-Exempt Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 13.85 hours of annual leave per pay period (360 hours per year), and may accrue up to 2,080 hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

- E. Seasonal Employees/Crossing Guards with Leave Accruals shall accrue annual leave at a rate determined by their program agreement or contract.

Temporary Employees shall not normally accrue paid annual leave, but may take leave without pay as approved by their supervisors.

7.15 GRANDFATHERED LEAVE BALANCES

Prior Sick Time Accruals: Employees shall retain all existing sick leave hours accrued prior to the enactment of this policy. Although sick leave will no longer continue to accrue for employees, an employee's sick leave balance will be available for use in the event of an illness or injury, which qualifies for disability. This Grandfathered sick leave balance shall be available for cash out upon separation at a rate of 40% of the accrued balance for full time employees and 20% for part time employees. The remaining balance will be converted to PERS

service credit for retiring employees. Separating employees will forfeit the remaining balance.

Grandfather Clause: Sick leave balances as of 9/22/92 for Executive Management and Division Management employees shall be available for cash out upon separation at a rate of 60% of the accrued balance and 40% towards PERS service credit. When sick leave is taken, the hours last accumulated shall be utilized first.

Converted Vacation, Holiday, Floating Holiday, and Admin Leaves: Balances converted to annual leave will be cashed out upon separation at the 100% rate in effect prior to the enactment of this policy. When annual leave is taken, the hours last accumulated shall be utilized first.

Effective one time only, at the time of conversion to Annual Leave, total hours in excess of 1384 shall be excluded from the 2080 hour annual leave cap.

7.20 ANNUAL LEAVE CASH OUT UPON SEPARATION AND RETIREMENT

Separation from the City

Employees separating from the City are entitled to payment for 80% of their unused accrued annual leave balance. The remaining 20% will be forfeited.

Grandfathered leave balances will be cashed out upon separation in accordance with Section 7.15.

Retirement from the City

Employees retiring from the City are entitled to payment for 80% of their unused accrued annual leave balance. The remaining 20% will be converted to PERS service credit.

No compensation for annual leave will be awarded to current City employees until they terminate or retire.

Grandfathered leave balances will be cashed out upon separation in accordance with Section 7.15.

7.30 BEREAVEMENT LEAVE

Employees shall be allowed to utilize four (4) days of bereavement leave in the event of the death of an immediate family member. Immediate family in this instance shall be defined as mother, father, spouse, domestic partner, natural/step-children, children of domestic partner, mother-in-law, father-in-law, brother or sister, grandparent or grandchild. Step-parents may be included if they are currently members of the immediate family.

Employees will be allowed Annual Leave to be taken and/or advanced, if needed, up to ten (10) days in length in addition to bereavement in the event of a death in the employee's immediate family (parent, spouse, child, domestic partner, step-child, child of domestic partner, mother-in-law, father-in-law, brother or sister, grandparent or grandchild). Step-parents may be included if they are currently members of the immediate family.

7.35 JURY DUTY AND WITNESS LEAVE

No employee shall be dismissed or in any manner discriminated against for taking time off from work to serve as a juror or witness when required by law provided such an employee complies with the provisions of this Section. An employee called to serve as a juror or witness shall notify his or her supervisor at least one (1) week prior to the commencement of such service, unless extenuating circumstances exist.

Any employee of the City called as a juror or witness shall be entitled to be absent from his or her duties with the City shall receive their regular salary limited to one-hundred (100) hours each year for each of the following types of jury service: local and federal. This could be expanded, dependent on an unusual situation, which is subject to the approval of the City Manager. The employee shall obtain a jury calendar or assignment sheet weekly during such service. The employee shall have the jury calendar or assignment sheet signed by the jury clerk or commissioner and shall deliver this sheet to his or her supervisor at the end of each week to verify jury duty or witness service.

If a career employee on an alternative work schedule is summoned for jury duty, the Department Head or designee shall convert the employee's usual work shift to a regular five (5) day, Monday through Friday shift basis. A career employee required to serve on jury duty shall be entitled to his or her regular rate of pay, provided the employee deposits any fees for service, excluding mileage, with the City. A crossing guard, temporary, seasonal, or emergency employee called for jury duty will not be compensated for time lost while on jury duty, but shall be entitled to retain his or her jury fees.

Any employee required to be absent from work on behalf of the City by proper subpoena issued by a court or other legally empowered agency, shall be entitled to be absent from work at his or her regular rate of pay, provided that any fees, except mileage, are deposited with the City. A non-exempt employee required to be present as a witness in any other matter shall not be entitled to be paid during such absence. An exempt employee will be paid his/her regular rate of pay whenever required to provide testimony under oath in any proceeding related to City matters.

An employee who is released by the court from jury duty on any regularly scheduled work day shall contact his or her supervisor to find out whether he or she is required to return to work. An employee who is scheduled for stand-by duty while serving on jury duty shall be rescheduled for stand-by duty after the conclusion of jury duty, unless the employee agrees to serve both.

7.40 PREGNANCY DISABILITY LEAVE

Pregnancy disability leaves of absence shall be granted to employees medically disabled by pregnancy, childbirth, or related conditions, provided such leave shall not exceed four (4) months. At the commencement of a pregnancy disability leave of absence, employees will use accrued Annual Leave and/or compensatory time off, as well as disability pay, and thus, continuing to receive pay. City pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies except as modified herein. The use of accrued time-off shall not extend the length of the leave. The authorized absence is only for the duration of the disability up to four (4) months.

When an employee is on pregnancy disability leave, the City shall continue payment of benefit premiums for the employee and her dependents. The City shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the City by utilizing accrued allowances. If an employee files for disability, a doctor's certification is required. When the employee is no longer disabled, she may no longer continue pregnancy disability leave. If she chooses to remain away from work longer, she must apply for family leave. Annual Leave shall not accrue during a pregnancy disability leave of absence unless the employee is continuing to receive pay by utilizing accrued Annual Leave or compensatory time off. Employees on pregnancy disability leave may also be eligible for benefits under the City's Disability Program. Employees must file a claim in order to receive these benefits. Forms are available from the City's Human Resources Department.

Any employee who takes a pregnancy disability leave of absence shall have her anniversary date extended by the same length of time as the unpaid portion of the maternity leave. For purposes of this section, paid portions of pregnancy disability leave include only those portions for which payments are received on account of Annual Leave or compensatory time off. If an employee takes a pregnancy disability leave of absence while on probation, her probationary period shall be extended the same length of time as the pregnancy disability leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

A request for a pregnancy disability leave of absence should be submitted by the employee as soon as feasible after the employee learns of her pregnancy. The employee must provide a written statement from her physician indicating the date the physician believes the leave of absence should begin and the estimated date of birth. The City may require a pregnant employee who wishes to continue working to provide a physician's statement approving the continuance of her current work duties.

Before returning to work following a pregnancy disability leave of absence, the employee shall submit a physician's verification stating the employee's ability to return to work. Unless the leave is otherwise extended, at the end of the four (4) month pregnancy disability leave period the employee shall be required to return to work full time. If approved by the employee's physician, the Department Head and the Human Resources Director, the employee may choose the option of returning to work prior to the conclusion of the four (4) month period on either a full-time or part-time basis and receive pro-rated benefits.

Up to an additional two (2) months of pregnancy disability leave may be granted for medical reasons if the employee's physician provides a written statement indicating the employee's inability to perform her duties or any feasible "limited duties." Such an extension of pregnancy disability leave is subject to the approval of the City Manager whose decision is final and conclusive. Nothing herein shall guarantee an extension beyond the standard four (4) months of leave.

An employee may take both pregnancy disability leave and subsequently State family care and medical leave to be with a newborn. The employee is entitled up to four (4) months of pregnancy disability leave, plus an additional twelve (12) weeks using the State family care and medical leave provisions.

7.45 FAMILY CARE AND MEDICAL LEAVE

Leaves of absence shall be granted to employees who have full-time career service with the City during the previous 12-month period, for the reason of childbirth, adoption, foster care, parental care, serious family illness, or for an immediate family member or the employee's own serious health condition, provided such leave shall not exceed twelve (12) weeks of leave in a twelve (12) month rolling period. When both parents are employed by the City, the two employees are only entitled to receive a combined twelve (12) weeks for the birth, adoption, or foster care of a child.

At the commencement of a family leave of absence, employees shall first use all accrued Annual Leave or compensatory time off and, thus, continuing to receive pay. Pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies governing leave without pay, except as modified herein. The use of accrued time off shall not extend the length of the leave.

The City requires the following information on a certification of the need for this leave:

- A. The date on which the serious health condition commenced.
- B. The probable duration of the condition.
- C. In the case of caring for a family member, an estimate of the amount of time the employee needs to care for the individual.
- D. That the serious health conditions warrant participation of a family member to provide care during the period of treatment.

In the case of an employee's own serious health condition, if the employee is unable to perform the functions of his or her position, the City can seek second and third opinions at its cost.

A serious health condition means an illness, injury, or impairment, or physical or mental condition that involves one of the following: hospitalization; absence of three (3) days plus treatment; pregnancy; chronic conditions regarding treatment; permanent/long term conditions requiring supervision; or multiple treatments (non-chronic conditions).

When an employee is on unpaid family leave, the City shall continue payment of benefit premiums for the employee and his/her dependents. The City shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the City by utilizing accrued allowances. Annual Leave shall not accrue during a family leave of absence unless the employee is continuing to receive pay.

An employee who takes a family leave of absence shall have his/her anniversary date extended by the same length of time as the unpaid portion of the family leave. For purposes of this section, paid portions of family leave include only those portions for which payments are received on account of Annual Leave or compensatory time off. If an employee takes a family leave of absence while on probation, his/her probationary period shall be extended the same length of time as the family leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance. Family leave shall not constitute a break in service for purposes of longevity or seniority.

The employee should request a family leave of absence by submitting the proper form to his/her supervisor, signed by the Department Head, concurred by the Human Resources Director, and approved by the City Manager. Forms may be obtained in the Human Resources Department. For a more detailed understanding of this policy, the employee should read the complete family leave policy in the City's Administrative Policy Manual.

Employees may take 40 hours of Annual Leave per school year to consult with the school teachers or counselors of children, step-children, or children of domestic partners, or to attend their school activities. This time is to be taken against any leave accruals except sick leave. If no accrual is available, leave without pay may be used. As this is State law, supervisors must approve this leave up to 40 hours annually per child. The employee must provide evidence of this school appointment. Supervisors need not approve more than eight (8) hours in a month.

7.50 LEAVE OF ABSENCE WITHOUT PAY

Any employee who is absent from work and who is not on leave of absence with pay shall be considered to be on leave of absence without pay, if such leave has been authorized by the proper authorities.

This section is designed to grant special requests for leaves of absence without pay that are not specifically addressed in either the military leave, FMLA, or pregnancy disability leave sections of these Personnel Rules.

A leave of absence without pay must be approved by the appropriate Executive Manager. Leave without pay in excess of one week shall also require the approval of the Human Resources Director. No leave of absence without pay shall be granted unless the employee requests the leave in writing and includes the reason for the request. Approval by the appropriate authority shall be in writing. No leave of absence without pay pursuant to this Section shall be requested or authorized for the purpose of imposing disciplinary action upon any employee. The supervisor may require leave without pay in the event an employee is late for work or misses work without valid approval. In this case the supervisor would annotate the employee time sheet with leave without pay for the absent time.

An employee on a leave of absence without pay shall not receive compensation on accrued Annual Leave. After thirty (30) consecutive working days on a leave of absence without pay, contributions to retirement, life insurance, medical, dental, or other designated benefit plans shall be suspended until the employee is reinstated. However, upon approval of a leave of absence without pay, the employee may elect to continue his or her benefits coverage at his or her own expense, with the exception of retirement benefits, which may not be so continued. Any employee requesting a leave of absence without pay shall utilize all of his or her accrued compensatory time off or Annual Leave prior to the start of the leave without pay.

Any employee who takes a leave of absence without pay for more than 30 work-days in a calendar year shall have his or her anniversary date extended by the same length of time as the leave without pay. If an employee takes a leave of absence without pay while on probation, his or her probation period shall be extended the same length of time as the leave without pay. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Upon expiration of an approved leave of absence without pay, the employee shall be reinstated to the position he or she occupied at the time leave was granted. Unauthorized failure on the part of an employee to report to work upon expiration of the leave of absence without pay shall constitute job abandonment and will result in dismissal.

It is the responsibility of the employee to submit a written request for a leave of absence within two weeks before such leave would begin stating the reason for the request, the date such leave will begin, and the duration of the leave. A "Leave of Absence Request" form and a "Payroll Action Form" must also be completed. Failure of an employee to apply for leave of absence and complete all necessary forms will be considered to be absent without leave, and all City-paid benefits will be terminated. Any unauthorized absence of an employee from duty shall be deemed to be absent without pay and may be cause for disciplinary action. Failure to report for work or call in for three (3) consecutive workdays shall be considered a voluntary resignation.

7.55 MILITARY LEAVE

Military Reserve Leave shall be granted under the provisions of State Law, which, in pertinent part at the present time, defines military reserve leave as: "military duty ordered for purposes of active military training, encampment, naval cruises, special exercises, or like activity as such member, provided that the period of ordered duty does not exceed 180 calendar days in a fiscal year, including time involved in going to and returning from the duty, but not for inactive duty (for training) such as scheduled reserve drill periods."

For the purposes of this Section, "active military training" shall be defined as a period of training (i.e. encampment, naval cruises, special exercises, or like activities) that normally occurs once a year over a two-week interval. "Inactive duty for training" and "scheduled reserve drill periods" shall be defined as the weekend periods of training that are scheduled once a month. Such weekend drills do not conflict with normal working hours within the City.

Employees must submit a copy of military orders to their Department Head and the Human Resources Director prior to the beginning of the military leave period and as soon as the employee knows of the need to request such leave, except where military necessity dictates.

Employees shall receive their full regular pay during the first thirty (30) calendar days of "military leave" in any one fiscal year. After the first thirty (30) days of military leave in a fiscal year, employees will continue to receive the same compensation less any military pay up to one year during the period of active military leave.

Employees on a military leave of absence shall receive the same Annual Leave and the same rights and privileges to promotions, continuance in office, employment, reappointment to office, or reemployment that they would have enjoyed had they not been absent there from. Contributions to retirement, and medical and dental plans that are not otherwise provided by military coverage during active duty, shall be continued until the employee is reinstated, provided that the period of ordered duty does not exceed three (3) years.

Except for probationary employees, an employee's anniversary date shall be extended if his or her military leave of absence is in excess of thirty (30) days per fiscal year. If an employee's military leave of absence exceeds thirty (30) days per fiscal year, his or her anniversary date shall be extended the same length of time as his or her leave of absence, minus the first thirty (30) days (i.e. if the employee's military leave of absence is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee is required to perform military reserve duties while on probation, his or her probationary period shall be extended the same length of time as the military leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

The City shall reinstate those employees returning from a military leave of one year or less to the position they occupied prior to taking a military leave of absence or to a position of comparable seniority, status, and pay, if such position exists, upon presentation of a certificate of satisfactory completion of service and if such employees are qualified to return to their former positions. If no such comparable position exists, the employee shall have the same rights and privileges that he or she would have had if he or she had occupied the position when it ceased to exist and had not taken a temporary military leave of absence.

Any employee who, in time of war or national emergency as proclaimed by the President or Congress, is ordered by the military to active duty, shall have a right, if released, separated, or discharged under conditions other than dishonorable, to return to his/her former classification within one year after termination of his/her active service with the armed forces, but not later than six (6) months after the end of the war or national emergency. (See Government Codes 395.1, 146, and 395.05.)

7.60 ON-THE-JOB INJURIES AND WORKERS' COMPENSATION COVERAGE

All injuries and illnesses arising out of, and in the course and scope of employment with the City, including first aid injuries, shall be reported immediately to the appropriate

supervisor. The supervisor, upon receiving notice of the accident, shall be responsible for (1) giving the injured employee an "Employee's Claim For Workers' Compensation Benefits" (DWC-1) form within twenty-four (24) hours; and (2) immediately notifying the Risk Management of the accident in accordance with Labor Code provisions. The Risk Management shall be responsible for completing an "Employer's Report of Occupational Injury or Illness (form 5020)."

An employee incapacitated on account of an injury or illness arising out of and in the course and scope of employment may be entitled to:

- A. Medical care to cure the injury;
- B. Rehabilitation services necessary to return to work; and
- C. "Temporary disability" payments in lieu of lost wages, commencing three (3) days after the injury occurs.

If an occupational injury or illness is severe and requires immediate medical attention, first aid should be rendered and medical treatment should be obtained at the closest City-designated medical treatment facility. For severe accidents occurring outside the City limits, medical treatment should be obtained at the closest medical facility. Use of paramedic services is automatically authorized if the injury is life threatening.

In the case of an occupational injury that requires medical attention within the first twenty-four (24) hours or develops symptoms after the first twenty-four (24) hours following the injury, the employee shall immediately notify his or her supervisor and the employee's supervisor shall notify the Risk Management. If the employee has not submitted a properly completed "Employee Notification of Personal Physician" form to the Risk Management for treatment of job-related injuries, all medical treatment shall be provided through the City's designated medical service providers for the first thirty (30) days after the date of the injury. If the employee has submitted a properly completed "Employee Notification of Personal Physician" form to the Human Resource Department for treatment of job-related injuries, an appointment may be scheduled with the employee-designated medical service provider. The employee shall notify the Risk Management prior to scheduling the appointment, if he or she has chosen to be treated by an employee-designated medical service provider.

A career employee who is disabled by injury or illness arising out of and in the course and scope of his or her duties shall suffer no loss in City pay or accrued Annual Leave for the first three (3) days of absence from work because of such disability. If a career employee's absence persists in excess of three (3) days, the employee may be eligible for "temporary disability" payments. State law shall determine the "temporary disability" payment an employee can expect to receive from Workers' Compensation Insurance. City policy allows for career employees incapacitated by reason of an injury or illness arising out of and in the course and scope of his or her employment to receive a sum which, when added to the amount of temporary disability payment, will result in a payment equal to such an employee's regular compensation. This is for the first six (6) months and then 66-2/3% of the gross salary up to the maximum by Labor Code beyond the six (6) months after the injury. This applies unless the employee is hospitalized for greater than 90 days, or is not allowed by the City to return to light duty even though authorized by competent medical authority to return to limited duty. The City shall allow

the employee to use Annual Leave or compensatory time in order to equal his/her normal salary after the six (6) months. Once all accrued leave is exhausted, compensation would be 66-2/3% of gross salary and all leave benefits will cease to accrue. Such worker's compensation shall commence three (3) days after the injury occurs, or after temporary disability begins, and shall conclude with the termination of such a temporary disability, upon reaching a permanent and stationary condition, as determined by competent medical evidence, or upon the completion of one (1) year on-the-job injury leave, whichever comes first. Employees with injuries or illnesses that persist beyond six (6) months may be eligible for workers' compensation temporary or permanent disability payments. Workers' Compensation income is non-taxable.

Except for probationary employees, an employee's anniversary date shall be extended if his or her Worker's Compensation related injury or illness is in excess of thirty (30) days per fiscal year. If an employee's Worker's Compensation related injury or illness exceeds thirty (30) days per fiscal year, his or her anniversary date shall be extended the same length of time as the injury or illness, minus the first thirty (30) days (i.e. if the employee's injury or illness is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee experiences a Workers' Compensation related injury or illness while on probation, his or her probationary period shall be extended the same length of time as the injury or illness. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Workers' Compensation leave and benefits shall be granted to an employee upon presentation to the City of a properly completed claim form and presentation of a physician's certificate of temporary disability status. A claim denied by the Workers' Compensation Board, a written statement from the treating physician indicating that the employee's condition is permanent and stationary, or separation from City service shall terminate an employee's eligibility for Workers' Compensation leave and any applicable benefits for that particular injury or illness.

The City maintains its right to require that an employee receiving workers' compensation benefits see a City-designated physician on a periodic basis to determine the employee's disability status. When an employee is given a permanent disability rating by the Disability Rating Bureau of Workers' Compensation Appeals Board of the State of California, the employee may return to work provided that he or she can perform his or her assigned duties safely without endangering his or her health or safety, or that of others.

The City also maintains its right to require an employee to return to work on a limited or modified duty status, provided that he or she has received written authorization, including stated restrictions, from the City-designated physician as well as from the Risk Management and the Department Head. Such modified duty must be of a temporary nature, usually limited to 90 days.

The City should communicate in writing with the employee's authorized physician to obtain the modified duty authorization. It should provide the doctor with a description of the employee's regular duties as well as a description of all proposed modified duty to be assigned and provide a copy of that correspondence to the employee. The treating physician should provide to the City and the employee a written modified duty

authorization, including specific limitations and restrictions, as well as assignments the doctor authorizes the employee to perform.

An employee who declines a modified duty position, which meets the treating physician's requirements, may be subject to disciplinary action, up to and including termination. If an employee is medically stationary, but has not been released to his or her regular budgeted position and is one for whom a reasonable accommodation cannot be made, then that employee is subject to medical layoff.

Additional information concerning Workers' Compensation Leave or benefits may be obtained by contacting the Risk Management and by referring to Risk Management Policy 6.19, Modified Duty/Return to Work Policy.

7.65 VOTING LEAVE

In accordance with State law, the City of Moreno Valley encourages all employees to vote in local, state, and national elections. Employees are encouraged to vote outside of normal working hours. Under special circumstances, an employee who does not have ample time to vote outside of normal working hours may make arrangements with his or her supervisor to take up to two hours with pay in order to vote.

occurs and at the employee's written request, documents concerning major disciplinary actions shall be removed from an employee's personnel file after three (3) years, provided that such documents may be retained thereafter if they establish a pattern of conduct extending past the three (3) year period. With good cause, a department may grant an employee's request to remove the document from the employee's personnel file(s) sooner than the indicated time frames, with the concurrence of the Human Resources Director.

13.15 ACCESS TO FILES

No person other than the City Manager, City Attorney, Special Legal Counsel, Human Resources Director, Human Resources staff, the employee's hiring Department Head, immediate supervisor, current Department Head, current Division Head, or their designated representatives shall have access to an employee's central or department personnel file. The Department Head must approve in writing anyone below him/her before that authorized person may review a subordinate's central personnel file. No person other than the Finance Director, payroll division staff, City Manager, City Attorney, or Human Resources Department staff shall have access to an employee's payroll file. Upon appointment, an employee or a person designated in writing by the employee for such purpose may inspect the contents of his or her respective personnel file(s). Upon paying the reasonable cost associated therewith, except as provided in Section 13.10, an employee or his or her designated representative may obtain copies of any documents contained in the employee's personnel file(s).

The employee may file a grievance regarding the contents of his or her personnel file(s) in accordance with the Grievance Procedure regulations outlined in Section 12.

13.20 DISCLOSURE OF INFORMATION

No direct information contained in the personnel files shall be disclosed concerning any current or former City employee other than the employee's job title, inclusive dates of employment, work location, salary, work phone number, departmental assignment, and the nature of separation, resignation, or termination, to any person other than the City Manager, City Attorney, Special Legal Counsel, Human Resources Director, Human Resources staff, the employee's Department Head, Division Manager or their designated representatives. An employee or former employee may authorize access to or the disclosure of information from their file only when written permission is provided to the Human Resources Department.

Nothing herein shall preclude nor specifically deny the use of any information in personnel files in any phase of a disciplinary or probationary action.

13.25 CHANGES-IN-STATUS

It is the employee's responsibility to notify the Human Resources Department of any changes in his or her address, phone number, marital status, dependent status, name change, training certificates, or other pertinent information.

SECTION 14: EMPLOYEE BENEFIT POLICIES

Benefits for City employees shall be provided as outlined in the City's Benefit Plan. Further information on these benefits may be obtained by contacting the Human Resources Department.

The City retains the right to alter the benefit plan, if it finds such changes to be in the best interest of the City.

14.05 BENEFIT BANK

The City has adopted a "flexible or cafeteria" plan that will cover certain City benefits (i.e., medical, dental, vision care, etc.). Employees, other than those listed below, are not eligible for benefit bank benefits. City employees shall receive a negotiated amount of money as approved by City Council, and consistent with the current MOU, on a yearly basis in order to "purchase" benefits from the plan. These benefits are paid on a 24-pay period basis. Employees may change benefit elections only during open enrollment periods unless there is a qualifying event. Qualifying events may include, but are not limited to emergency hardships, changes in employment, or changes in family status such as, births, deaths, adoptions, marriages, or divorce.

- A. Career Full-time Employees shall receive a negotiated amount as approved by the City Council, and consistent with the current MOU, with which to purchase benefits. New benefit amounts may become effective January 1st of each year.
- B. Career Part-time Employees shall receive a negotiated amount as approved by the City Council, and consistent with the current MOU, with which to purchase benefits. New benefit amounts may become effective January 1st of each year.
- C. As part of the cafeteria plan, all full-time employees, except City Council members, must purchase group medical insurance coverage for themselves, or provide proof of other medical coverage, i.e., through one's spouse's coverage, military, etc. If the City Council deems it in the City's best interest, the City, at its option, may require all employees to purchase the City's preferred coverage and not allow verification of other coverage. Once this individual medical coverage has been purchased or verified, employees may purchase any of the following options with the balance:
 1. Medical Insurance: Once medical insurance has been purchased for the employee, he or she may also choose to purchase excess coverage for him- or herself or insure any dependents. Eligible employees may choose from a variety of health care providers as offered by the City. Medical benefits, plan costs, and any deductible costs may vary depending upon the insurance carrier offered by the City and chosen by the employee. Those who choose to use other kinds of medical coverage must report any change in that coverage within two (2) weeks of any change of active status. Failure to do so will result in immediate enrollment in a City offered medical plan.

2. Dental Insurance: Employees may purchase dental insurance for themselves and any dependents. Dental benefits and any deductible costs may vary depending upon the insurance carrier chosen by the employee.
 3. Vision Care: Coverage must be purchased for all full-time career employees and may be purchased for any dependents, based upon vision care plans available to City employees.
 4. Supplemental Insurance: Employees may purchase supplemental insurances for themselves or their dependents.
 5. Dependent Care (Child and Elder): Employees may purchase dependent (child and elder) care reimbursement coverage through a flexible spending account. Documentation of payments with tax identification number of the provider must be submitted to receive reimbursement. Unreimbursed funds will be forfeited at the end of the year.
 6. Medical Expense Reimbursement: Employees may purchase medical expense reimbursement through a Flexible Spending Account. Documentation of expenses and payments must be submitted to receive reimbursement. Unreimbursed funds will be forfeited at the end of the year.
 7. Annual Leave Buy: Employees with unspent bank dollars may purchase up to two weeks of Annual Leave hours per year. This option is available only at open enrollment. Annual Leave hours bought must be used within the benefit year purchased. Unused Annual Leave which has been purchased will be returned to the benefit bank for cash out to the employee.
 8. Cash Out Option: Employees who would have unspent bank dollars for the calendar year will receive the leftover balance as a taxable cash payment. Council members are not eligible by State law for any cash-out option of unspent bank dollars. Annual Leave hours must be requested in writing during open enrollment each year.
 9. Use or Lose Provision: Flex dollars may not be carried over from one plan year to the next, according to IRS regulations. Employees who have left over funds and who do not elect additional Annual Leave hours will be paid in cash. This amount will be subject to Federal and State withholding taxes.
- D. Temporary Employees are not normally entitled to the benefits of the City's cafeteria plan.