

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Deborah S. Traffenstedt, Administrative Services Director/City Clerk *DST*

DATE: September 13, 2007 (CC Meeting of 9/19/07)

SUBJECT: Consider Adopting Revised City Council Policies Resolution and Rescinding Resolution No. 93-951 and Resolution No. 2006-2483

BACKGROUND

An update to the City Council's Policies Resolution was originally scheduled for the May 16, 2007, regular meeting, but was removed from the agenda to allow staff additional time to incorporate City Attorney recommended changes for the Harassment and Drug-Free Workplace policies. A revised draft Policies Resolution is attached that incorporates various amendments to current policies and the addition of new policies, as shown through the use of legislative format. The City Attorney recommended revisions have been incorporated.

The City Council's Policies Resolution includes the following language: "This Council Policies resolution shall be updated from time to time as needed but not less often than following each General Municipal Election. The revised resolution will be presented to the City Council for review and adoption." The City Council Policies Resolution was last updated on June 21, 2006.

The Finance, Administration, and Public Safety Standing Committee (Mayor Hunter and Mayor Pro Tem Millhouse) reviewed a draft of the recommended Policies Resolution update at a special meeting on May 7, 2007. Minor edits requested at that meeting have been incorporated. Mayor Hunter asked at that meeting for staff to determine whether a policy was needed to revise the past practice of having the Mayor sign each final subdivision map after City Council approval action. Staff had been using a certification of Council action format that had both the City Clerk and the Mayor acknowledging the City Council's approval action.

Following the May 7 meeting, staff researched the Subdivision Map Act and determined that Section 66440 of the Government Code provides that the final map shall contain a certificate or statement for execution by the clerk of each approving legislative body stating that the body approved the map and accepted, accepted subject to improvement, or rejected, on behalf of the public, any real property offered for dedication for public use in

conformity with the terms of the offer of dedication. The final map staff report could include the City Council's direction to the City Clerk to certify the Council's approval action on the final map. A policy is not needed. The City Engineer will incorporate this change into the City's format requirements for final maps and parcel maps.

All editorial corrections requested by the City Council in conjunction with the May 16, 2007, regular meeting review have been implemented.

DISCUSSION

Changes to the City Council Policies Resolution are shown with the use of legislative format in the attached draft resolution and are summarized below:

- The Index on pages 1 and 2 has been updated to include amendments to policy titles, including new policy titles.
- A new Policy 1 (Information to be Provided to Official City Councilmember and Mayor Candidates) has been added to clarify information to be provided to official city councilmember and mayor candidates (after nomination papers are filed and qualified, but before the election).
- Prior Policy 1 (Street Naming) has been renumbered as Policy 2 , and prior Policy 2 (Repayment Documents for Villa Campesina Deferred Loans) has been deleted and the affordable housing project signature authority is now included in Policy 27 (First-Time Home Buyer Affordable Housing Program).
- Policy 3 has been amended, including the title (Meeting, Training, and Conference, and Professional Association Membership Expense Reimbursement), to clarify professional association membership and meeting attendance reimbursement for the City Council.
- Policy 4 (Reports from Appointees) has been amended to clarify that an email report is acceptable
- Policy 5 (Advertising and Appointment Policy for Citizen Appointments to Boards, Commissions and Committees) has been amended to clarify that one application form may be used to apply for more than one open recruitment occurring at the time of application; to make the notice language more descriptive regarding compliance with State law; to change reference to a Public Art Advisory Committee to the Moorpark Arts Commission; to include a pre-appointment interview process for applicants for Arts Commission, Parks and Recreation Commission, and Planning Commission, as directed by the City Council at the January 17, 2007, regular meeting; and other editorial corrections to better clarify the requirements of State law.
- Policy 6 (Active Adult Center Advisory Committee) has been amended to change the appointment date to the second regular meeting of December of every even-numbered year, to clarify Brown Act compliance requirements, and to clarify the process for removal of members.
- Policy 7 (Teen Council) has been amended to clarify Brown Act compliance requirements and to clarify the process for removal of members.

- Policy 8 (City Council Standing Committees) has been amended to reflect the prior City Council actions to consolidate Standing Committees from five to three, update assigned staff, and clarify that action minutes for the Standing Committees may consist of an annotated agenda.
- Policy 9 (Process for Preparation of Initial Drafts of Ordinances by City Departments) has minor editorial corrections.
- Policy 11 (Non-Profit Organizations Annual Facility Reservation Policy) has been amended to clarify that once each calendar year, a City of Moorpark organization having a non-profit status, may reserve the Arroyo Vista Recreation Center, the Moorpark Community Center, or other park facilities, to hold one (1) event with only direct staff costs being charged to that organization, so long as the majority of the park remains open to the public. Previously the language only specified the Arroyo Vista Recreation Center and Community Center.
- Policy 13 (Flag Etiquette) has been amended to add not to exceed time periods for flags flown at half staff for certain categories.
- Policy 16, which previously addressed Harassment in the Workplace, has been expanded to now address the City's Policy Against Harassment, Discrimination and Retaliation, as recommended by the City Attorney's office.
- Policy 20 (Authorization for the Issuance and Countersigning of Warrants Pursuant to Chapter 3.12 of the Moorpark Municipal Code) has been amended to change the maximum amount for a demand warrant that may be signed by the City Manager and countersigned by designated staff from \$2,500.00 to \$5,000.00, and to change the maximum amount for a demand warrant that in the absence of the City Manager may be authorized by the City Manager to be signed by the City Treasurer and City Clerk from \$1,000.00 to \$2,500.00.
- Policy 21 (Employee, Contract Staff, and Consultant Letters of Recommendation and Background Check Response) was amended to include reference to the Arts Commission.
- Policy 24 (Cellular Telephone) has been amended to clarify an 805 area code requirement for City Council cellular telephone reimbursement, and identify two circumstances when additional cell phone use reimbursement may be permitted and additional documentation is required. The two circumstances are increased cell phone usage during a City declared emergency, and for the additional cost required to respond to the business of the City while traveling out of the country. Language has also been added to permit the City Manager to approve a monthly cell phone allowance of \$45.00, and a maximum reimbursement of \$125.00 every two years for a new cell phone, for a Competitive Service employee whose duties necessitate access to a cell phone, subject to compliance with cell phone standards (the City Council directed this amendment at its meeting on May 2, 2007).
- Policy 27 (First-Time Home Buyer Affordable Housing Program) was amended at the City Council's August 1, 2007, meeting, and the revised policy language has been inserted. The City Manager signature authority in subsection 5 of this policy replaces language previously included in prior Policy 2).
- Policy 29 (Ethics Training) has been amended to include reference to the Arts Commissioners, to expand the ethics training requirement to all City Management

staff, and give the City Manager authority to designate other staff and/or independent contractors required to attend.

- Policy 34 (Transit Security System Electronic File Retention Pursuant to Public Utilities Code Section 99164 and Government Code Section 34090.8) implements the City Council's approval action at its January 17, 2007, regular meeting.
- Policy 35 (City Clerk Records Destruction Approval Authority) implements the City Council's approval action at the November 1, 2006, regular meeting.
- Policy 36 (City Wireless Internet Network) – is a new policy that provides the City Manager authority to establish a wireless network security warning and disclaimer for the City's wireless internet network available at various City facilities, including the Library and Community Center.
- Policies 37-39 (Moorpark City Library Materials Selection, Moorpark City Library Internet and Computer Use and Patron Agreement, and Moorpark City Library Circulation) implement the City Council's approval of Library policies at the December 20, 2006, regular meeting. Edits were made to these three policies to clarify that the City Manager and/or his designee has the authority to approve the language of forms and agreements referenced in the policies, and to remove specific fine and fee amounts from these policies, and provide consistency with other policies. A separate Moorpark Library Fine and Fee Schedule Resolution was adopted by City Council action at the May 16, 2007, regular meeting.
- Policy 40 (City Website Content and External Links) is a new policy that provides direction to staff and the users of the City website (currently www.ci.moorpark.ca.us) and includes a purpose statement; disclaimer regarding change, accuracy, and risk of use; disclaimer regarding privacy; and a description of permitted external links and application process.
- Policy 41 (City Council Use of City Website) is a new policy that establishes information to be included on the City Council page of the City's website and an approval process for additional information to be placed by the City Council on the City's website. The City Attorney has advised that the City's website is not a public forum and is not an official legislative proceeding; therefore, information placed on the website may not enjoy certain privileges and immunities that such information might enjoy in other public arenas. In addition, such information, if factually inaccurate or libelous may create liability for the City and/or the individuals posting such information. The wording or substance of any such posting by the City Council may also trigger Brown Act and equal access issues.
- Policy 42 (City Council Use of City Computers and Acceptable Internet and E-mail Use on the City Computer Network) is a new policy that establishes computer resources to be provided to the City Council (equipment, software, and maintenance) and acceptable computer, internet and e-mail use.
- Policy 43 (City Council Credit Card Use) is a new policy that establishes the issuance, credit limit, and use guidelines for a credit card to be issued to each member of the City Council.
- Policy 44 (City Council Use of City Pool Vehicles) is a new policy that clarifies the requirements and procedures for the use of a City vehicle by a member of the City Council.

- Policy 45 (Authorization for City Manager to Approve Reduction and/or Exoneration of a Surety that has a Value Not to Exceed \$10,000.00) is a new policy that is intended to delegate to the City Manager the approval authority for reducing and/or exonerating sureties with a value of less than \$10,000.00.
- Policy 46 (Drug Free Workplace) is new and is intended to replace Resolution No. 93-95, which previously established a Drug-Free Workplace policy and will be rescinded. The new policy was drafted by the City Attorney's office. Consistent with the current Memorandum of Understanding between the City and the SEIU Local 998 Union, the draft language was distributed to all Competitive Service employees for advance review prior to scheduling this item for Council action.
- Policy 47 (Drug and Alcohol Testing Regulations for Employees that are Drivers of Commercial Vehicles) is new, and the language has been drafted by the City Attorney's office. This policy is related to the Drug Free Workplace Policy and complies with Federal law pertaining to drug and alcohol testing for drivers of commercial vehicles. This policy only applies to those City employees that are required to maintain a Class A or B California driver license. The draft policy was distributed to all Competitive Service employees for advance review prior to scheduling this item for Council action.

STAFF RECOMMENDATION

Adopt Resolution No. 2007-_____.

Attachment: Draft Resolution

RESOLUTION NO. 2007-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, ADOPTING REVISED COUNCIL POLICIES AND RESCINDING RESOLUTION NO. 93-951 AND RESOLUTION NO. 2006-2483

WHEREAS, ~~it is advantageous for the City Council to have a compilation of its policies; and~~

WHEREAS, the City Council has directed that its policies be compiled and adopted in one resolution; and

WHEREAS, the City Council has determined that Resolution No. 2006-2483 should be rescinded and a revised Policies Resolution should be adopted to incorporate amendments and add new policies as described in the agenda report for the March 7, 2007, regular City Council meeting; and

WHEREAS, Resolution No. 93-951 previously established a Policy for a Drug-Free Work Place, and that Resolution is proposed to be rescinded and replaced with new Policies 46 and 47 herein; and

WHEREAS, the index for the updated City Council Policies Resolution is as follows:

- Policy 1 – Information to be Provided to Official City Councilmember and Mayor Candidates
- Policy ~~1-2~~ – Street Naming
- ~~Policy 2 – Repayment Documents for Villa Campesina Deferred Loans~~Information to be Provided to Official City Councilmember and Mayor Candidates
- Policy 3 – Meeting, Training, and Conference, and Professional Association Membership Expense Reimbursement
- Policy 4 – Reports from Appointees
- Policy 5 – Advertising and Appointment Policy for Citizen Appointments to Boards, Commissions and Committees
- Policy 6 – Active Adult Center Advisory Committee
- Policy 7 – Teen Council
- Policy 8 – City Council Standing Committees
- Policy 9 – Process for Preparation of Initial Drafts of Ordinances by City Departments
- Policy 10 – Temporary Use Permit Fee Waivers
- Policy 11 – Non-Profit Organizations Annual Facility Reservation Policy
- Policy 12 – Refunds for Business Registration
- Policy 13 – Flag Etiquette
- Policy 14 – Conflict of Interest Appraisal
- Policy 15 – Pre-Qualification of Bidders
- Policy 16 – Harassment in the WorkplacePolicy aAgainst Harassment, Discrimination, and Retaliation

- Policy 17 – Waiver of Street Sweeping Parking Restrictions for Vehicles with Handicapped Driver License Plates or Placard
- Policy 18 – City Council Comments on Development Projects Before the Planning Commission
- Policy 19 – Authorization for City Manager to Approve Small Claims Court Filing and Civil Compromise for City Claim Against Another Party Having a Value Not to Exceed \$5,000.00, and Authorization for City Manager to Allow, Settle and/or Compromise Any General Liability Claim Filed Against the City Having a Value Not to Exceed \$5,000.00
- Policy 20 – Authorization for the Issuance and Countersigning of Warrants Pursuant to Chapter 3.12 of the Moorpark Municipal Code
- Policy 21 – Employee, Contract Staff, and Consultant Letters of Recommendation and Background Check Response
- Policy 22 – Employee Anniversary Recognition Program
- Policy 23 – City Payment for Employee Recognition at the Time of Retirement from the California Public Employees Retirement System (CalPERS)
- Policy 24 – Cellular Telephone
- Policy 25 – Park Naming
- Policy 26 – Accounts Receivable Collection
- Policy 27 – First-Time Home Buyer Affordable Housing Program
- Policy 28 – Crossing Guard Warrant
- Policy 29 – ~~Ethics Training for Members of the Legislative Body~~
- Policy 30 – Procedure for Filing a Complaint Against a City Employee or Contract Staff
- Policy 31 – City Public Sidewalk Maintenance and Repair
- Policy 32 – Waste Reduction and Recycled-Content Product Procurement Practices
- Policy 33 – Americans with Disabilities Act Grievance
- Policy 34 – Transit Security System Electronic File Retention Pursuant to Public Utilities Code Section 99164 and Government Code Section 34090.8
- Policy 35 – City Clerk Records Destruction Approval Authority
- Policy 36 – City Wireless Internet Network
- Policy 37 – Moorpark City Library Materials Selection
- Policy 38 – Moorpark City Library Internet and Computer Use and Patron Agreement
- Policy 39 – Moorpark City Library Circulation
- Policy 40 – City Website Content and External Links
- Policy 41 – City Council Use of City Website
- Policy 42 – City Council Use of City Computers and Acceptable Internet and E-mail Use on the City Computer Network
- Policy 43 – City Council Credit Card Use
- Policy 44 – City Council Use of City Pool Vehicles
- Policy 45 – Authorization for City Manager to Approve Reduction and/or Exoneration of a Surety that Has a Value Not to Exceed \$10,000.00
- Policy 46 – Drug Free Workplace
- Policy 47 – Drug and Alcohol Testing Regulations for Employees that Are Drivers of Commercial Vehicles

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. POLICY 1 – INFORMATION TO BE PROVIDED TO OFFICIAL CITY COUNCILMEMBER AND MAYOR CANDIDATES

Councilmember and Mayor Candidates who have successfully completed the election filing requirements will be notified by the City Clerk of the City Council and Redevelopment Agency agendas, staff reports, live broadcasts and meeting recordings available on the City's website. If a candidate does not have internet access, the City Clerk's staff will provide that candidate with a complete copy of the agenda packet prior to each regular meeting in either electronic or paper format. Special Meeting agendas will be made available to official candidates after the agenda is posted. The City Clerk will also provide each official candidate with a copy of the City's current fiscal year budget and most recent audit report in either electronic or paper format. A request for any other City files by Councilmember or Mayor candidates will be handled in the same manner as a public records request, with a copy charge as set forth by City Council resolution.

SECTION 12. POLICY 12 - STREET NAMING

The Community Development Director, in consultation with the City Manager and in conjunction with the Ventura County Fire Department shall determine street names for recommendation to the City Council. All street names shall be approved by the City Council prior to approval of a final subdivision map. The following criteria shall be used: North/South streets shall be designated as avenues or roads; East/West streets as streets or drives; and cul-de-sacs as circles, courts or places.

~~**SECTION 2. POLICY 2 – REPAYMENT DOCUMENTS FOR VILLA CAMPESINA DEFERRED LOANS**~~

~~The City Manager is authorized to execute all deferred loan repayment documents for Villa Campesina Affordable Housing Development (Tract 4147).~~

SECTION 3. POLICY 3 – MEETING, TRAINING, AND CONFERENCE, AND PROFESSIONAL ASSOCIATION MEMBERSHIP EXPENSE REIMBURSEMENT

On various occasions it will be necessary for City officials, elected and appointed, and staff to attend meetings, seminars, training, and/or conferences on City business, and join professional associations related to the business of the City. Such occasions fall basically into the following categories:

1. Meetings/Seminars/Training Sessions, which do not Require Overnight Accommodations;
2. Meetings/Seminars/Training Sessions which Require Overnight Accommodations, or which Require an Expenditure Exceeding \$250.00;
3. Travel for Special Meetings or Training;

4. Legislative Body Authorized Expense Procedures; and
5. Mileage Reimbursement for City Appointees to Boards, Commissions, and Committees; and
6. Professional Associations Related to the Business of the City.

This policy is intended to identify the procedures for receiving approval for travel and reimbursement of expenses. The City Manager may issue further rules for City employees that are consistent with this policy.

1. **Meetings/Seminars/Training Sessions, which do not require overnight accommodations (one day or less and return)**

- A. The costs of registration, meals, parking and mileage for private vehicle use are allowable City expenses, and Department Heads, the Assistant City Manager, and City Manager shall be required to pre-approve City reimbursement for employees they supervise.
- B. Department Heads, Assistant City Manager, and City Manager may not approve attendance unless funds have been budgeted and are available for the subject purpose.
- C. Wherever possible, registration fees will be paid in advance by the City. The individual attending shall typically advance mileage and parking costs.
- D. Upon return to the City, the individual attending shall complete a petty cash reimbursement form for total costs less than \$50.00, or a "Travel Authorization and Reconciliation Report" form (available on City Share/City Share/Finance/Forms) when total costs exceed \$50.00. The reimbursement form shall be submitted to the Department Head, Assistant City Manager, or City Manager for approval, as applicable.
- E. Meal and travel expenses will be reimbursed consistent with the more detailed policy language included, below, for subsections 2.E. and 2.F. of this policy, with the exception that rental car reimbursement is not permitted for one day or less training with no lodging.

2. **Meetings/Seminars/Training Sessions, which Require Lodging or an Expenditure Exceeding \$250.00**

- A. Allowable Expenditures. The costs of registration, lodging, meals, parking, and mileage for private vehicle use are allowable City expenses. Attendance at City expense shall be subject to the advance approval of the City Manager, if funds have been appropriated for the travel. Otherwise, attendance shall require approval and an appropriation of funds by the City Council.

- B. Travel Expense Report. A "Travel Authorization and Reconciliation Report" form (available on City Share/City Share/Finance/Forms) is to be completed for each employee traveling. The Department Head must approve the form, indicating that sufficient funding is included in the budget. Once approved by the Department Head, the report is to be submitted to the City Manager for approval at least one week prior to the City Council Meeting preceding the date of the Conference/Training Session. The City Manager shall either approve/disapprove the travel or refer to the City Council and recommend attendance/non-attendance based on the availability of funds, proposed content of the meeting, and other meetings in the same general subject area, which may be scheduled later during the budget year.

Following City Manager or City Council approval, the Department Head must ensure the form is submitted to Finance staff in a timely manner.

- C. Registration. Registration will be paid in advance by regular warrant whenever possible. A registration form shall be completed by the department and submitted to the Finance Division with the approved Travel Authorization and Reconciliation Report form. Finance will process the warrant and mail the registration form.
- D. Lodging. The City will pay lodging expenses for City employees during business travel requiring one or more overnight stays. The City will pay for lodging for the evening preceding or subsequent to a meeting or business event when the employee would have to travel at unreasonably early or late hours to reach his or her destination. Payment for pre-event lodging shall require City Manager approval and will typically not be approved if the total miles of travel from City Hall to the site of the event are less than 75 miles. Costs for lodging must be reasonable based on availability of hotels and proximity to conference/training location. Lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the employee at the time of booking. Receipts are required. Lodging may be guaranteed or paid by a City credit card. Each Department Head shall use his/her card for guaranteeing or paying for rooms for employees within their department. When requesting a check for lodging, an employee shall attach a copy of the approved Travel Authorization and Reconciliation Report form. The request shall typically be submitted to the Finance Division no less than three (3) weeks prior to travel. Finance will process the warrant and give it to the Department Head to give to the appropriate employee.

Department Heads may use their City credit card to charge lodging for themselves and other employees traveling to the same conference. Employees may also use personal credit cards with reimbursement requests submitted after the conference.

- E. Meals. The traveler may receive a per-diem allowance for meals plus tips. The per diem allowance shall conform to the currently allowed Internal Revenue Service (IRS) allowance for the city of travel and does not require substantiation with receipts. Regarding partial days, travel beginning on or before 7:00 a.m. qualifies for breakfast. A return time beyond 1:30 p.m. qualifies for lunch. Return times beyond 7:00 p.m. qualify for dinner. Travelers will not be reimbursed for the cost of a lunch or dinner meal, if such meal is already paid for and provided as part of the conference expenses, and the per-diem allowance will be reduced accordingly, per the IRS published allowance. Breakfast shall be considered to occur between 12:00 midnight and 11:00 a.m.; lunch 11:00 a.m. to 4:00 p.m.; and dinner 4:00 p.m. to 12:00 midnight at the time zone of the location of the meal.

The City will pay reasonable and customary gratuities and tips during City business travel. Tips for meals are included in the standard per diem rate.

If no per diem rate is published for the city of travel, or if the traveler prefers, receipts may be submitted for food and tips up to \$50.00 per day based on the limits of \$10.00 for breakfast, \$15.00 for lunch and \$25.00 for dinner.

Advance payments of per diems are permitted for multi-day conferences only. A request for a per diem advance shall be submitted to the Finance Division, typically no less than three (3) weeks prior to travel. Finance will process the warrant and give it to the department head to give to the appropriate employee.

- F. Travel. Use of air, train, private car or bus shall be selected on the basis of the most reasonable and appropriate method, taking into consideration distance, time, and total costs to the City after all expense items are tabulated, including travel time and salary costs. Travel for all personnel shall be in coach class or equivalent service.

While traveling, the use of rental vehicles is to be discouraged. Hotel courtesy buses, local shuttle services or public transportation, if available, should be utilized between airports and meeting locations. If a shuttle service is used from home to the airport, bus, or train terminal, the cost for the shuttle shall not exceed the cost for personal vehicle mileage reimbursement plus parking (if the trip originates or ends at the employee's residence, personal vehicle mileage reimbursement shall be calculated based upon the number of miles between the travel destination and either the employee's designated work location or residence, whichever is the shortest distance). Taxi service shall be used only when no other convenient, less costly mode of transportation is available. Rental vehicles may be approved in advance by the City Manager when no other transportation is available, or when alternate transportation would be more expensive or impractical. When rental vehicles are used, the least expensive vehicle

practical will be used. Payment for air travel is to be made by City credit card at the time of booking. If a travel agency will invoice for the payment, that method may be used. Employees may also use personal credit cards and then request reimbursement from the City.

Employees pre-approved to use personal vehicles for travel will be reimbursed for mileage at the then current Internal Revenue Service mileage rate; however, the total expense of said travel shall not exceed the combined total of the round-trip air fare to the destination, plus the private vehicle mileage expense to and from the airport and appropriate parking fees. Use of a privately owned vehicle on City business requires the driver to possess a valid California driver's license and to carry automobile insurance. Any damages to the vehicle or service repairs are of a personal nature, and are not reimbursed by the City. Reimbursement will be based on the vehicle and not on the number of employees attending (i.e. the owner of the vehicle will be paid and not the passengers). If the trip originates or ends at an employee's residence, personal vehicle mileage compensation shall be based upon the number of miles between the travel destination and either the employee's designated work location or residence, whichever is the shortest distance. Expenses such as tolls and parking will be fully reimbursed upon presentation of the original receipt. Valet parking will only be reimbursed if there is no self-parking option.

Reimbursement for use of a personal vehicle for local travel is not applicable to those management employees receiving an automobile allowance. These employees may, however, receive reimbursement if travel is outside of the six county area of Santa Barbara, Ventura, Los Angeles, San Bernardino, Riverside and Orange Counties.

- G. Final Expense Report. A final Travel Authorization and Reconciliation Report form is to be completed by the employee within ten (10) days of completing the travel. Any reimbursement requests not submitted within 30 days of the meeting date may not be honored and traveler shall assume all costs, unless waived by the City Manager. Unsubstantiated advances may result in the issuance of an IRS form 1099 to the traveler. The report is to include a final accounting of all expenses related to the travel, including expenses already paid by the City (by warrant or credit card) and expenses paid by the employee. All hotel bills, rental bills, airline ticket invoices and other receipts are to be attached to the form. If the employee has received, or is requesting, the per diem amount for food and tips, receipts for meals are not required. If any reimbursement to the City is required, a personal check in the correct amount is to be submitted with the expense report.

Items of a personal nature are not reimbursable including movies (in-room or at the theater), entertainment, premium television services, sporting events, alcoholic beverages, laundry/dry-cleaning, spas, gyms, massage, barber,

magazines, shoeshine, travel insurance, purchase of clothing or toiletries, loss of tickets, fines or traffic violations, excess baggage, valet service, spouse/and or guest accommodations, office equipment and other items of a personal nature. If unauthorized expenses have been paid by the City (i.e. via credit card), the employee will be responsible for immediate reimbursement to the City within ten (10) days of the date of the expense. Reimbursement of travel expenses received from an outside source must be forwarded to the Finance Division upon receipt.

The final Travel Authorization and Reconciliation Report form is to be signed by the Department Head, Assistant City Manager, or City Manager, as applicable, and submitted to the Finance Division for verification. If payment is due to the employee, the payment will be processed in the next available warrant cycle.

3. **Staff Travel - Special Meetings or Training for which Funds are not Appropriated.**

Attendance at a special meeting or training, for which funds are not appropriated, attendance by the City of Moorpark is deemed urgent, and which occurs at a time which precludes advance approval by the Council as a whole, may be authorized by the Mayor and one other member of the City Council, subject to the ratification of the expense and appropriation of funds at the next regular Council Meeting.

4. **Legislative Body Authorized Expense Procedures**

It is the policy of the City of Moorpark to reimburse members of the City Council, Planning Commission, and Parks and Recreation Commission and any other member of the legislative body (as defined by Government Code Section 54952) that receives reimbursement of expenses, for actual and necessary expenses incurred in the performance of their official duties.

The travel and expense reimbursement of the legislative body as defined in Government Code Section 54952 (including but not limited to members of the Council, the Planning Commission, and the Parks and Recreation Commission) shall be governed by the same rules contained in this policy for City employees, and the additional requirements listed below.

- A. The Travel Authorization and Reconciliation Report form shall be reviewed and subject to the approval of the City Council ~~Budget and Finance, Administration, and Public Safety~~ Committee. If a member of the ~~Budget and Finance, Administration, and Public Safety~~ Committee submits a Travel Authorization and Reconciliation Report form, it shall be subject to the approval of the two most senior, by tenure, members of the City Council who are not members of that ~~Budget and Finance~~ Committee.

- B. The following types of expenses generally constitute authorized legislative body expenses:
- a-1) Use of personal vehicle for business travel outside the City limits (reimbursed at the per mile reimbursement rate for City employees and volunteers and consistent with Policy 3, Section 5);
 - b-2) Communicating with representatives of regional, state and national government on City adopted policy positions;
 - e-3) Attending educational seminars designed to improve public officials' skill and information levels;
 - d-4) Participating in regional, state and national organizations whose activities affect the City's interests;
 - e-5) Lodging, Meals, and Travel – Traveler may receive a per-diem allowance consistent with the provisions of Policy 3, Sections 2.D, 2.E, and 2.F. Any expense for which reimbursement is requested (which is not subject to the per diem requirements of this policy) shall include a statement of the reason/purpose and who else was in attendance, even if reimbursement is not requested for others in attendance. The cost of a meal shall not exceed the applicable Internal Revenue Service (IRS) per diem reimbursement rate for the Los Angeles area regardless of the location;
 - 6) Professional association membership and meeting attendance when included in the adopted City Council budget.
- C. Items that are of a personal nature are not reimbursable (examples are listed in Policy 3, Section 2.G).
- D. Legislative body members (City Council, Planning Commission and Parks and Recreation Commission) shall briefly report on meetings attended at City expense at the next regular meeting for that legislative body member. If multiple members of the same legislative body attended the same meeting, a joint report may be made.
- E. If a reimbursement rate for travel, meals, lodging and other actual and necessary expenses is not specifically identified in this policy, then the Internal Revenue Service rates for reimbursement as established in publication 463 or any successor publication shall be used for those items.
- F. All expenses not covered by this policy shall be approved by the City Council in a public meeting before the expense is incurred.

- G. Pursuant to Section 53232.4 of the Government Code, penalties for misuse of public resources or falsifying expense reports in violation of expense reporting polices may include, but are not limited to the following: (a) The loss of reimbursement privileges. (b) Restitution to the local agency; (c) Civil penalties for misuse of public resources pursuant to Government Code Section 8314; and (d) Prosecution for misuse of public resources pursuant to Section 424 of the Penal Code.

5. **Mileage Reimbursement for City Appointees to Boards, Commissions, and Committees**

City Council public appointees to boards, commissions, and committees, that do not receive an honorarium and require travel outside of the Moorpark City limits, shall be eligible to receive mileage reimbursement for attendance at regular and special meetings of that board, commission, or committee. Mileage will be calculated from the appointee's residence in Moorpark as the point of departure to the meeting location. Mileage expense reimbursement for the use of a personal vehicle for travel shall be at the rate currently allowed by the Internal Revenue Service, and as verified by the Finance Director annually. The appointee shall complete the City's Travel Authorization and Reconciliation Report form, and submit the form to the City Clerk at the end of the month, with the meeting agenda attached as supporting documentation for the mileage reimbursement claim. The City Clerk will submit the Travel Authorization and Reconciliation Report form to the City Council Budget and Finance, Administration, and Public Safety Committee for review and approval.

SECTION 4. POLICY 4 - REPORTS FROM APPOINTEES

1. Reports are required from appointees to the following:
Area Agency on Aging
Area Housing Authority
Citizens Transportation Advisory Committee
Air Pollution Control District Advisory Committee
2. A report shall be required for each scheduled meeting of the agency, authority, district, commission or committee and is due in written form to the City Council five (5) days following the meeting. An e-mail report is acceptable.

In lieu of a written report, an oral report may be presented to the Council under the public comment portion of the next regularly scheduled City Council meeting after the meeting of the agency, authority, district, etc.

3. Where the City is represented by more than one person, the appointees shall coordinate and collaborate their efforts so that only one report is presented to the Council.

4. If neither the appointee nor alternate is in attendance at a meeting of the agency, authority, district, etc., or if the meeting is canceled, that will be reported to the Council by the appointee(s) as prescribed above.

SECTION 5. POLICY 5 - ADVERTISING AND APPOINTMENT POLICY FOR CITIZEN APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

1. At the end of each calendar year, an Appointments List will be prepared and posted at the City Community Center, Moorpark Library, and on the City's Home Page, of all citizen appointive positions and their expiring term of office (in compliance with the Maddy Act requirements, Government Code Section 54973). A contact number and request for communication with the City Clerk will be included, to allow residents to obtain information on any requirements for the appointed positions, and to facilitate communication with the City Clerk in the event a citizen has an interest in being placed on the appointee resource list. Notice of the availability of the Appointments List shall also be provided on the City's local government channel. The Appointments List and notice of availability shall remain posted for the month of January. In addition, the Local Appointments List shall be made available for the public to purchase for the actual cost of reproduction.
2. Not later than 30 days prior to the expiring term of office of a citizen appointee, the City Clerk will prepare and distribute a press release to all newspapers of local distribution and radio stations that have requested such notice, advertising the citizen appointment opportunity. The City Clerk will also post such notice in the office of the City Clerk, the Moorpark Library, on the City's Home Page, local government channel, and at the City Community Center.
3. Interested persons will be asked to submit a City Board, Commission, and Committee Application. The application form shall include language that asks applicants to identify all open recruitment citizen appointments for which they would like to be considered, to facilitate use of one application form to serve as the application for more than one open recruitment occurring at the time of application.
4. When an unscheduled vacancy occurs for any City Council citizen appointment, on the Planning Commission, Parks and Recreation Commission, or other City Council appointed board, commission, or committee, notice will be posted not later than 20 days before or not later than 20 days after the vacancy occurs, in the office of the City Clerk, the Moorpark Library, the City's Home Page, local government channel, and at the City Community Center (in compliance with the Maddy Act requirements), and ~~a~~Advertisement of the citizen appointment opportunity will be initiated by the City Clerk in the same manner as for an expiring term, unless the City Council determines that the vacancy will not be filled due to the length of the remaining term of office.

5. The City Clerk shall maintain a resource list of citizens who have expressed an interest in serving as appointees on advisory boards, commissions and committees and will mail an application at the time of the next advertisement.
6. In order to be considered for City Council appointment to a board, commission, or committee, the applicant must be a resident of the City of Moorpark and shall also be a registered voter, with the following exceptions:
 - A. There is no registered voter requirement for Teen Council.
 - B. An applicant for the ~~Public Art Advisory Committee~~ Moorpark Arts Commission must reside within the City, the City's Area of Interest, and/or must be employed or a business owner within the City limits the Moorpark Unified School District boundaries, or own a business within the city of Moorpark.
- ~~7. The City Clerk will invite a~~ Applicants for the Arts Commission, Parks and Recreation Commission, and Planning Commission are required to attend a regular City Council meeting in December of each even-numbered year to make a brief presentation on qualifications and interest in the appointment (not to exceed three minutes). Use of PowerPoint will be permitted if the City Clerk has been provided with the PowerPoint file no less than 24 hours prior to the presentation. The City Clerk shall schedule the presentations at one or both of the December regular meetings, as directed by the Mayor. Failure to make a presentation shall result in disqualification for appointment. The City Council may by majority vote extend the date for the presentations to the next calendar year.
78. As per Government Code Section 40605, the Mayor shall make all appointments to boards, commissions and committees.
89. The procedure for appointments shall be as follows:
 - A. The Mayor shall solicit suggested nominees from members of the Council.
 - B. Prior to making a motion for appointment, the Mayor shall announce the names of all persons he/she intends to nominate, and in the order to be nominated, for a board, commission, or committee.
 - C. The Mayor shall then make a motion putting forth each individual name to be approved for appointment.
 - D. A second shall be required.
 - E. The Council shall vote on each appointment individually.

SECTION 6. POLICY 6 – ACTIVE ADULT CENTER ADVISORY COMMITTEE

1. Purpose

The Active Adult Center Advisory Committee is intended to assist with the development of programs and activities of interest to local seniors and facilitate communication between City staff and senior adult participants.

2. Membership and Organization

All appointments to the Active Adult Center Advisory Committee shall be made by the Mayor of the City of Moorpark, with approval of the City Council, consistent with the adopted Council policy on procedure for appointments. The Committee shall consist of five members, age 60 or older. The Active Adult Center Advisory Committee members shall be residents and registered voters of the City. The term of the appointment shall be for two years. If a vacancy occurs otherwise than by expiration of a term, an appointment may be made to fill the unexpired portion of the term of office in accordance with Policy 5 of this resolution (Advertising and Appointment Policy for Citizen Appointments to Boards, Commissions and Committees). The appointment for a new two-year term shall occur at the ~~reorganization~~second regular meeting of the City Council ~~held in~~ December of every even-numbered year in accordance with Policy 5 of this resolution.

~~If there are three (3) consecutive, unexcused or excused absences, or five (5) total absences during the term of an Active Adult Center Advisory Committee member, the seat of such member shall be deemed immediately vacant. Vacancies shall be filled in a manner that is consistent with Policy 5.~~

The Active Adult Center Advisory Committee shall conduct itself in an orderly fashion at all meetings and shall follow and obey the standing rules established by the Parks, Recreation and Community Services Department.

No member of the Active Adult Center Advisory Committee shall use the title of Active Adult Center Advisory Committee member on any form of communication unless authorized by the Parks, Recreation and Community Services Director and then channeled through the Active Adult Center Advisory Committee for approval.

The Active Adult Center Advisory Committee shall not present or purport to represent any position, policy, or direction for the City of Moorpark without the prior approval of the City Council.

The Active Adult Center Advisory Committee shall hold monthly meetings at the Active Adult Center at a day and time approved by the Committee at the first annual meeting. Meetings shall be open to all interested participants. The Committee shall

annually elect its chair and vice-chair from its appointed members. City staff will attend all meetings and provide administrative support to the Committee.

3. Duties and Responsibilities

- A. Assist in the selection and planning of activities and programs of interest to seniors, including special events and holiday programs, by bringing forth ideas and suggestions.
- B. Serve as program host/hostess by encouraging other seniors to participate, assist with activity registration and related program details.
- C. Advise Parks, Recreation and Community Services Department staff as to specific and changing needs of participating and non-participating seniors so that appropriate activities may be scheduled.
- D. Assist with program surveys and evaluations.
- E. Assist with dissemination of public information of interest to seniors through word of mouth and by actively participating in programs.
- F. Provide liaisons with various community organizations that offer programs and services to seniors by bringing outside information to the Active Adult Center.
- G. Discuss and make recommendations to staff as to policies and procedures related to the operation and scheduling of the Active Adult Center.
- H. Participate in preparation of an annual report to the City Council.

4. Brown Act Compliance

The Active Adult Center Advisory Committee is subject to the Brown Act, including notice and agenda requirements.

5. Removal of Members

Any appointed member of the Active Adult Center Advisory Committee may be removed by either of the following:

- A. A majority vote of the City Council; or
- B. Following three (3) consecutive, unexcused or excused Active Adult Center Advisory Committee meeting absences, or five (5) total absences during the term of the Advisory Committee member, the Parks, Recreation and

Community Services Director may determine the seat of such member to be vacant.

SECTION 7. POLICY 7 – TEEN COUNCIL

1. Purpose

The purpose of the Teen Council shall be to investigate and make recommendations to City staff on recreational programming and other matters of concern to Moorpark teens, and such other duties and functions as may be specifically assigned to the Teen Council by the City Council.

2. Goals

To encourage young residents to actively participate in the operations of their City government in a positive and productive manner.

To provide a mechanism which facilitates communication and a spirit of involvement by youth in City government.

To provide a learning experience for Teen Council members that is conducive to leadership growth.

3. Membership and Organization

All appointments to the Teen Council shall be made by the Mayor of the City of Moorpark, with approval of the City Council, consistent with the adopted Council policy on procedure for appointments (Policy 5). The Teen Council shall consist of no less than seven (7) and no more than eleven (11) members, with a goal of having a minimum of one (1) representative from each grade level from 7th grade to 12th grade.

All representatives must be City of Moorpark residents and must be enrolled in school. Special attention should be given to insure that all middle schools and high schools in Moorpark have some representation on the Teen Council. Representatives would typically be limited to not serving more than a total of three years on the Teen Council to allow more teens the opportunity to serve as a Teen Council representative.

In addition to the advertisement procedures specified in Policy 5, applications for Teen Council shall be made available at City Hall, Arroyo Vista Recreation Center, Moorpark High School, Moorpark Community High School, High School at Moorpark College, Chaparral Middle School, and Mesa Verde Middle School.

Teen Council members shall each serve a one (1)-year term commencing on July 1 of each year. ~~If there are three (3) consecutive unexcused or excused absences, or~~

~~five (5) total absences during the term of a member, the seat of such member shall be deemed immediately vacant.~~ If a vacancy occurs otherwise than by expiration of a term, an appointment may be made to fill the unexpired portion of the term of office in accordance with Policy 5 of this resolution (Advertising and Appointment Policy for Citizen Appointments to Boards, Commissions and Committees).

The Teen Council shall conduct itself in an orderly fashion at all meetings and shall follow and obey the standing rules established by the Parks, Recreation and Community Services Department. A meeting quorum shall be defined as a majority of the total appointed members.

No member of the Teen Council shall use the title of Teen Council member on any form of communication unless authorized by the Parks, Recreation and Community Services Director and then channeled through the Teen Council for approval.

The Teen Council shall not present or purport to represent any position, policy, or direction for the City of Moorpark without the prior approval of the City Council.

The Teen Council shall hold monthly meetings with the day, time and location to be determined at the first annual meeting of the Teen Council. Meetings shall be open to all interested participants. The Teen Council shall annually elect its chair and vice-chair from its appointed members. City staff will attend all meetings and provide administrative support to the Teen Council, including establishment of the agenda.

4. Duties and Responsibilities

- A. Attend all Teen Council meetings and other Teen Council activities.
- B. Actively participate in at least one Teen Council subcommittee, as approved by the City staff representative to the Teen Council.
- C. Solicit, receive, and relay to City staff input and suggestions about any matters of concern to the teen residents in Moorpark.
- D. Participate in publicity and promotional activities of the Teen Council.

5. Brown Act Compliance

The Teen Council is subject to the Brown Act, including notice and agenda requirements.

6. Removal of Members

Any appointed member of the Teen Council may be removed by either of the following:

A. A majority vote of the City Council; or

B. Following three (3) consecutive, unexcused or excused Teen Council meeting absences, or five (5) total absences during the term of the Teen Council member, the Parks, Recreation and Community Services Director may determine the seat of such member to be vacant.

SECTION 8. POLICY 8 - CITY COUNCIL STANDING COMMITTEES

1. Standing Committees

The City Council Standing Committees shall be:

~~Budget and Finance~~
~~Affordable Housing/Community Development~~
~~Economic Development~~
~~Public Works, Facilities and Solid Waste~~
~~Transportation and Streets~~
~~Public Safety~~
Community and Economic Development
Finance, Administration, and Public Safety
Transportation and Public Works

Each committee shall consist of two Council members and a designated alternate. ~~One member of the Budget and Finance~~Finance, Administration, and Public Safety Committee shall ~~be~~consist of the Mayor ~~or~~and Mayor Pro Tempore. This does not preclude both the Mayor and Mayor Pro Tempore from serving on this committee at the same time. The alternate shall be the prior Mayor Pro Tempore. ~~The Budget and Finance~~Finance, Administration, and Public Safety Committee shall serve as the Mobilehome Hardship Review Panel, along with the mobilehome park owner, in compliance with Section 5.52.140.B of the Moorpark Municipal Code; however, if the Mayor is not a member of the Budget and Finance Committee, then ~~the Mobilehome Hardship Review Panel shall consist of the Mayor and the Mayor Pro Tempore~~ along with the mobilehome park owner. ~~The Public Safety Committee shall consist of the Mayor and Mayor Pro Tempore.~~

2. **Committee Appointments**

With the approval of the majority of the members of the City Council, the Mayor shall make all appointments to Standing Committees of the City Council, including the designated alternate. The appointments shall be made at the first regularly scheduled meeting in January of each odd-numbered year and at the reorganization meeting of the City Council in each even-numbered year.

3. **Alternates to Committees**

To avoid potential Brown Act violations of having more than two City Councilmembers consider an item at the committee level, each City Councilmember should determine: a) pursuant to applicable provisions of the Political Reform Act, if a potential conflict of interest exists (consult with the City Attorney if necessary); b) although there is no conflict of interest under the Political Reform Act, there is a desire to avoid an appearance of conflict; or c) if for other reasons a decision is made not to participate. If a Councilmember should so determine/decide not to participate, then that City Councilmember shall contact the designated alternate to serve in his/her place for that item. If the City Councilmember determines/decides not to continue participating after having been involved in Committee discussions of a specific item, he/she should contact the City Attorney to determine if the alternate can serve on the Committee for that item. If an alternate has a conflict or otherwise is not available, the Mayor shall serve or request another City Councilmember to serve.

4. **Ad Hoc Committee**

Items shall be assigned to Standing Committees whenever possible. If not so assigned, at the Mayor's discretion, an Ad Hoc Committee shall be formed.

Ad Hoc Committees are not generally subject to the provisions of the Brown Act unless composed of members other than less than a quorum of the legislative body.

5. **Assigned Staff**

~~Budget and Finance – Finance Director~~
~~Affordable Housing/Community Development – Community Development Director~~
~~Economic Development – Assistant City Manager~~
~~Public Works, Facilities and Solid Waste – City Engineer/Public Works Director~~
~~Transportation and Streets – City Engineer/Public Works Director~~
~~Public Safety – Assistant City Manager~~
Community and Economic Development Committee
Staff: Community Development Director

Finance, Administration and Public Safety Committee
Staff: Assistant City Manager

Transportation and Public Works Committee
Staff: City Engineer/Public Works Director

The City Manager may designate an alternate and/or substitute as determined necessary.

6. Meeting Schedule

A regular meeting schedule for Standing Committees shall be approved by minute action of the City Council at the first regularly scheduled meeting in January of each year.

7. Agenda and Reports out of Committee

The assigned staff person to a Council Committee will prepare an agenda for the Committee meetings. In addition, the staff person will provide action minutes in the form of an annotated agenda to the full Council within seventy-two (72) hours of the Council Committee meeting showing the Committee's recommendation.

Concurrence with the staff's recordation of Committee recommendation(s) to the full Council will be completed prior to the adjournment of the Committee meeting in order to accurately report to the full Council via the action minutes. Action minutes will not be formally approved by the Committee.

8. Committee Assignments

The City Manager shall maintain a list of specific assignments for each Standing Committee. The list shall be distributed to the Mayor, City Council and City Staff each calendar quarter (January, April, July and October).

9. Items Referred to Committee

Items may be referred to Committee from City Council approved objectives; by the Council at a Council meeting; by staff; or by an individual Councilmember.

10. Items Referred to the Full Council from Committee

A consensus of the Committee is required to send an item back to the full Council. A consensus relative to a recommendation on the item need not have been reached.

SECTION 9. POLICY 9 - PROCESS FOR PREPARATION OF INITIAL DRAFTS OF ORDINANCES BY CITY DEPARTMENTS (If the draft ordinance is initiated by the Planning Commission or Parks & Recreation Commission, the process may deviate from that outlined here.)

1. ~~Step One~~—Staff may confers with the City Attorney at a scheduled meeting after first determining if the City Manager wants to participate. Staff will bring any sample ordinance to the meeting.

City Attorney to determine lead time (Step One to Step Six), except when the City Manager determines that staff priorities or Council direction require adjustment of the lead time, but generally a minimum of two weeks in most instances will be required -- possibly longer depending upon the length, complexity of the ordinance and quality of the sample ordinances. Agenda deadlines should be considered in determining lead time. The meeting with the City Attorney shall be scheduled on the first Wednesday afternoon of the month by contacting the Executive Secretary.

2. ~~Step Two~~—Staff confers with City Clerk for codification determination and section number confirmation.
3. ~~Step Three~~—Staff drafts the ordinance for content and format and if necessary reviews with City Manager during the drafting process.
4. ~~Step Four~~—City Manager and City Clerk review draft ordinance.
5. ~~Step Five~~—E-mail draft ordinance to City Attorney.
6. ~~Step Six~~—City Attorney reviews for content and form; makes changes in legislative format and returns draft ordinance, making comments if required.

Management staff, who are authorized by the Department Head, may seek input directly from the City Attorney.

7. ~~Step Seven~~—Staff reviews changes made by City Attorney, if any, and discusses with City Attorney and City Manager as needed. Meeting with City Attorney to be scheduled on the first Wednesday afternoon of the month.
8. ~~Step Eight~~—Recognize and reconcile differences. If differences cannot be reconciled, talk to the City Manager, if still unable to reconcile differences, write the staff report to recognize the points of disagreement.
9. ~~Step Nine~~—If needed, schedule the agenda item, and public hearing if required, after City Attorney and City Manager have approved the draft ordinance.

SECTION 10. POLICY 10 - TEMPORARY USE PERMIT FEE WAIVERS

1. Once each calendar year, a City of Moorpark organization having non-profit status may apply for and be granted a temporary use permit fee waiver for one event.
2. The Community Development Director shall waive a Temporary Use Permit Fee pursuant to this Policy after an eligible organization has submitted: a) a completed temporary use permit application; b) a request for fee waiver; and c) proof of non-profit status.
3. Examples for which Temporary Use Permits are issued are special events such as Christmas tree sales, promotional parking lot sales, church carnivals, Country Days and sidewalk sales.
4. The Temporary Use Permit shall be issued for a single event of less than thirty (30) consecutive days in duration.

SECTION 11. POLICY 11 - NON-PROFIT ORGANIZATIONS ANNUAL FACILITY RESERVATION POLICY

1. Once each calendar year, a City of Moorpark organization having a non-profit status, may reserve the Arroyo Vista Recreation Center, ~~or~~ the Moorpark Community Center, or park facilities, to hold one (1) event with only direct staff costs being charged to that organization, so long as the majority of the park remains open to the public.
2. Those events which qualify shall be of a nature whereby the benefit of the event will serve the community and/or involve all those City residents who are interested in this event. Examples for which these procedures may apply include citywide events by Girl or Boy Scouts, service organization events, including fund-raising activities, and special events, such as Country Days, which have a direct benefit to City residents.
3. Regular organizational meetings or activities shall not qualify for this reduced fee.
4. Direct staff costs shall be defined as hourly staff costs, including all personnel benefit costs required for the event.
5. The Parks, Recreation and Community Services Director shall waive the standard rental fees pursuant to these procedures after an eligible organization has submitted: a) A completed Facility Reservation Form; b) a request for fee waiver; and c) proof of non-profit status.
6. One-time events shall further be defined as an event for one day per calendar year, not to exceed twelve (12) hours.

7. City staff shall maintain a record of each organization's request for the one-time-event fee, and shall notify the organization if they have already used their one-time-event option within a calendar year.

SECTION 12. POLICY 12 - REFUNDS FOR BUSINESS REGISTRATION

The City will not issue refunds for business registration permits.

SECTION 13. POLICY 13 - FLAG ETIQUETTE

1. The Flag of the United States of America and the Flag of the State of California will be displayed at each municipal facility which has an appropriate flagpole.
2. The National and State Flags are to be displayed daily from the start of the business day through the close of the business day during the normal work week. Flags may be flown 24 hours per day if appropriately lighted.
3. Flag etiquette allows the flag to be displayed during inclement weather provided it is made of all weather material (such as the flags the City uses). If it rains after raising of the flag, the flag will remain on the pole. If it is raining prior to raising the flag, the flag will not be raised; however, it may be raised later, weather permitting, and remain until close of the business day.
4. Flags will be flown at half-staff when ordered by the President or the Governor of the State as follows:

| | |
|--|---------|
| President, Ex-President or President elect | 30 days |
|--|---------|

| | |
|---|---------|
| Vice President, the Chief Justice or Retired Chief Justice of the United States or the Speaker of the House of Representatives | 10 days |
|---|---------|

| | |
|--|----------------------------------|
| Associate Justice of the Supreme Court; a Secretary of an executive or military department; a former Vice President; or Governor of a State, territory or possession. | Day of death to day of interment |
|--|----------------------------------|

| | |
|--|----------------------------------|
| Member of Congress | Day of death and day following |
| By order of the President | Period to be prescribed |
| By order of the Governor; at the death of any local public safety officer killed in the line of duty. | Day of death to day of interment |

5. Flags will be flown at half-staff from the day of death to the day of interment for any currently seated Member of the City Council, Member of the City Council Elect or any previously seated Member of the City Council, not to exceed 14 calendar days.
6. Flags will be flown at half-staff from the day of death to the day of interment for any currently serving City Manager or City Department Head, not to exceed 14 calendar days.
7. Flags will be flown at half-staff from the day of death to the day of interment for any City employee killed in the line of duty, not to exceed 14 calendar days.
8. When a flag is no longer fit for display, it will be destroyed in a dignified way such as by an American Legion Post at Flag Disposal Ceremonies on Flag Day (June 14) each year.
9. It is the responsibility of the Parks, Recreation and Community Services Department or the service contractor of an offsite municipal building (such as City Engineering/Building & Safety) to display the National and State Flags at municipal facilities in accordance with the pamphlet "Our Flag" published by the Joint Committee on Printing United States Congress by authority of House Concurrent Resolution 361, 100th Congress (includes Title 36, Chapter 10 of the United States Code).
10. The City Manager or his designee is to determine at what location(s) flags are to be flown 24 hours and for ceremonial purposes.
11. The flag policy for the City of Moorpark Police Services Center shall be consistent with Nos. 1 through 10 of Council Policy 14 and will also include the following provisions:
 - A. Flags may be flown at half-staff and for the same length of time as followed by the Ventura County Sheriff's Department (Sheriff), consistent with other facilities managed by the Sheriff, so long as the Sheriff's Department is a tenant at the Police Services Center; and

- B. Flags may be flown at half-staff and for the same length of time as followed by the California Highway Patrol (CHP), consistent with other facilities managed by the CHP, so long as the CHP is a tenant at the Police Services Center.

SECTION 14. POLICY 14 - CONFLICT OF INTEREST APPRAISAL

1. Conflict of Interest Appraisals shall be allowed to provide proof and rebut the presumption that the financial effect of a governmental decision on real property, in which a public official has an economic interest, is presumed to be material (Section 18705.2 of Title 2, Division 6, California Code of Regulations), as provided below:
 - A. Two conflict of interest appraisals shall be allowed per year per Councilmember if real property in which a Councilmember has an economic interest is the subject of a City Council decision or if any part of that real property is located within 500 feet of the boundaries (or proposed boundaries) of the real property which is the subject of the governmental decision.
 - B. One conflict of interest appraisal shall be allowed per year per Planning Commissioner, if real property in which a Planning Commissioner has an economic interest is the subject of a Commission decision or if any part of that real property is located within 500 feet of the boundaries (or proposed boundaries) of the real property which is the subject of the governmental decision.
 - C. One conflict of interest appraisal shall be allowed per year per for the City Manager, if real property in which the City Manager has an economic interest is the subject of a City government decision or if any part of that real property is located within 500 feet of the boundaries (or proposed boundaries) of the real property which is the subject of the governmental decision.
 - D. One conflict of interest appraisal shall be allowed per year for the Community Development Director, if real property in which the Community Development Director has an economic interest is the subject of a City government decision or if any part of that real property is located within 500 feet of the boundaries (or proposed boundaries) of the real property which is the subject of the governmental decision.
2. The amount of funding for conflict of interest appraisals shall be a budgetary consideration determined during the budget process as the Council looks at actual projects that are likely to be considered during the following fiscal year.

SECTION 15. POLICY 15 – PRE-QUALIFICATION OF BIDDERS

1. **City Program**

The City Manager shall cause to be prepared, the City of Moorpark Bidder Pre-Qualification Program (herein "City Program"). The City Program shall set forth guidelines and procedures related to the pre-qualification of bidder for Projects as defined herein. The City Program shall be consistent with the requirements of a) Sections 1103, 4107 and 20101 (AB574) of the Public Contracts Code and statutes amendatory or supplementary thereto, and b) the bidder pre-qualification model documents promulgated by the State Department of Industrial Relations (herein "DIR"). The City Program shall be maintained and updated as needed, by the City Manager or his/her designee.

2. Applicability

All construction projects with an estimated construction cost exceeding one million dollars (\$1,000,000.00) (herein "Project") shall require the pre-qualification of bidders. To that end, the bidding documents for all Projects shall include provisions for the pre-qualification of bidders in a manner consistent with the procedures and requirements set forth in the City Program. Notwithstanding the above, certain exceptions to these requirements may be authorized as follows:

- A. The City Manager may waive bidder pre-qualification for any Project, provided a report is forwarded to the City Council at least ten (10) days prior to the Notice Inviting Bids, stating the reasons for, and/or the benefits resulting from, such a waiver; and
- B. The City Council may waive these requirements for any Project.

3. Project Specific Program vs. Annual Program

The DIR "model documents" describe two separate programs: a) one for "project specific" bidder pre-qualification; and b) one for an annual bidder pre-qualification process. The City Program shall set forth a project specific bidder pre-qualifications process. However, should it be determined by the City Manager that it would be in the best interest of the City to administer an annual bidder pre-qualifications process for a number of Projects, the City Program shall be modified for such purpose, provided all such revisions and modifications are consistent with the requirements of the DIR model documents.

4. Evaluation Committee

Pre-qualification packages shall be reviewed and scored by an Evaluation Committee. The Evaluation Committee for each Project or annual process shall consist of one (1) to three (3) staff members or consultants retained for such purpose, as determined by the City Manager or his/her designee.

5. Appeals Panel

The Appeals Panel shall consist of one or more staff members or consultants retained for such purpose, as determined by the City Manager, provided that no member of the Evaluation Committee shall sit on the Appeals Panel. Further appeal shall be to the City Council in accordance with Section 2.04.080 of the Municipal Code.

SECTION 16. POLICY 16 – HARASSMENT IN THE WORKPLACE POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION

1. Purpose

~~To provide guidelines for employees and volunteers to prohibit and prevent unlawful harassment in the workplace and to define procedures for reporting and investigating alleged incidents of unlawful harassment. This policy shall cover sexual harassment as well as all other forms of unlawful harassment as described herein.~~

2. Policy

~~The City is committed to providing a work environment that is free of unlawful harassment. In keeping with this policy, the City strictly prohibits harassment of any kind, including harassment on the basis of race, religion, color, national origin, ancestry, mental or physical disability, medical condition, marital status, sex, age, sexual orientation, or any other characteristic protected under federal law, state law or local ordinance. The policy prohibits harassment by any City personnel including managers, supervisors, and non-supervisory employees or volunteers. No manager or supervisor shall use his/her authority to solicit sexual favors from others.~~

~~In enforcing this policy, the City strictly prohibits unlawful harassment of employees or volunteers in any form including verbal, physical, and visual harassment. Some examples of these types of harassment are:~~

~~Verbal harassment which may consist of jokes, epithets, slurs, name calling, negative stereotyping; unwelcome remarks about an individual's body, color, physical characteristics, appearance or talents; questions about a person's sexual practices; and patronizing terms or remarks that relate to a protected characteristic;~~

~~Physical harassment can include physical interference with normal work, impeding or blocking movement, assault, unwelcome physical contact, staring at a person's body, and threatening, intimidating or hostile acts that relate to a protected characteristic as set forth above;~~

~~Visual harassment may involve offensive or obscene photographs, calendars, posters, cards, cartoons, drawings and gestures; display of~~

~~sexually suggestive or lewd objects; unwelcome notes, letters, or e-mail; and any other written or graphic material that denigrates or shows hostility or aversion toward an individual that is placed on walls, bulletin boards, or elsewhere on the City's premises or circulated in the workplace.~~

~~In addition to the above forms of unlawful harassment, sexual harassment may also include, but is not limited to, making unwelcome sexual advances and requests for sexual favors, and any other verbal or physical conduct of a sexual nature by fellow employees, volunteers, or supervisors when:~~

- ~~A. Submission to such conduct is made an explicit or implicit term or condition of employment;~~
- ~~B. Submission to or rejection of such conduct by a individual is used as the basis for employment decisions (promotion, retention, performance appraisal, work assignment, etc.) affecting the individual; or~~
- ~~C. Such conduct has a purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.~~

~~No manager or supervisor shall use his/her authority to solicit sexual favors from others.~~

~~It is the impact of the harassment, not the intent that counts. In determining whether conduct was unwelcome, the perspective is that of the person who feels harassed. The behavior is still considered unwelcome when the person consented to the conduct in order to avoid adverse treatment.~~

~~Any form of retaliation against any person reporting a claim of harassment or otherwise participating or assisting in any investigation of a harassment claim is expressly prohibited and will be considered a violation of this policy.~~

~~3. Procedures~~

- ~~A. Filing Complaint. If a City employee or volunteer believes he or she has been harassed by another City employee, volunteer, contract City employee, vendor, appointed or elected official, or any other person, in violation of this policy, the affected employee or volunteer should promptly report the facts of the incident and the names of the individuals involved to his or her immediate supervisor, Department Head, Human Resources Division staff (Administrative Services Director or Human Resources Assistant/Analyst), or directly to the City Manager.~~

~~If the harassment complaint involves the City Manager, the affected employee or volunteer, or the supervisor that receives the complaint, should promptly report the facts of the incident to the Administrative Services Director, who will then forward the complaint to the City Attorney and City Council. If the Administrative Services Director is unavailable for more than a day, the complaint shall be reported to the Human Resources Assistant/Analyst, who will then forward the complaint to the City Attorney.~~

~~An employee or volunteer who believes he or she has suffered retaliation for reporting any violation of this policy or otherwise participating in any investigation should immediately bring such facts to the attention of the Human Resources Division staff or directly to the City Manager.~~

- ~~B. Investigation. Supervisors and managers must immediately report any claims of unlawful harassment to the Human Resources Division staff and/or directly to the City Manager. The Human Resources Division staff shall coordinate a prompt, objective, and thorough investigation of any such complaints, after consultation with the City Attorney. At the conclusion of the investigation, the City Manager will make a determination if any individual has violated the prohibition against unlawful harassment. If the complaint includes the City Manager, the City Council will make the determination if any individual has violated the prohibition against unlawful harassment.~~
- ~~C. Confidentiality. An investigation related to a complaint under this policy will be conducted with confidentiality and respect for the rights of all individuals involved. Information related to the investigation will be provided on a need-to-know basis only.~~
- ~~D. Corrective Action. The City does not tolerate unlawful harassment of any kind. The City Manager shall take appropriate corrective action whenever such harassment is determined to have occurred. For employees, the corrective action taken shall be remedial and disciplinary in nature and will be commensurate with the severity of the offense. The disciplinary action shall be designed to prevent further unlawful harassment and may include termination.~~
- ~~E. Documentation. All corrective actions taken shall be documented by the Human Resources Division and/or City Attorney. The documentation shall include a summary of the investigation and an explanation of the appropriateness of the corrective actions. All harassment related investigation files shall be retained by the City Attorney's office until such time as file destruction is approved by the City Council in accordance with records retention requirements.~~
- ~~F. Notification to Complainant.~~

- ~~1) The complainant will be informed by the Human Resources Division staff or City Attorney's office that action has been taken.~~
- ~~2) The Human Resources Division staff or City Attorney's Office will instruct the complainant to immediately report recurring or continuing harassment.~~
- ~~3) When recommended by the City Attorney's office, the Human Resources staff shall request the complainant to sign a form acknowledging the following:
 - ~~(a) The complainant has been informed that corrective action has been taken; and~~
 - ~~(b) The complainant has been informed to immediately report the continuation or recurrence of harassment.~~~~

~~G. Unwarranted Harassment Complaint or False Accusation. A record of a harassment complaint brought in good faith will not be included in an employee's personnel file if the complaint is found to be unwarranted after conducting an investigation. If a complaint is found to be a malicious false accusation, the employee who brought forth the complaint will be subject to disciplinary action.~~

~~H. Employee/Volunteer Acknowledgment of Receipt of Harassment in the Workplace Policy. All employees and volunteers shall be required to sign a form on the first day of employment or volunteer work acknowledging the following:~~

~~I acknowledge receipt of the City of Moorpark Harassment in the Workplace Policy. I understand that it is my responsibility to read and comprehend its contents. If I have any questions, I shall contact my Supervisor or Department Head.~~

1. Purpose and Policy.

~~A. Purpose. The City of Moorpark is committed to providing a work environment which is free of harassment or discrimination because of gender, genetic characteristics or information, race, color, national origin, ancestry, religion, creed, sex, physical or mental disability, medical condition, marital status, veteran status, sexual orientation, age, or any basis protected by applicable federal, state, or local law. The City is also committed to providing a work environment free from retaliation because of an employee's opposition to unlawful harassment or discrimination or participation in an employment discrimination or harassment investigation, proceeding, or hearing. In keeping with this commitment, this Policy strictly prohibits~~

harassment, discrimination, and retaliation of this nature. Behavior or actions which result in or establish an environment of such harassment, discrimination, or retaliation are strictly prohibited.

- B. Policy. The City maintains a strict policy prohibiting all types of harassment or discrimination because of gender, genetic characteristics or information, race, color, national origin, ancestry, religion, creed, sex, physical or mental disability, medical condition, marital status, veteran status, sexual orientation, age, or any basis protected by applicable federal, state, or local law. The City also maintains a strict policy prohibiting retaliation because of an employee's opposition to unlawful harassment or discrimination or participation in an employment discrimination or harassment investigation, proceeding, or hearing. All such harassment, discrimination, or retaliation is prohibited. This policy applies to all employees involved in the operations of the City and prohibits harassment by any employee of the City including supervisors, co-workers, volunteers, and by anyone doing business with the City. If harassment or alleged harassment occurs on the job by someone not employed by the City, the applicable procedures in this policy should be followed as if the harasser were an employee of the City.

2. Definitions.

- A. Discrimination. Discrimination is any action or conduct by which an employee is treated differently or less favorably than other employees similarly situated to him/her for the sole reason that he/she is a member of a legally protected category, such as genetic characteristics or information, race, color, national origin, ancestry, religion, creed, sex, physical or mental disability, medical condition, marital status, veteran status, sexual orientation, age, or any basis protected by applicable federal, state, or local law. For example, it would be discrimination for an individual to be denied employment or terminated from employment because that individual has a disability or is 40 years of age or older.
- B. Harassment. Harassment is unwelcome verbal, visual, or physical conduct that creates an intimidating, offensive, or hostile work environment or that interferes with work performance when such conduct is based on an employee's genetic characteristics or information, race, color, national origin, ancestry, religion, creed, sex, physical or mental disability, medical condition, marital status, veteran status, sexual orientation, age, or any basis protected by applicable federal, state, or local law. Such conduct constitutes harassment when:
- 1) Submission to the conduct is made either an explicit or implicit condition of employment;

- 2) Submission to or rejection of the conduct is used as the basis for an employment decision; or
- 3) The harassment unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

C. Harassment Examples. Harassing conduct can take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, computer images, or cartoons regarding an employee's gender, genetic characteristics or information, race, color, national origin, ancestry, religion, creed, sex, physical or mental disability, medical condition, marital status, veteran status, sexual orientation, age, or any basis protected by applicable federal, state, or local law.

D. Sexual Harassment.

- 1) Sexual harassment is unwanted sexual advances; requests for sexual favors; or visual, verbal or physical conduct of a sexual nature when:
 - a) submission to such conduct is made a term or condition of employment; or
 - b) submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or
 - c) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.
- 2) This definition includes many potential forms of offensive behavior. The following is a list of some examples:
 - a) Unwanted sexual advances.
 - b) Offering employment benefits in exchange for sexual favors.
 - c) Making or threatening reprisals after a negative response to sexual advances.
 - d) Visual conduct: leering, making sexual gestures, or displaying of sexually explicit jokes.
 - e) Verbal sexual advances or propositions.

- f) Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body or dress, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.
 - g) Physical conduct: touching, assault, impeding or blocking movements.
 - h) Retaliation for threatening to or reporting harassment.
 - i) Sexual harassment can occur between members of the same or opposite sex. Sexual harassment on the job is unlawful whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by anyone doing business with or for the City.
- E. Supervisor. Any employee having authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or to effectively recommend that action, if, in connection with the foregoing, the exercise of that authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

3. Mandatory Training.

- A. All Employees. A copy of this Policy will be given to all employees of the City on the first day of employment, and acknowledgment will be required as described in Section 10 of this Policy. This Policy shall be redistributed to all employees following any amendment action, and acknowledgment will be required as described in Section 10.
- B. Supervisory Employees.
- 1) All supervisors will be trained once every two (2) years, as scheduled by the City's Human Resources/Risk Management Division, on matters relating to the prevention, reporting, and investigation of harassment, discrimination, and retaliation. Further, individuals appointed to supervisory positions from a non-supervisory position or as a new employee shall receive training within six (6) months of their hiring or assumption of the supervisory position.
 - 2) Supervisory training will last for a minimum of two (2) hours.
 - 3) Supervisory training will be conducted in a classroom or other interactive setting and will, at a minimum, cover the following topics:

- a) Information and practical guidance regarding federal and state statutory laws about harassment, including sexual harassment;
- b) Information about the correction of harassment and the remedies available to victims of harassment; and
- c) Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.

4. **Preventing Harassment and Discrimination.** The City's complaint procedure provides for a prompt, thorough and objective investigation of every harassment or discrimination claim, appropriate disciplinary action against one found to have engaged in unlawful harassment or discrimination, and appropriate remedies to any victim of harassment or discrimination. Employees should follow the following procedure to notify the City of alleged harassment and/or discrimination:

A. Submitting a Complaint. Employees who believe they have been harassed or discriminated against on the job, including by persons doing business with or for the City, must provide a verbal or written complaint to his/her supervisor, department head, Administrative Services Director, Human Resources Analyst, or the City Manager as soon as possible. If the reported conduct involves a person in the employee's direct chain of command, or if for any reason the employee feels uncomfortable making a report to his/her direct supervisor or department head, the report must be made to the Administrative Services Director, Human Resources Analyst, or the City Manager. If the complaint involves the City Manager, the complaint should be reported to the Administrative Services Director or in his/her absence, directly to the City Attorney. Complaints regarding the City Manager will be forwarded by the Administrative Services Director or City Attorney to the City Council for consideration during closed session. Complaints regarding a member of the City Council must be reported to the City Manager or the City Attorney.

The complaint should include details of the incident(s), names of individuals involved, and the names of any witnesses. Supervisors and/or department heads must immediately refer all harassment and discrimination complaints to the Administrative Services Director, Human Resources Analyst, or City Manager.

B. Investigation of Complaints. All incidents of alleged harassment and discrimination that are reported must be investigated. The City will undertake and/or direct a prompt, thorough, and objective investigation of the harassment or discrimination allegations. The investigation will be completed and a determination regarding the harassment or discrimination alleged will be made and communicated to the employee(s) who complained and the accused harasser(s). If the City determines that harassment or discrimination has occurred, the City will take effective remedial action commensurate with the circumstances. Appropriate action will also be taken

to deter any future harassment or discrimination. If a complaint of harassment or discrimination is substantiated, appropriate disciplinary action, up to and including termination of employment, will be taken. The City will also take appropriate action to remedy any loss to the employee resulting from the harassment or discrimination. The City Attorney's office will notify the complainant in writing regarding action taken against the person responsible for the retaliation. The City Attorney's office will also instruct the complainant to immediately report recurring or continuing harassment, discrimination, or retaliation.

C. Employees may be placed on a paid administrative leave during an investigation until the conclusion of discrimination or harassment investigation.

D. All employees should note that the failure to use the City's complaint procedure may have an adverse effect on any claim under this Policy if such claims are litigated.

E. If a complaint is found to be a malicious false accusation, the employee who brought forth the complaint will be subject to disciplinary action.

5. **Confidentiality.** The City will take all reasonable steps available to maintain the confidentiality of all complaints of harassment and discrimination as well as all information gathered during the investigation. However, employees may not make an anonymous complaint and the City cannot guarantee absolute confidentiality as disclosure of information is necessary to complete the investigation. All employees involved in the investigation of harassment or discrimination complaints will be admonished to keep all information related to the investigation confidential, and that revealing such information is grounds for discipline.

6. **Employee's Duty to Disclose Benefits Received.** Employees are hereby informed that no supervisor, manager, or officer of the City, or other person or entity doing business with the City, is authorized to expressly or impliedly condition the receipt or denial of any benefit, compensation, or other term or condition of employment on an employee's consent to any sexual demand. To the contrary, all employees are instructed that they must refuse such demands and report them promptly either to his/her supervisor, department head, Administrative Services Director, Human Resources Analyst, or City Manager. Any employee who is found to have obtained any benefit from the City because he/she submitted to an unreported sexual demand will be disciplined appropriately, and may be subject to reimbursing the City for the value of any benefits received. Any employee making such a demand will also be subject to discipline.

7. **Anti-Retaliation Policy.** The City prohibits retaliation against any employee because of the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination or harassment; or because of the

employee's participation in an employment discrimination or harassment investigation, proceeding, or hearing. Any retaliatory adverse action because of such opposition or participation will not be tolerated; and may also be unlawful.

A. Examples of Opposition. Opposition to perceived harassment or discrimination includes, but is not limited to, threatening to file or filing harassment and/or discrimination complaint with the Equal Employment Opportunity Commission ("EEOC"), the Department of Fair Employment and Housing ("DFEH"), union or court, or complaining or protesting about alleged harassment or discrimination to a supervisor, manager, co-worker or other official. Opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative.

B. Examples of Participation. The City will not tolerate retaliation against any individual because he/she has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, hearing or litigation under federal or state harassment or discrimination statutes or at other hearings regarding protected employee rights, such as an application for unemployment benefits. The City also prohibits retaliation against somebody closely related to or associated with the employee exercising such rights.

C. Examples of Adverse Actions. For purposes of this Policy, an adverse action can include, but is not limited to, the following acts, when the act is taken because of the employee's opposition to harassment or discrimination, or because of the employee's participation in an employment discrimination or harassment investigation, proceeding, or hearing: disciplinary actions, negative performance evaluations, undesirable transfer, undesirable assignments, negative comments, unwarranted criticism, actions that harm the employee outside the workplace, undesirable change in benefits, undesirable change in work schedule, unwarranted exclusion from meetings or events, or undesirable change in work duties.

D. The City's Complaint Procedure. The City's complaint procedure provides for a prompt, thorough and objective investigation of any claim of retaliation because of opposition to alleged discrimination or harassment, or participation in a proceeding regarding alleged discrimination or harassment. Employees who believe that they have been retaliated against because of their opposition to an employment practice which they reasonably believe to be discriminatory harassing, or because of their participation in a hearing or proceeding regarding alleged harassment or discrimination should follow the following procedure to notify the City of retaliation:

1) Submitting a Complaint. Employees who believe they have been retaliated against because of opposition to alleged discrimination or harassment, or participation in a proceeding regarding alleged

discrimination or harassment, must provide a verbal or written complaint to his/her supervisor, department head, Administrative Services Director, Human Resources Analyst, or the City Manager as soon as possible. If the reported conduct involves a person in the employee's direct chain of command, or if for any reason the employee feels uncomfortable making a report to his/her supervisor or department head, the report must be made to the Administrative Services Director, Human Resources Analyst, or the City Manager. If the complaint involves the City Manager, the complaint should be reported to the Administrative Services Director, or in his/her absence, directly to the City Attorney. Complaints regarding the City Manager will be forwarded by the Administrative Services Director or City Attorney to the City Council for consideration during closed session. Complaints regarding a member of the City Council must be reported to the City Manager or the City Attorney.

The complaint should include details of the incident(s), names of individuals involved, and the names of any witnesses. Supervisors and/or department heads must immediately refer all retaliation complaints to the Administrative Services Director, Human Resources Analyst, or City Manager.

- 2) Investigation of Complaints. All complaints of prohibited retaliation which are reported to the City will be investigated. The City will undertake and/or direct a prompt, thorough and objective investigation of the retaliation allegations. The investigation will be completed and a determination regarding the alleged retaliation will be made and communicated to the employee who complains and to the person(s) accused of retaliation.
- 3) If the City determines that an individual has suffered adverse action in retaliation for opposition to alleged harassment or discrimination, or participation in a proceeding related to alleged harassment or discrimination, the City will take effective remedial action appropriate to the circumstances. The City will also take action to deter any future retaliation. If a complaint of unlawful retaliation is substantiated, appropriate disciplinary action, up to and including termination of employment, will be taken. The City Attorney's office will notify the complainant in writing regarding action taken against the person responsible for the retaliation. The City Attorney's office will also instruct the complainant to immediately report recurring or continuing harassment, discrimination, or retaliation.
- 4) Employees may be placed on a paid administrative leave during an investigation until the conclusion of a retaliation investigation.

5) All employees should note that the failure to use the City's complaint procedure may have an adverse effect on any claim under this Policy if such claims are litigated.

6) If a complaint is found to be a malicious false accusation, the employee who brought forth the complaint will be subject to disciplinary action.

E. Confidentiality. The City will take all reasonable steps available to maintain the confidentiality of all complaints of retaliation as well as all information gathered during the investigation. However, employees may not make an anonymous complaint and the City cannot guarantee absolute confidentiality as disclosure of information is necessary to complete the investigation. All employees involved in the investigation of retaliation complaints will be admonished to keep all information related to the investigation confidential, and that revealing such information is grounds for discipline.

8. **Additional Enforcement Information.** In addition to the City's internal complaint procedure, employees should also be aware that the EEOC and the DFEH investigate and prosecute complaints of harassment, discrimination, and/or retaliation in employment. You can contact the EEOC as follows: Los Angeles District Office, 255 East Temple, 4th Floor, Los Angeles, California 90012; 800-669-4000. You can contact the DFEH as follows: Los Angeles Office, 611 West Sixth Street, Suite 1500, Los Angeles, California 91117; 800-884-1684. Additional information can be found on the EEOC's website (www.eeoc.gov) and/or the DFEH's website (www.dfeh.ca.gov).

9. **Documentation.** All harassment, discrimination, and retaliation complaint investigations and corrective actions shall be documented by the Human Resources/Risk Management Division and/or City Attorney. The documentation shall include a summary of the investigation and an explanation of the appropriateness of the corrective actions. All related files shall be retained by the Human Resources/Risk Management Division until such time as file destruction is approved by the City Council in accordance with records retention requirements. A record of a harassment complaint will not be included in an employee's personnel file if the complaint is found to be unwarranted or a false accusation after conducting an investigation.

10. **Employee/Volunteer Acknowledgment of Receipt of Policy against Harassment, Discrimination, and Retaliation.** All employees shall be given a copy of this Policy on the first day of employment, shall be given the time to read the Policy during their new employee orientation meeting, and shall be required to sign a form acknowledging the following:

I acknowledge receipt of the City of Moorpark Policy against Harassment, Discrimination, and Retaliation. I understand that it is my responsibility to

read and comprehend its contents. If I have any questions, I shall submit any questions in writing to the Administrative Services Director or Human Resources Analyst within seven (7) days of receipt of the Policy and signing the acknowledgment form.

The City Manager or his/her designee may determine that certain volunteers shall also be required to receive, read, and acknowledge receipt of the City of Moorpark Policy against Harassment, Discrimination, and Retaliation.

This Policy shall be redistributed to all employees and applicable volunteers following any amendment, with reading and receipt acknowledgment required as described above.

SECTION 17. POLICY 17 – WAIVER OF STREET SWEEPING PARKING RESTRICTIONS FOR VEHICLES WITH HANDICAPPED DRIVER LICENSE PLATES OR PLACARD

It is the Council's policy that vehicles with handicapped driver license plates or placard shall be exempt from the City's street sweeping parking restrictions.

SECTION 18. POLICY 18 – CITY COUNCIL COMMENTS ON DEVELOPMENT PROJECTS BEFORE THE PLANNING COMMISSION

It is the Council's policy to avoid any attempt to influence the recommendations or decisions of the Planning Commission. Accordingly, Councilmembers shall refrain from making or submitting comments on a project while the matter is before the Planning Commission and shall instead make such comments at the time of the Council's consideration of the matter as the decision-making body; or in the case of the Planning Commission acting as the final decision-making body, a Councilmember wishing to make comment on the matter may act to call the matter up before the Council on appeal consistent with Section 17.44.090 of the Municipal Code, rather than comment on the matter while it is before the Planning Commission.

Notwithstanding the foregoing, a Councilmember may make or submit a comment on a matter while it is before the Planning Commission, if the Councilmember does not participate in consideration of the matter when that matter is before the City Council. In such a situation, the Councilmember shall make clear at the time of any comment that the Councilmember is making or submitting such comment as an individual, rather than in his or her capacity as a Councilmember.

Additionally, a Councilmember may submit written comments on a project during the CEQA comment period for an EIR, if the Councilmember wishes written responses to be generated by the City to such written comments. If the Councilmember submits such comments, the Councilmember need not refrain from participating in consideration of the project at the Council level, provided that such written comments must be limited to the environmental issues associated with the project.

SECTION 19. POLICY 19 - AUTHORIZATION FOR CITY MANAGER TO APPROVE SMALL CLAIMS COURT FILING AND CIVIL COMPROMISE FOR CITY CLAIM AGAINST ANOTHER PARTY HAVING A VALUE NOT TO EXCEED \$5,000.00 AND AUTHORIZATION FOR CITY MANAGER TO ALLOW, SETTLE AND/OR COMPROMISE ANY CLAIM FILED AGAINST THE CITY HAVING A VALUE NOT TO EXCEED \$50,000.00

It is the Council's policy that the City Manager shall have the authority to approve the filing of a small claims court action, with the City as the plaintiff, when money is owed the City. The City Manager shall also have the authority to settle and/or compromise any claim of the City against another party, when the value of the City's claim does not exceed \$5,000.00.

Pursuant to the authority provided in California Government Code 935.4, the City Council authorizes the City Manager by written order to take administrative actions necessary to allow, settle, and/or compromise any claim filed against the City having a value less than \$50,000.00, in the quickest most efficient manner possible, including a written order for a warrant to be drawn upon the treasury of the City in the amount for which a claim has been allowed, compromised or settled for an amount not to exceed \$50,000.00.

SECTION 20. POLICY 20 - AUTHORIZATION FOR THE ISSUANCE AND COUNTERSIGNING OF WARRANTS PURSUANT TO CHAPTER 3.12 OF THE MOORPARK MUNICIPAL CODE

Demand warrants shall be issued for payment of operational expenses related to the purchase of goods, services or equipment, and payroll warrants shall be issued to compensate employees for services rendered or to pay for benefits or other related personnel costs.

The City Manager is hereby designated to countersign warrants signed by the Mayor or Mayor Pro Tempore in the absence of the City Treasurer.

Any payroll warrant shall be signed by the City Manager, Mayor, or Mayor Pro Tempore, and countersigned by the City Treasurer, City Manager, City Clerk, or City Treasurer designee; however, the City Manager may not countersign his own signature.

Any demand warrant shall be signed by the Mayor or Mayor Pro Tempore and shall be countersigned by the City Treasurer, City Manager, City Clerk, or City Treasurer designee, except demand warrants less than or equal to ~~\$2,500.00~~\$5,000.00 may be signed by the City Manager and countersigned by the City Treasurer, City Clerk, or City Treasurer designee. In the absence of the City Manager, the City Manager may authorize the City Treasurer to sign and the City Clerk to countersign demand warrants less than or equal to ~~\$1,000.00~~\$2,500.00.

SECTION 21. POLICY 21 - EMPLOYEE, CONTRACT STAFF, AND CONSULTANT LETTERS OF RECOMMENDATION AND BACKGROUND CHECK RESPONSE

Given the liability potential related to letters of recommendation and responses to background check inquiries, the Council's policy is that letters of recommendation and background check responses shall be restricted in accordance with this policy.

All current or former City employee, contract staff, private contractor, consultant, or other business entity letters of recommendation and testimonials written by a City employee, contract staff, or City Council appointee (including but not limited to Planning Commissioners, and Parks and Recreation Commissioners, and Arts Commissioners), and pertaining in any way to the business of the City, must be approved by the City Manager or his/her designee. Prior to any staff response to a background check inquiry for contract staff, private contractor, or a consultant, the Administrative Services Director or City Manager approval is required.

All background check inquiries for current or former City employees shall be directed to the City's Human Resources/Risk Management Division staff for response.

City Councilmembers shall contact the City Manager prior to providing any letter of recommendation for a current or former City employee, contract staff, private contractor, and/or consultant, to ensure that such Councilmember is made aware of any liability and/or human resources related concerns.

SECTION 22. POLICY 22 - EMPLOYEE ANNIVERSARY RECOGNITION PROGRAM

The City Manager shall have the authority to approve an Employee Anniversary Recognition Program for regular and management employees consistent with the dollar limits set forth in this policy. All years of service will be calculated on a cumulative basis and will not include unpaid leave of absence time.

| | |
|--------------------------------|------------------------------------|
| 5 Years of Full-Time Service: | Award gift not to exceed \$100.00. |
| 5 Years of Part-Time Service: | Award gift not to exceed \$50.00. |
| 10 Years of Full-Time Service: | Award gift not to exceed \$300.00. |
| 10 Years of Part-Time Service: | Award gift not to exceed \$200.00. |
| 15 Years of Full-Time Service: | Award gift not to exceed \$500.00. |
| 15 Years of Part-Time Service: | Award gift not to exceed \$350.00. |
| 20 Years of Full-Time Service: | Award gift not to exceed \$750.00. |

- 20 Years of Part-Time Service: Award gift not to exceed \$450.00.
- 25 Years of Full-Time Service: Award gift not to exceed \$1,000.00.
- 25 Years of Part-Time Service: Award gift not to exceed \$550.00.
- 30 Years of Full-Time Service: Award gift not to exceed \$1,200.00.
- 30 Years of Part-Time Service: Award gift not to exceed \$650.00.
- 40 Years of Full-Time Service: Award gift not to exceed \$1,400.00.
- 40 Years of Part-Time Service: Award gift not to exceed \$750.00.

SECTION 23. POLICY 23 - CITY PAYMENT FOR EMPLOYEE RECOGNITION AT THE TIME OF RETIREMENT FROM THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

Regular and management employees with five or more years (60 plus months) of full-time equivalent service with the City of Moorpark will receive a contribution from the City to be used towards a retirement recognition event (for this full-time equivalent calculation, unpaid leave of absence time will not be included and regular part-time hours will be converted to equivalent full-time years). The event may be held at a City facility with the room provided free of cost, if the City Manager is provided with no less than 30 days notice of pending retirement; the event contribution is to be used for catering, decorations, gift, entertainment, and/or related costs, as approved by the City Manager to supplement event donations; and all City employees are invited to attend the retirement event. There is no cash value for this retirement benefit if the employee elects to not have a retirement event. The dollar limits for the event contribution will be based on full-time equivalent service time with the City as follows:

- \$250.00 for 60 to 119 months of full-time equivalent service.
- \$500.00 for 120 to 179 months of full-time equivalent service.
- \$750.00 for 180 to 239 months of full-time equivalent service.
- \$1,000.00 for 240 to 299 months of full-time equivalent service.
- \$1,250.00 for 300 or more months of full-time equivalent service.

SECTION 24. POLICY 24 - CELLULAR TELEPHONE

Cellular telephones (cell phones) are a necessary expense for City Councilmembers, to ensure the Council is readily accessible to deal with City business. Monthly reimbursement for City Council cell phones shall be the base monthly cell phone contract amount, not to exceed \$70.00 dollars per month. In addition to the monthly allowance, the City shall reimburse each Councilmember up to a maximum of \$125.00 every two years upon submittal of an invoice showing proof of payment for a new cell phone. Each Councilmember shall obtain a cell phone service with no less than nationwide access, unlimited mobile to mobile and unlimited night/weekend minutes, and voice mail and paging capabilities, and a local 805 area code. To receive reimbursement for the monthly base service, each Councilmember shall complete a reimbursement form provided by the Finance Director and attach the portion of their monthly bill which identifies the base monthly charge. Information on calls made and received should not be included with the reimbursement form. The reimbursement request must be submitted to the Finance Director no later than 30 days following the date of the cell phone service invoice to obtain reimbursement. City Councilmembers would be eligible for additional cell phone use reimbursement for costs exceeding the \$70.00 dollars per month due to increased cell phone usage during a City declared emergency, and for the additional cost required to respond to the business of the City while traveling out of the country. To receive additional cell phone use reimbursement, for either of the two qualifying reasons, a reimbursement form along with supporting documentation must be submitted to the Finance Director.

The City Manager may approve a monthly cell phone allowance of \$45.00 for a Competitive Service employee whose duties, as determined by the City Manager, necessitate access to a cell phone. Employees receiving a cell phone allowance shall be subject to compliance with cell phone standards to be approved by the City Manager. Such standards shall include, but not be limited to, the cell phone company to be used, the service area, and voice mail and paging capabilities. In addition to the monthly allowance, the City shall reimburse the designated Competitive Service employees up to a maximum of \$125.00 every two years upon submittal of an invoice showing proof of payment for a new cell phone that is in compliance with the established cell phone standards. City Manager approval is required prior to an employee receiving the monthly allowance and the cell phone acquisition reimbursement.

Cell Phone reimbursement provisions for Management employees are addressed in the City's Management Benefits resolution.

SECTION 25. POLICY 25 – PARK NAMING

1. The City Council will direct the Parks and Recreation Commission to make recommendations on names for all new park projects during or before park construction.

2. City parks may be named in a manner which identifies the geographic location of each park. The name of a street, or the street upon which the park is located, may be part of the park name. In special circumstances, parks may be named for individuals under the following conditions: for a City of Moorpark resident who has made significant contributions that enhance and improve the quality of life in Moorpark, or a prominent state or national figure who has had a positive impact on the lives of Moorpark residents. Park names may be designated to recognize a national or historical event.
3. The City Council will consider the Parks and Recreation Commission's recommendations and will adopt the chosen park name by resolution.

SECTION 26. POLICY 26 – ACCOUNTS RECEIVABLE COLLECTION

The City of Moorpark has the need to issue invoices for various types of services such as, but not limited to, false alarms, rent for City owned facilities, grant reimbursements, not sufficient funds (NSF) checks and emergency response (DUI and property damage). The City's Accounts Receivable Collection Policy shall be as follows:

1. The first notice to a debtor of an amount due is the issuance of the City of Moorpark invoice.
2. Past due accounts will be sent a past due statement at 30 and 60 days by the Finance Department. A one-time penalty fee in the amount of ten percent (10%) and a ten percent (10%) annual finance charge shall be added each month to any fee imposed in the event the fee is not paid within thirty (30) days after the billing date. The 60-day notice will state that the account will be turned over to a collection agency unless it is immediately cleared by the date specified.
 - A. Where appropriate, debtor contact by telephone will be used during the collection process. The date and discussion will be noted on internal records.
 - B. If the debtor responds, the Finance Department will make every effort to work out a solution for payment. (such as an installment plan for larger amounts due).
 - C. If the account is paid off or cleared by other means, the correspondence will be retained in the Finance Department customer files for such time period as required by applicable law.
3. When Finance has exhausted regular means of collections, accounts will be turned over to a collection agency in a final attempt to collect before the invoice is adjusted. Documentation required for the collection agency must include a copy of the original invoice or a list of charges. Other available information such as address and driver's license number will also be sent to the collection agency, if available.

4. Finance will send a Final Notice to the debtor noting that the account will be turned over to an appropriate external collection agency and collection costs may be charged if arrangements to pay are not made within 15 days. Note: If additional charges appeared for an account that has already been turned over to a collection agency, the new final notice should be for the same collection agency.
5. If the collection agency is not successful, further action will be considered as follows:
 - A. Amounts between \$500 and \$5,000 will be presented to the City Manager for review and possible filing of a small claims court action, which may be instituted without further Council approval.
 - B. Amounts in excess of \$5,000 will be presented to the City Attorney by the City Manager for review and possible legal action, which may be instituted without further Council approval.
6. The Finance Department will keep the City Manager informed of any collection issues as part of the monthly report process. Should adjustments be necessary, after all attempts have been made to collect and the Finance Director has determined that it is not cost effective to continue with the collection process, he/she has the authority to authorize up to \$100 per adjustment. A report of any adjustments authorized by the Finance Director shall be provided to the City Manager on a monthly basis. Any amount over \$100 up to \$1,000 may be approved for adjustment by the City Manager. A report of any adjustments made by the Finance Director and City Manager shall be provided to the City Council on a quarterly basis. Any amount over \$1,000 must be presented semi-annually to the City Council for consideration of an adjustment or other action. Documentation of all adjustments will be kept in a separate file for year-end audit purposes.
7. Each department will be immediately informed, in writing, by the Finance Department of NSF check issues each time an NSF check is received. Backup documentation showing the name, date and type of service that the NSF check covered will be sent to the respective department. It will be the responsibility of each department to determine if service is continuing to be provided and should be ceased for the individual and/or company that submitted a NSF check until payment for the NSF check is collected. Only cash, cashier's check or money orders will be accepted as payment to satisfy NSF checks.

SECTION 27. POLICY 27 – FIRST-TIME HOME BUYER AFFORDABLE HOUSING PROGRAM

Periodically, the City and/or the Moorpark Redevelopment Agency will make available for sale one or more attached or detached dwelling units to very low, low, or moderate income

~~persons/households as further defined below as part of its First-Time Home Buyer Affordable Housing Program (Program). This policy sets forth the primary criteria for eligibility for participation in said Program and determining priority for participant selection. This policy also sets forth the primary criteria and parameters for retaining the affordable units as affordable for the longest feasible period, but in no event less than forty-five (45) years; equity sharing requirement upon resale; and establishes the requirement that upon resale the affordable dwelling unit is sold to a City/Agency approved buyer in the same income category as the original buyer at the time of the initial sale.~~

~~Other criteria to determine participant eligibility and to ensure compliance with this policy, including but not limited to purchase agreement documents, shall be established by the City Manager prior to the advertisement of the availability of one or more affordable dwelling units as part of the Program.~~

~~1. Home Buyer Qualification Guidelines~~

- ~~• Low Income (less than 80 percent of Ventura County median income based on household size); Very Low Income (less than 50 percent of Ventura County median income based on household size); and when applicable Moderate income (less than 120 percent of Ventura County median income based on household size)~~
- ~~• First time home buyers (no previous home or mobilehome ownership)~~
- ~~• First priority for City of Moorpark residents who have lived in the City of Moorpark for no less than one year prior to advertisement of Program application deadline~~
- ~~• Second priority to people who have worked within the City of Moorpark for no less than one year prior to Program application deadline~~
- ~~• Third priority all others~~
- ~~• Five percent (5%) minimum down payment, based on sales price [No more than two percent (2%) of affordable sales price may be a qualified gift with remainder from borrower's own funds; under certain circumstances, down payment assistance loan, not to exceed one percent (1%) of affordable sales price, with four percent (4%) from borrower's own funds.]~~
- ~~• Non-occupant co-borrowers are not allowed~~

~~2. Selection Process~~

- ~~• Advertisement of program and orientation meetings on City Home Page, City government channel, and distribution of a press release and other means as determined by the City Manager~~
- ~~• Mandatory attendance of all interested buyers at an orientation meeting.~~
- ~~• Pre-screening applications offered at orientation meetings~~
- ~~• Neighborhood Housing Services of America (NHS) underwriting guidelines to be used, subject to additional City requirements~~

- ~~Home Buyer Education required prior to purchase, and post-purchase home owner workshops (foreclosure intervention, predatory lending, etc.) required after close of escrow~~
- ~~A public lottery drawing shall be conducted for each of the three categories to determine priority in each category. Categories will be exhausted before moving to the next category (Category 1 first, followed by Category 2, etc.).~~

3. ~~First-Time Home Buyer Affordable Housing Program Participant Exclusion List~~

- ~~Moorpark City Council, Moorpark Planning Commission, and Moorpark Parks and Recreation Commission~~
- ~~Mayor and City Council appointees including but not limited to Air Pollution Control District Advisory Committee, Area Housing Authority, Public Art Advisory Committee, Senior Center Advisory Committee, Area Agency on Aging, Citizens Transportation Advisory Committee, and Teen Council.~~
- ~~All City employees in non-competitive service (management positions).~~
- ~~Financial institutions participating as lenders for the Home Buyer Program.~~
- ~~Developers and Developer's General Contractor(s) for specific projects they developed or constructed that contain 1 or more affordable units.~~
- ~~City contractors involved with City/Moorpark Redevelopment Agency First-Time Home Buyer Affordable Housing Program and affiliates of these City contractors, as determined by the City Manager on a case-by-case basis, which may include title and escrow companies, contractors, subcontractors, subsidiaries, partnerships, and affiliates of these City contractors.~~
- ~~Family members are excluded for all of the above listed participant exclusions. "Family members" is defined as follows: mother, father, grandfather, grandmother, aunt, uncle, cousin, sister, brother, son, daughter, step-son, step-daughter, son-in-law, daughter-in-law, nephew, niece, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, spouse as defined as a partner in marriage (California Civil Code Section 4100), and domestic partner as defined by California Family Code Section 297 and including the requirement for the filing of a Declaration of Domestic Partnership with the Secretary of State.~~

Periodically, the City and/or the Moorpark Redevelopment Agency will make available for sale one or more attached or detached dwelling units to very low, low, or moderate income persons/households as further defined below as part of its First-Time Home Buyer Affordable Housing Program (Program). This policy sets forth the primary criteria for eligibility for participation in said Program and determining priority for participant selection. This policy also sets forth the primary criteria and parameters for retaining the affordable units as affordable for the longest feasible period, but in no event less than forty-five (45) years; equity sharing requirement upon resale; and establishes the requirement that upon resale the affordable dwelling unit is sold to a City/Agency approved buyer in the same income category as the original buyer at the time of the initial sale.

Other criteria to determine participant eligibility and to ensure compliance with this policy, including but not limited to purchase agreement documents, shall be established by the City Manager prior to the advertisement of the availability of one or more affordable dwelling units as part of the Program.

1. Home Buyer Qualification Guidelines

- Low Income (less than 80 percent of Ventura County median income based on household size); Very Low Income (less than 50 percent of Ventura County median income based on household size); and when applicable Moderate income (less than 120 percent of Ventura County median income based on household size)
- First time home buyers (no previous home or mobilehome ownership)
- First priority for City of Moorpark residents who have lived in the City of Moorpark for no less than one year prior to Program application deadline (Category 1)
- Second priority to people who have worked within the City of Moorpark for no less than one year prior to Program application deadline (Category 2)
- Third priority all others (Category 3)
- Five percent (5%) minimum down payment, based on sales price [No more than two percent (2%) of affordable sales price may be a qualified gift with remainder from borrower's own funds; under certain circumstances, down payment assistance loan, not to exceed one percent (1%) of affordable sales price, with four percent (4%) from borrower's own funds.]
- Non-occupant co-borrowers are not allowed

2. Selection Process

- Advertisement of program and orientation meetings on City Home Page, City government channel, and distribution of a press release and other means as determined by the City Manager
- Mandatory attendance of all interested buyers at an orientation meeting.
- Pre-screening applications offered at orientation meetings
- Neighborhood Housing Services of America (NHTSA) or other City-approved underwriting guidelines to be used, subject to additional City requirements
- City-approved Home Buyer Education required prior to purchase, and City-approved post-purchase home owner workshops (foreclosure intervention, predatory lending, etc.) required after close of escrow
- A public lottery drawing shall be conducted for residential developments with affordable units. Applicants may participate in the lottery process for more than one development. Each lottery will consist of three "mini-lotteries" for the three priority categories listed in Section 1 of this policy. Categories will be exhausted before moving to the next category (Category 1 first, followed by Category 2, followed by Category 3).

- The income category for an applicant will be determined when the application is reviewed, prior to the lottery. If an applicant's personal, financial or other circumstances change and it is later determined they are no longer eligible in that income category, then they shall no longer be eligible for any units that might be available during the applicable lottery drawing period.

3. First-Time Home Buyer Affordable Housing Program Participant Exclusion List

- Moorpark City Council, Moorpark Planning Commission, Moorpark Parks and Recreation Commission, and Moorpark Arts Commission.
- Mayor and City Council appointees including but not limited to Air Pollution Control District Advisory Committee, Area Housing Authority, Senior Center Advisory Committee, Area Agency on Aging, Citizens Transportation Advisory Committee, and Teen Council.
- All City employees in non-competitive service (management positions).
- Financial institutions participating as lenders for the Home Buyer Program.
- Developers and Developer's General Contractor(s) for specific projects they developed or constructed that contain 1 or more affordable units.
- City contractors involved with City/Moorpark Redevelopment Agency First-Time Home Buyer Affordable Housing Program and affiliates of these City contractors, as determined by the City Manager on a case-by-case basis, which may include title and escrow companies, contractors, subcontractors, subsidiaries, partnerships, and affiliates of these City contractors.
- Family members are excluded for all of the above-listed participant exclusions. "Family members" is defined as follows: mother, father, grandfather, grandmother, aunt, uncle, cousin, sister, brother, son, daughter, step-son, step-daughter, son-in-law, daughter-in-law, nephew, niece, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, spouse as defined as a partner in marriage (California Civil Code Section 4100), and domestic partner as defined by California Family Code Section 297 and including the requirement for the filing of a Declaration of Domestic Partnership with the Secretary of State.

4. Housing Pricing and Selection of Units

- Initial Sale Price: Units will be priced based on Affordable Housing Cost for the family size appropriate to the unit (Section 50052.5(b-c and h), regardless of size of actual household:
 - 3 bedroom unit priced for a household of 4
 - 4 bedroom unit priced for a household of 5

- Resale Price – Resale price for affordable units will be based on Affordable Housing Cost at time of resale. Affordable Sales Price is not based on market price at initial sale, or at resale. (City will provide this information to homeowners in this Program on an ongoing basis.)
- Applicants will be assigned a unit in their income category based on household size, following conditional loan approval. Household size will be determined at the time of receipt of application. At its discretion, the City may assign a unit with more bedrooms than the applicant would otherwise be eligible for, if it is the last unit that is available during the applicable period of the Priority List.

5. City Staff Authority

The City Manager is authorized to execute all affordable housing project deferred loan agreement and repayment documents for all affordable housing projects for which the City will own an equity share. The City clerk is authorized to accept interest in real estate secured by any Deed of Trust associated with this program.

SECTION 28. POLICY 28 – CROSSING GUARD WARRANT

The warrant for the provision of a Crossing Guard at a roadway intersection in the City of Moorpark is a minimum of five (5) elementary school-age (Kindergarten through fifth grade) pedestrians per hour.

SECTION 29. POLICY 29 – ETHICS TRAINING FOR CITY COUNCIL, PLANNING COMMISSION, AND PARKS AND RECREATION COMMISSION.

All City Councilmembers, Planning Commissioners, and Parks and Recreation Commissioners, Arts Commissioners, and any other member of the legislative body (as defined by Government Code Section 54952) that receives any type of compensation, salary, or stipend or reimbursement of expenses, shall attend ethics training within twelve (12) months of assuming office and receive no less than two (2) hours of said training within two (2) years of assuming office and every two (2) years thereafter, as required by Government Code Section 53235 et seq. (except a member whose term of office ends before January 1, 2007). All City management staff shall be required to either attend ethics training scheduled by the City Clerk, or complete authorized internet training, and obtain a certification of completion once every odd numbered calendar year. In addition to City management staff, the City Manager may designate other City employees and/or contract staff that will also be required to attend ethics training.

In January of every year, the City Clerk shall provide the City Council, Planning Commission, and Parks and Recreation Commission, and Arts Commission with information on training available to meet the requirements of this policy and applicable state law. Within the first three months of each odd numbered year, the City Clerk shall schedule group ethics training and will invite the members of the City Council, all Commissioners, all City Management staff, and all other City Manager designated

employees and contract staff to attend. Any member of the City Council, Commissioner, management employee, designated employee, or designated contract staff unable to attend the scheduled group ethics training shall be required to complete other ethics training that complies with requirements of Government Code Section 53235 et seq. The City Clerk shall maintain a record of completion on the required ethics training, for each person, consistent with applicable state law.

SECTION 30. POLICY 30 - PROCEDURE FOR FILING A COMPLAINT AGAINST A CITY EMPLOYEE OR CONTRACT STAFF

All charges or complaints against an employee or contract staff shall be submitted to the City Manager in writing for appropriate action. The City Manager may waive the requirement for the complaint to be in writing if he/she determines an accommodation is needed; an example would be a disability accommodation. The City Manager shall determine whether the complaint shall be referred to the Human Resources/Risk Management Division for investigation or resolved by the Department Head to whom the employee or contract staff reports.

City staff supervisors shall be instructed to refer any person with a verbal complaint about an employee and/or contract staff received during regular office hours to the Human Resources/Risk Management Division. Human Resources staff will then meet privately with the person requesting to file a complaint to either resolve the complaint or provide instruction on the City's written complaint procedure.

Consistent with the City Council Rules of Procedure for City Council meetings, a speaker that verbally complains about an employee of the City, or any employee of a private firm or public agency providing a contract service to the City, during a Council meeting will be directed to contact the City's Human Resources/Risk Management Division for assistance in documenting and resolving their complaint.

SECTION 31. POLICY 31 – CITY PUBLIC SIDEWALK MAINTENANCE AND REPAIR

1. **Inspection:** All public sidewalks shall be inspected at least once per year.
2. **Maintenance:** All public sidewalks shall be maintained in good condition.
3. **Repair:** Any sidewalk defect causing a vertical separation of three-quarters of an inch (3/4") or greater shall be repaired. Repair may include any appropriate methods as determined by the Public Works Department, including but not limited to grinding or sidewalk replacement. Efforts should be undertaken to remove or minimize the possibility of a reoccurrence of the sidewalk problem caused by tree roots.

SECTION 32. POLICY 32 - WASTE REDUCTION AND RECYCLED-CONTENT PRODUCT PROCUREMENT PRACTICES

1. The City of Moorpark shall purchase and use reusable, recyclable, and recycled products whenever possible to the extent that such use does not negatively impact health, safety, economic constraints, performance standards or operational efficiency.
2. When approved by the City Manager, a not-to-exceed ten (10) percent price preference may be given to qualified products that are reusable, recyclable, or made from recycled material.
3. Recycled paper shall be used for products that are highly visible to the public, including letterhead, copy paper, and business cards.
4. When recycled products are used, reasonable efforts shall be undertaken to label them to indicate that they contain recycled materials.
5. All City staff shall practice waste reduction procedures, such as duplex copying, avoiding excess packaging, and minimizing use of disposables (toner cartridges, kitchen supplies, etc.).
6. Each City department shall examine purchasing requirements and maximize use of products that are durable, reusable, recyclable, and made from recycled feedstock. Such products could include office supplies, compost, motor oil, paint, tires, and construction materials.
7. Contractors and consultants bidding to provide products or services to the City should demonstrate compliance with the City's purchasing and waste reduction practices to the greatest extent possible.
8. The City shall develop conditions of approval for new residential and commercial construction that will provide adequate space for recycling activities. Conditions shall also be developed that encourage use of recycled building materials and maximize opportunities for the recycling of demolition and construction materials.
9. The City shall investigate joint purchasing opportunities with other local governments as a way to maximize economic benefit to all jurisdictions.
10. Staff from the Finance Department and Parks, Recreation, and Community Services Department shall meet annually to review purchasing practices and shall propose any identified changes to the City Manager for possible adoption and implementation.

SECTION 33. POLICY 33 – AMERICANS WITH DISABILITIES ACT GRIEVANCE

1. **Purpose**

This policy has been created to comply with the Americans with Disabilities Act (ADA), 28 Code of Federal Regulations Part 35.107. This policy provides a procedure to be followed to respond to individuals, or a specific class of individuals, who believe they have been subject to discrimination on the basis of disability by the City, not including employment related discrimination complaints. The Competitive Service employees of the City of Moorpark are subject to the grievance procedures contained in the City Council adopted Personnel Rules, and all other City employees are subject to the discrimination complaint grievance procedures adopted in a City Manager approved administrative procedure.

2. **Authority**

This policy has been adopted by the City Council for use in all departments.

3. **Definitions**

The following terms are used in this policy:

- A. ADA: Americans with Disability Act of 1990.
- B. ADA Coordinator: Responsible employee with a working knowledge of the requirements of ADA and designated to coordinate the City's efforts to comply with and carry out the City's ADA responsibilities. The Administrative Services Director is the ADA Coordinator for the City of Moorpark.
- C. CFR: Code of Federal Regulations.
- D. TDD: Telecommunications Device for the Deaf.

4. **Confidentiality**

The ADA Coordinator maintains confidentiality with regard to complaints, consultations, mediations, and records, unless disclosure is notwithstanding the requirements of litigation and court proceedings. If the disclosure of information to another person is necessary to proceed with an investigation, the complainant or their designated representative will be advised first and consulted on whether and/or how to proceed.

5. **Retaliation**

Retaliation against a person who files a complaint of discrimination or harassment, participates in an investigation of such a complaint, or opposes an unlawful employment practice is prohibited by Federal and State law and City policy. Anyone who believes she or he has been retaliated against for filing a complaint of discrimination or harassment is encouraged to report the retaliatory actions to the ADA Coordinator.

6. Complaint Procedure

This procedure is established to meet the requirements of the Americans with Disabilities Act of 1990. This procedure shall be liberally construed to protect the substantial rights of interested persons, to meet appropriate due process standards, and to assure compliance with the ADA. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City. The City's Personnel Rules govern employment-related complaints of disability discrimination for Competitive Service Employees. ~~A City Manager approved administrative procedure~~ Policy No. 16 shall govern employment-related complaints of disability discrimination for all other employees.

All other discrimination complaints pertaining to compliance with the ADA should be in writing and contain information about the alleged discrimination, such as the name, address, and phone number of the complainant, and location, date, and description of the problem. Alternative means of filing a complaint, such as a personal interview, use of a TDD, or a tape recording of the complaint, will be made available for persons with disabilities upon request. A non-written complaint will only be accepted for disability accommodation.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible, but no later than 60 calendar days after the alleged violation to:

Administrative Services Director, ADA Coordinator
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or her/his designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or her/his designee will respond in writing, and where appropriate, in format accessible to the complainant, such as large print, Braille, or audio recording. The response will explain the position of the City and offer options for substantive resolution of the complaint.

7. Appeal

If the response by the ADA Coordinator or her/his designee does not satisfactorily resolve the issue, the complainant and/or her/his designee may appeal the decision within 15 calendar days after receipt of the response to the City Manager.

Within 15 calendar days after receipt of the appeal, the City Manager or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the City Manager will

respond in writing, and, where appropriate, also respond in a format accessible to the complainant, with a final resolution of the complaint. Any appeal of the City Manager's decision would be pursuant to Section 2.04.080 of the City Municipal Code.

The file retention period for all written ADA complaints received by the City and responses from the City will be included in the City's Records Retention Schedule.

SECTION 34. POLICY 34 – TRANSIT SECURITY SYSTEM ELECTRONIC FILE RETENTION PURSUANT TO PUBLIC UTILITIES CODE SECTION 99164 AND GOVERNMENT CODE SECTION 34090.8

Pursuant to subdivision (a) of Public Utilities Code Section 99164 and Government Code Section 34090.8, the City Council has adopted the following findings for transit security system electronic file retention:

1. The City has made a diligent effort to identify a transit security system that is capable of storing recorded data for one year.
2. The technology to store recorded transit security data in an economically and technologically feasible manner for one year is not currently available, and such videotapes or recordings shall be preserved for as long as the installed technology allows.
3. The City is purchasing and installing the best available technology with respect to storage capacity that is both economically and technologically feasible at this time.
4. The transit security videotapes or recordings that are evidence in any claim filed or any pending litigation shall be preserved until the claim or the pending litigation is resolved.
5. The transit videotapes or recordings that recorded an event that was or is the subject of an incident report shall be preserved until the incident is resolved.

SECTION 35. POLICY 35 – CITY CLERK RECORDS DESTRUCTION APPROVAL AUTHORITY

In accordance with Government Code Section 34090.5, and Municipal Code Section 2.16.030.4, the City Council authorizes the City Clerk to approve the destruction of records, documents, instruments, books, and papers, without the approval of the legislative body or the written consent of the City Attorney, subject to compliance with the conditions specified in Government Code Section 34090.5.

SECTION 36. POLICY 36 – CITY WIRELESS INTERNET NETWORK

A City wireless internet network will be made available for public use at the Moorpark Library, Active Adult Center, City Hall offices and Community Center, and other City facilities, as approved by the City Manager, for users with portable electronic devices capable of receiving wireless signals. Prior to each use, acknowledgment of a wireless

user agreement shall be required, the form of which shall be approved by the City Manager and City Attorney.

SECTION 37. POLICY 37 - MOORPARK CITY LIBRARY MATERIALS SELECTION

1. Mission

The Moorpark City Library provides information, lifelong learning, inspiration and enjoyment to people of all ages through reading and technology. This Materials Selection Policy sets guidelines used by the Library for the selection of books and other print and electronic materials.

2. General Governing Factors

The selection of materials for the Library is governed by four factors:

- A. The needs of the individual and of the community.
- B. The individual merit of each work.
- C. The existing collection, budget and services of the Library.
- D. The Library adheres to the *Library Bill of Rights* and *The Intellectual Freedom Statement* (copy is available at the Moorpark Library Circulation Desk and at the City Clerk's office).

3. Principles of Selection

- A. The Library aims to obtain and make readily accessible materials that fill the cultural, educational and leisure needs of City residents.
- B. Materials are selected from a number of sources. The basic consideration for the selection of any item is whether it is of proven or potential interest to the community served.
- C. Additional criteria include:
 - Availability and cost of the material
 - The amount of similar material already in the collection
 - The availability of the material elsewhere in the community
 - The physical makeup of the material
 - Opinions expressed by critics or reviewers
 - Local interest or demand
- D. In Selecting Materials to reflect the diversity of the needs and interests of the residents of Moorpark, it should be recognized that some materials chosen may be offensive or trivial to some persons while being meaningful or significant to others. The Library does not endorse or agree with all opinions expressed in the materials in the collection.
- E. Materials shall be made as accessible as possible to the public. The Library does not serve as censor of the reading of any person. The Library recognizes the importance in an open and democratic society of allowing

individuals to form their own opinions on issues and, therefore, acquires materials that may be of a controversial nature.

- F. Responsibility for the use of Library materials by minors rests with their parents or guardians. The selection of materials for the Library will not be governed by the possibility that these materials may come into the possessions of minors. The Library cannot be expected to act *in loco parentis*.

4. Responsibility for Selection

- A. The initial responsibility for materials selection lies with the professional staff working within the area of service to children, young adults, and adults. The general public may recommend material for consideration.
- B. In making selections, Library staff shall do so in a manner based on principle rather than personal opinion, reason rather than prejudice, and judgment rather than censorship. The spirit of selection should be inclusive rather than exclusive. Variety and balance of opinion are sought whenever possible.
- C. The Moorpark City Representative shall be the City Manager or his/her designee, who shall be responsible for overseeing the development of the Library collection according to the principles set forth in this policy.

5. Placement of Materials in the Library

- A. The Public has free access to all Library materials consistent with this policy.
- B. Placement of materials within the Library is a professional decision. Criteria include:
- Assigned Classification
 - Format
 - Susceptibility to loss or damage
 - Rarity or cost
- C. The Library labels materials for placement only, not to predispose the user for or against any materials.

6. Bindery

Only those materials of local significance, of long-term importance to the collections, or heavily used items will be bound or rebound as needed.

7. Gifts

Donations of materials or funds to enrich the collection are welcome. Gift materials must meet the same selection criteria as purchased materials. The Library reserves the right to make the final decision on use or disposition of gifts.

8. Withdrawal of Materials

Damaged, worn, obsolete, superseded, or unused items may be withdrawn from the Library upon the recommendation of the Library Director and approval of the Moorpark City Representative.

Weeding and/or disposal of Library Materials shall be at the discretion of the Moorpark City Representative. Materials determined worthy of re-sale may be released to the Friends of the Moorpark City Library for sale with all proceeds belonging to the City of Moorpark for purposes of the Library.

9. Reconsideration of Materials

Persons objecting to the content of materials in the Library shall be invited to state their objection in writing. Any request for reconsideration will be reviewed by the Library Director in consultation with the City Representative. The decision of the Library Director shall be final.

SECTION 38. POLICY 38 – MOORPARK CITY LIBRARY INTERNET AND COMPUTER USE AND PATRON AGREEMENT

1. Introduction

The Moorpark City Library provides the opportunity for public access to the Internet, which allows individuals of all ages the freedom to explore and expand their knowledge beyond the traditional "walls" of the Library.

The following policy governs the use of public computer resources in the Moorpark City Library, including public Internet access, use of computers in the Library's computer lab, non-Internet applications, and remote use of the library's computer services.

Before using any Internet workstation at the Moorpark City Library, a patron must agree to and sign a "Moorpark City Library Internet and Computer Use Policy and Patron Agreement" (the "Policy"), the form of which shall be approved by the City Manager. In signing for a library card for their children under the age of 18, parents and legal guardians acknowledge that their children will be allowed access to the Internet. The Library will honor requests by parents or legal guardians that their children under the age of 18 not be allowed to access the Internet via Library computers.

Library patrons that access the City's wireless network while using their own wireless capable devices will be required to affirmatively acknowledge a wireless user agreement prior to each use. In signing for a library card for their children under the age of 18, parents and legal guardians will also be asked to acknowledge a wireless network security warning and disclaimer.

2. Internet Content

The Internet is an unregulated, global resource that contains materials that some persons may find offensive. While the City of Moorpark will take precautions to regulate internet access by minors on the City's library computers, the City cannot be responsible for anything that any Library user may see or read while in the Library that the user or, in the case of minors, the user's parents, may find offensive. The City cannot be responsible for a minor that brings into the library a wireless capable device that permits access to the wireless internet network. The City urges parents to accompany their children while visiting the Library to ensure that their children are safe at all times.

3. Internet Users

Internet users are expected to act in a responsible, ethical, and legal manner. Users may not use Library computers to access Internet sites that depict or transmit material that violates state and federal law. The Library is not responsible for the content of retrieved information. Library users are responsible for critically evaluating the quality and accuracy of material obtained from the Internet. Internet filter software is not infallible and even when using filtering tools minors may be exposed to explicit material.

The Library expressly disclaims and shall have no liability for any direct, indirect, or consequential damages related to information obtained from the Internet. All users shall expressly assume the risk of receiving incorrect, inaccurate, defective, fraudulent, or unlawful information while accessing the Internet through any equipment or service offered by the City of Moorpark.

Wireless Internet users must agree to the wireless network user agreement, the wording of which shall be approved by the City Manager or his/her designee, before accessing the Library's network with their own wireless capable devices.

To protect their privacy, Internet users must log off at the end of their session.

4. Internet Access

Access on most of the Library computers is filtered as to sexually explicit content. Adult patrons may request unfiltered access for themselves and will be assigned an available computer that does not filter internet access. Children under the age of 18 will have filtered access unless a parent or guardian requests, in writing and in the presence of Library staff, that their child be given unfiltered access and signs a waiver of liability.

Users whose conduct while using public computer systems is disruptive or interferes with the use of the Library by others, will be asked to modify their behavior or, if unable to modify their behavior, will be asked to leave the Library.

The Moorpark City Library reserves the right to revoke or suspend computer privileges in the case of failure to comply with this policy or the violation of local, state, or federal law. The Library may suspend privileges by a minor without notification to the parent or legal

guardian. In addition, unlawful activities will be reported to the County Sheriff's department and dealt with appropriately.

5. Wireless Network Security Warning and Disclaimer

- A. The Moorpark City Library cannot guarantee the safety of data transmitted across its wireless network.
- B. The Moorpark City Library assumes no responsibility for the configurations, security, or changes to personal data files resulting from a connection to the City network; the safety of equipment (patrons should keep equipment with them at all times); for the availability of a wireless connection (there is no guarantee that users will be able to make a wireless connection).
- C. Library staff do not provide technical assistance of any kind.
- D. The City's wireless internet network policy (Policy 37) applies to the Moorpark City Library use. All users with portable computers or devices capable of receiving wireless signals will be required to acknowledge they have read the City's wireless network user agreement prior to each use.

6. Rules of Conduct for Internet and Computer Use

- A. Library workstations are available for one hour per day per user. Library staff may extend sessions if no other patrons are waiting. Staff may designate one or more computers for use as online homework tutoring stations and may allow an exemption from the one-hour rule on any such computer for this use between the hours of 3:00 p.m. and closing Monday through Thursday.
- B. One workstation will be designated as the "express" computer terminal. This computer will be specifically for quick use and limited to a 15 minutes at a time.
- C. Use of a workstation is on a first-come/first-served basis.
- D. Users must sign up to use a computer on a next-available basis. Requests for specific computers cannot be honored.
- E. Only one person at a time may use a workstation. Exceptions may be made at the discretion of Library staff.
- F. Printing may not be available at all workstations. The printing fee shall be set by resolution of the City Council, and customers are not permitted to supply their own paper. Printers may not be used for other purposes or attached to other computers.
- G. Users may purchase a compact disk (CD) or USB drive or bring one from home.
- H. Users are prohibited from interfering with the performance of the network. Users must not reconfigure workstations, "hack" passwords, gain entry to closed areas of the network, or introduce computer viruses. Users are responsible for any hardware or software damage they cause. Tampering with hardware or software is considered vandalism and may result in legal action (violation of California Penal Code Section 502 et. seq.).

- I. Users may not use the workstation for illegal activity, including violating copyright laws or software license agreements.
- J. Users may not install their own software programs or attach personal hardware to Library computers.
- K. Users must not interfere with the work of others and must respect one's right to privacy.
- L. The Moorpark City Library upholds the right of confidentiality and privacy for all users; however, the Library reserves the right to monitor the use of its Internet services and review any electronic data on the Library's lines (including e-mail communications) if necessary for the proper operation of the Library or to ensure compliance with this Policy and/or local, state, or federal laws. Sign-up sheets for Internet use are not retained as permanent records by the Library.
- M. Absolute privacy for patrons using electronic resources in the Library cannot be guaranteed. There exists a possibility of inadvertent viewing by other patrons, either by watching the user's screen, or because a user may leave the screen unattended.
- N. The Library does not provide individual e-mail accounts to users; however, users with existing e-mail accounts may access their accounts or users may register for free e-mail services available on the Internet. The Library assumes no responsibility and shall have no liability for any claim or damage resulting from the provision of such access to users.
- O. Use of the Library's computers is a privilege. Users must end their sessions and leave the workstations when asked to do so by Library staff.

7. Supervising Computer Use by Children

The public library does not serve *in loco parentis* (in the place of a parent). Librarians cannot provide constant care and supervision of children as they explore the Internet. The responsibility for what minors read or view on the Internet rests with parents or guardians.

The following are recommended guidelines for parents and guardians to ensure that children have positive online experiences, whether at home or at the Library.

- A. Use the Internet as a family. Join your children in Internet exploration.
- B. Explore the wide range of available information and tell your children about sites you consider inappropriate for them.
- C. Provide guidelines for your children on the amount of time they spend online, just as for television viewing.
- D. Instruct children NEVER to give out personal information (name, address, password, telephone number, credit card number) online.
- E. Teach children to be good online consumers. As with print information, consider the source, date and accuracy of online information.

- F. Parents and children are encouraged to read "Child Safety on the Information Highway" and "Teen Safety on the Information Highway" available free at any library location or at www.safekids.com and www.safeteens.com.

8. Policy May Be Revised

The City of Moorpark reserves the right to revise this policy from time to time. If revised, a copy of the current Policy will be available at the Library Circulation Desk and in the City Clerk's office. All patron use of the Library Internet workstations must be in compliance with the current Policy whether or not a patron has signed or read the revised policy.

SECTION 39. POLICY 39 – MOORPARK CITY LIBRARY CIRCULATION POLICY

The following policy governs the terms by which materials may be borrowed from the Moorpark City Library.

1. Library Card Registration

Any person residing in California may borrow materials free of charge from the Moorpark City Library.

Any person applying for a Moorpark City Library card must show proof of identity and residence. Acceptable identification may be any of the following:

- A. California driver's license
- B. California identification card
- C. Check imprinted with name and address
- D. Official mail (postmarked with current address)
- E. Current bill imprinted with name and address
- F. Current monthly rent receipt
- G. Tax payment receipt.

Children are eligible for a library card as soon as they can print both their first and last names on the applicant signature line. In the event a child is unable to print, and at least 5-years of age, parental signature will be accepted. The minor's date of birth is required on the application. A parent or legal guardian must assume responsibility for materials borrowed by a person under the age of 18; therefore, the adult's identification and signature is required for registration of a minor. The Library cannot issue a borrower's card to a minor based on the request and signature of a family member other than the parent, unless that person demonstrates that he or she is the child's legal guardian.

Once the library card application is signed, the user agrees to follow the rules and regulations of the Library. New borrowers are limited to borrowing two items on the day the card is issued. When those items are returned, the borrower may borrow with full privileges if in good standing.

2. Confidentiality of Library Records

California State law (Government Code, Title I, Division 7, Chapter 3.5, Sections 6254 (j) and 6267) protects the confidentiality of library patrons. Library staff will always operate in a manner that conforms to the requirements of the law in the handling of patron records and accounts. According to this statute, library staff may not release information to any other party regarding any item borrowed by any other person, including information released to a parent or legal guardian regarding what items their child has checked out.

As permitted by the above-cited statute, library staff may release information on a borrower's account to a third party if the borrower has provided a written notice allowing the third party access to the borrower's account information. A borrower may authorize another party to pick up and check out materials by sending his or her library card along with the written request or notice with the third party.

Demographic information may be gathered in order to plan Moorpark City Library services. This information is used anonymously and is not disclosed in any way that would identify the person registering. All information provided on the registration form is protected by the statute cited above.

3. Non-Resident Borrowers

Persons residing outside of the State of California may obtain a Moorpark City Library card by paying a non-resident fee as determined by resolution of the City Council. Payment of this fee will entitle the borrower to the same borrowing privileges enjoyed by all other Library card holders.

4. Loan Periods

Reference the Moorpark City Council Resolution adopting a Library Fine and Fee Schedule (a copy of the current Schedule will be available at the Library Circulation Desk) for detail regarding loan periods. All items can be renewed once, for a full loan period, unless the item is on hold for another borrower. Loan periods for inter-library loaned materials will be determined by the lending institution.

Certain new and high-demand books and other library materials in the Library's collection will be included in the Library's "Hot off the Press" book collection at the discretion of Library staff. "Hot off the Press" items will be available for a one-week check-out period with no renewals and will not be available for holds. "Hot off the Press" items will be clearly labeled and shelved separate from other materials.

Reference materials and microforms must be used in the Library and are not available for checkout. These materials may be loaned to other libraries for in-library use only.

5. Renewals

All items, with the exception of DVDs and "Hot off the Press" books can be renewed once for the standard loan period for the item unless the item is on hold for another borrower. Patrons may renew overdue items provided they pay the fine in total before renewing.

Cataloged materials may be renewed at the Moorpark City Library Circulation Desk, from any Library computer, via the Internet, or by phone.

6. Number of Items per Library Card

Reference the Moorpark City Library Fine and Fee Schedule for details regarding borrowing limitations for specific material.

7. Parental Control of Minors' Access to Video and DVD Materials

The Library will honor written requests by a parent or legal guardian that their minor children not be permitted to borrow any DVD or video item.

8. Reserves and Interlibrary Loan

Holds may be placed to reserve items (excluding "Hot off the Press" books) by completing a hold request form on the online catalog. Users will be notified via e-mail or by phone when items are available. Items will be held for one week from the date of notification of the users.

Items not owned by the Moorpark City Library may be requested from other libraries by filling out an "Interlibrary Loan Request" form on the online library catalog.

9. Overdue, Lost, and Damaged Material

Library users assume full responsibility for the return of materials, in good condition, on or before the due date noted on the receipt. Fines will be charged for each day the Library is open. Fines vary by item type.

Media materials may not be returned in the book drop. A charge per item (reference the Moorpark City Library Fine and Fee Schedule) will be assessed if any audio/video materials are returned in the book drop.

Library users assume full responsibility for loss or damage to materials they check out. Damage includes, but is not limited to, torn covers or pages, writing in or on materials, water damage, missing pages, missing pieces, scratched discs, and dirty or damaged cases or damaged parts. Charges for materials lost or damaged beyond repair will be the price shown in the Library's automated catalog, either the actual cost or a default cost for the type of item plus a processing fee (reference the Moorpark City Library Fine and Fee Schedule), and accrued fines (if applicable). In the cases of unusual circumstances, it will be left to the Library Director under discretion of the City to assess charges for lost or

damaged materials other than as specified by the Moorpark City Library Fine and Fee Schedule.

In lieu of paying for a lost item, a patron may replace the lost material with like material of equal or greater quality. The Library Director has final authority to determine the acceptability of the substitute item. The borrower is still responsible for the processing fee and any fines accrued. Charges for damaged materials that can be repaired will be determined on a case-by-case basis by the Library Director under the discretion of the City.

For materials borrowed for a Moorpark patron from another library (interlibrary loan materials), the replacement cost is determined by the lending library. The borrower is still responsible for the processing fee and any fines accrued.

The Library will make every attempt to notify patrons when items become overdue. Overdue notification is made by e-mail or voice notification when items reach 7 and 21 days overdue. Overdue items are considered lost 30 days after the due date and accounts will be referred to a collection agency. Patrons are responsible for all late fees whether or not they receive a notice.

User accounts with fines and fees totaling \$5.00 or more will be blocked from further use until all fines are paid.

SECTION 40. POLICY 40 – CITY WEBSITE CONTENT AND EXTERNAL LINKS

Staff is hereby directed to include the following provisions of this policy on the City website.

1. Purpose

It is the purpose of the Moorpark City Government website to provide accurate, non-editorial content that will inform Moorpark citizens about City of Moorpark services, operations, projects, and special events, and provide information pertaining to City officials and personnel. In addition, the website should be used to facilitate the delivery of services provided by the City of Moorpark to its citizens and other customers. All City of Moorpark departments and divisions are eligible to submit content or request the posting or hypertext linking to appropriate information to support the mission of the City and department service initiatives.

2. Website Disclaimer

The City of Moorpark website is maintained to provide information to the public. Information found on the City's website has been compiled from a variety of sources, and is subject to change at any time and without notice from the City of Moorpark. While every effort is made to keep such information accurate and up-to-date, the City of Moorpark assumes no liability for damages incurred directly or indirectly as a result of errors, omissions or discrepancies. The Information Systems Manager, a member of the Administrative

Services Department, acts as the City's Webmaster and is responsible for the management and oversight of the City of Moorpark website. Questions or comments concerning information contained in the City of Moorpark website should be directed to the Information Systems Manager. Comments about the City's website are welcome from any source and are always appreciated.

By using the City of Moorpark website, the user assumes all risks associated with its use, including but not limited to the risk of damage to computer, software, or data by any virus, program, or file, which might be transmitted through the Internet. Under no circumstances shall the City of Moorpark be liable for any damages resulting from the use of the City of Moorpark website or any external link.

The opinions expressed in any linked websites are not those of the City of Moorpark, and any questions on other websites should be addressed to the entity sponsoring such site.

3. Privacy

A computer communicates with the City of Moorpark's website using a particular Internet Protocol address (IP). Like most sites, the City of Moorpark can track the user's IP address when visiting the site. The IP address allows the City of Moorpark to track for each user information, such as the IP address, the browser type, and the identity of the user's Internet service provider; however, the IP address does not provide any personally identifiable information and allows the user to remain anonymous. This information helps the City to improve site navigation and to make improvements to the City's website and content.

To the extent that the City website contains or may in the future contain online registration forms for special activities or other services, such as recreation classes, an applicant may be asked during the application process for name, address, e-mail address, phone number, birth date, or other general or special purpose information needed to complete registration for the specific activity or service.

To the extent that the City website contains or may in the future contain online volunteer or employment application forms, an applicant may be asked during the application process to provide name, address, e-mail address, phone number, drivers license number, occupations, work experiences, employment history, education level, and/or references.

To the extent that the City website contains or may in the future contain online payment services, the City of Moorpark will collect personal information, such as name, postal address, e-mail address and credit card number should you decide to use an online payment service.

4. Permitted External Links

The City of Moorpark website contains links to other websites as a convenience to the public and does not constitute an endorsement. The City of Moorpark is not responsible for information contained on sites linked from any City of Moorpark page and has not reviewed such for accuracy or legal sufficiency.

The City of Moorpark permits the establishment of links to external websites on the City's official website solely in conformance with this policy. In the establishment and maintenance of its official website, the City does not intend in any manner to create a forum or other means by which public disclosure, exchange of opinions, or discussion on issues of any nature may occur. Rather, the sole and limited purpose of this City's website and permitted external links is to provide non-political and/or non-religious information of a factual nature about the City of Moorpark including various services and resources available within and around the City, or as may be available from other government agencies.

The Moorpark City Government website includes links to other websites, and the City is not responsible for the actions and policies of these third parties, and recommends the privacy policies of each website be reviewed before supplying personally identifiable information.

5. External Link Application Process

Organizations and City staff requesting to establish external links to the City's website must submit an External Link Application Form, as approved by the City Manager or his/her designee, to the City's Information Systems Manager. This form will contain all information necessary to verify the facts as stated and is necessary to establish that the proposed link is in compliance with this policy.

Consistent with the foregoing policy, it is the City's policy to limit external links to the following kinds of entities and organizations:

- A. Sites that are owned and managed by a state, local or federal governmental agency, local public school, college board, or special district;
- B. Public Utilities;
- C. Sites that are maintained by a non-profit organization that receives direct financial support from the City of Moorpark and supports the mission of the City
- D. Sites that have a direct contractual relationship with the City for the provision of goods and/or services

External links will not be made to sites that fall within any of the following criteria, as determined by the City Manager or his/her designee:

- A. Sites that are owned or managed by a political party, candidate or special interest group or are of a political nature that are associated with, sponsored by or serving a candidate for elected office, any political party or organization supporting or seeking to defeat any candidate for elective office or ballot proposal
- B. Sites that are owned, managed or provide content for commercial entities that do not have a direct contractual relationship with the City for the provision of goods and/or services

- C. Sites containing any materials that may reasonably be considered scurrilous or offensive. Offensive materials are defined as sexual content or images, slurs against race, religious or political beliefs, age, gender, sexual orientation, national origin or physical attributes.

The City of Moorpark reserves the right to: 1) deny an external link application to any person, business or organization when it is determined, following review of a complete application, that the entity or organization for which application is made does not meet the criteria set forth in this policy; 2) deny an external link application to any person, business or organization which fails to provide all required information, or fails to provide truthful information.

6. Removal of External Link

The City Manager or his/her designee is authorized to remove any external link if the nature of the organization or business to which the link relates no longer complies with the City's external link policy; and discontinue an external link at any time if an entity's website provides or promotes false, slanderous, illegal, immoral, offensive, or incorrect information at any time.

SECTION 41. POLICY 41 - CITY COUNCIL USE OF CITY WEBSITE

The City Council page of the City's website will include a photograph and a brief biographical summary for the Mayor and each Councilmember, along with City contact information consisting of the City e-mail address and voice mail telephone number. The Mayor and each Councilmember may also provide telephone contact numbers if desired.

Any additional information to be placed on the City's website by the Mayor or a Councilmember must be approved by a majority of the Council as to content, with legal review by the City Attorney, and a factual review by the City Manager.

SECTION 42. POLICY 42 - CITY COUNCIL USE OF CITY COMPUTERS AND ACCEPTABLE INTERNET AND E-MAIL USE ON CITY COMPUTER NETWORK

The Mayor and Councilmembers, in connection with the fulfillment of their City obligations, need to access internet resources, including, but not limited to, the City's web page, League of California Cities materials, and other resources, and to reply to constituent matters.

In order to facilitate access to computer resources, the Mayor and each Councilmember shall be issued a City e-mail address, and a laptop computer will be provided upon request for use in conducting City business. All use of City computers and internet and e-mail use on the City's computer network shall be in compliance with the provisions contained within this policy as set forth below.

1. The use of City supplied computer equipment and software and internet and e-mail use requires the appropriate, efficient, and legal utilization of City computer hardware and network resources.
2. The City's network and computers may be used for lawful City business-related purposes only. Any personal use should be incidental. Users must comply with all applicable contract provisions of the software and equipment as well as federal, state, and local statutes, ordinances, rules and regulations, including, but not limited to, provisions relating to copyright protection. Only City acquired, legally obtained software programs are to be installed and/or used on city computers and all software will be installed and retained only by the City's Information Systems Division staff. Use of City computer equipment to run other than City-acquired and authorized software is prohibited. City-owned software shall not be copied for personal use.
3. The use of City-provided computer equipment and network resources for an individual's participation in, including but not limited to, charitable, social, political or religious purposes, commercial use or profit, election campaigns, or for outside employment is prohibited. This includes notices/solicitations for donations.
4. All City electronic information systems, hardware, software, temporary or permanent files and any related systems or devices created or stored on the City's computers are the property of the City and may be subject to public disclosure under the Public Records Act, cooperation with law enforcement, or litigation. If disclosure of e-mail messages or any other data files should be required under the Public Records Act, cooperation with law enforcement, or other lawful requests (despite the designation of any message as "private" or "confidential"), the City shall not be liable for this disclosure in any way. These computer systems are provided for official City business.
5. All electronic files and e-mails sent and received through the City's internet network are the property of the City and users can have no expectation of privacy in or ownership of same. Any and all e-mails, files, work product, etc., may be subject to disclosure as public records. The user should not have any expectation of privacy as to any information contained on the Council computers, any use made of such computers, and any use of the City's computer network.
6. Network accounts are to be accessed only by the authorized user of the account and the system administrator. The confidentiality of passwords and user accounts shall be protected for security purposes.
7. Users are prohibited at all times from downloading, viewing, creating, or transmitting any inappropriate material on or through the City's network. Inappropriate material includes, but is not limited to, material that: (a) is unlawful or illegal; (b) is pornographic or obscene; (c) is threatening; (d) is abusive; (e) is libelous or defaming; (f) is offensive; (g) encourages or incites conduct that would constitute a

criminal offense; (h) violates the City's harassment policies; (i) is categorized as adult/sexually explicit, personal or dating, or weapons; or (j) could potentially lead to civil and/or criminal liability or adverse publicity for the City, its officers and/or employees. Users are also prohibited at all times from creating and/or maintaining an internet log (also known as a web log or a blog). The City also reserves the right to remove any inappropriate material from its software/hardware and computer network.

8. Users may not attempt to circumvent user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for the user, logging into a server or account the user is not expressly authorized to access, or probing the security of other networks. Users may not attempt to interfere with service to any user, host, or network. This includes, but is not limited to "flooding" of networks, deliberate attempts to overload a service, and/or attempts to "crash" a host. Users may not use any kind of program/script/command, or send messages of any kind, designed to interfere with another user's session, via any means, locally or by the Internet.
9. It is important to use care when sending e-mail messages from City-owned equipment and from City-supplied e-mail addresses. As noted in Paragraph 4, above, the confidentiality of electronic mail cannot be assured. Any communication that needs to remain confidential should not be sent electronically.
10. To ensure that public records are retained for the legal retention period, the System Administrator shall ensure that all e-mail received and sent by the Mayor and Councilmembers through the City's computer network has a back-up copy. In order to preserve network resources, all other e-mail messages in the City Council e-mail inbox, sent and discarded folders will be retained in the network system for 90 days then deleted.
11. The Council computers shall be maintained by the City, and City staff may be called upon to provide remote service and maintenance on such computers, including ensuring that such computers have internet access. Additionally, City staff may require that such computers be returned to the City periodically for maintenance and upgrades.
12. Should the Mayor or a Councilmember elect to utilize a computer not owned by the City to conduct City business, including accessing or responding to City related e-mails, the City will not service or maintain such computers, nor will the City in any way fund the use of such computers. Use of a non-City owned computer and/or use of a personal e-mail account to conduct City business is strongly discouraged, due to the potential for City records to be saved on that non-City owned computer that may be subject to public disclosure under the Public Records Act, cooperation with law enforcement, or litigation.

SECTION 43. POLICY 43 – CITY COUNCIL CREDIT CARD USE.

Each member of the City Council shall be issued a City credit card with a credit limit of \$5,000.00. Use of the credit card shall be consistent with Policy 3 (Meeting, Training, and Conference and Professional Association Membership Expenses), shall be used, for City business purposes, only, and shall be subject to the credit card administrative policies established by the City Manager for City employees.

SECTION 44. POLICY 44 – CITY COUNCIL USE OF CITY POOL VEHICLES

A member of the City Council may use a City pool car vehicle for City business purposes, if a pool car is available at the time of the request, and if the member of the City Council requesting such use has complied with all of the established City vehicle usage procedures approved by the City Manager for City employees, including but not limited to providing proof of a valid California driver license, providing documentation to permit and complete enrollment in the State Department of Motor Vehicles (DMV) pull notice program, and completion of a California Joint Powers Insurance Authority (JPIA) driver training class every two years. The City's Human Resources/Risk Management Division is responsible for providing the City Council with notice of scheduled California JPIA driver training in Moorpark. The alternative to City pool car use is mileage reimbursement for private vehicle use, consistent with the requirements of Policy 3.

SECTION 45. POLICY 45 – AUTHORIZATION FOR CITY MANAGER TO APPROVE REDUCTION AND/OR EXONERATION OF A SURETY THAT HAS A VALUE NOT TO EXCEED \$10,000.00

It is the Council's policy that the City Manager shall have the authority to approve in writing the reduction and/or exoneration of a surety with a value not exceeding \$10,000, when all work guaranteed by the surety has been completed to the satisfaction of the responsible Department Director. The responsible City Department will initiate research on surety reduction and/or exoneration upon receipt of a written request for such action. The applicable City Department will then request a copy of the surety records on file with the City Clerk's Division and verify completion of work guaranteed by the surety. The City Manager will consider reduction and/or exoneration of a surety after receipt of a written recommendation from the responsible Department Director, with a copy to the City Clerk. Upon receipt of the City Manager's written approval to reduce and/or exonerate a surety, the City Clerk will take the actions necessary to implement the reduction or exoneration, including but not limited to providing written notification to a bonding company or requesting the Finance Director to re-fund a cash surety.

SECTION 46. POLICY 46 – DRUG-FREE WORKPLACE

1. **General Policy:** It is the goal of the City of Moorpark ("City") to create a healthy and safe work environment in order to deliver the best and most cost-efficient municipal service. It is the responsibility of the City employees to cooperate in efforts to protect the life, personal safety, and property of co-workers and fellow citizens. Substance abuse has been found to be a contributing factor to

absenteeism, substandard performance, increased potential for accidents, poor morale, and impaired public relations. It is the goal of this policy to prevent substance abuse in the workplace. Employees must take all reasonable steps to abide by and cooperate in the implementation and enforcement of this policy. Alcohol and/or drug abuse will not be tolerated on or off the job for any employee, and disciplinary action, up to and including termination, will be used as necessary to achieve the goal of eliminating substance abuse in the workplace.

This Policy applies to all City employees. Certain City employees are also subject to the Omnibus Transportation Employee Testing Act of 1991 (Pub. L. No. 102-143, 105 Stat. 952), which requires alcohol and drug testing of safety-sensitive transportation employees who are required to have a commercial driver's license (49 CFR Parts 40, 382, as amended).

In order to comply with the Department of Transportation regulations, the City has developed specific guidelines regarding when and how drug-alcohol testing will occur, as well as provisions on rehabilitative services available to all covered employees. The specific guidelines for employees who are required to have a commercial driver's license are set forth in Policy 47.

2. Definitions:

- A. Alcohol: Any liquid containing ethyl alcohol (ethanol).
- B. Applicant: Any person applying for employment with the City who has been extended a conditional offer of employment.
- C. Controlled Substance: Any drug that is classified by the Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse, accepted use, and accepted safety under medical supervision.
- D. Drug(s): Legal and/or illegal drugs, as defined herein.
- E. Illegal Drug: A controlled substance; a legal drug which has not been legally obtained; or a legal drug which was legally obtained, but that is being sold or distributed unlawfully.
- F. Legal Drug: Any drug, including any prescription drug or over the counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
- G. Reasonable Suspicion: A belief based upon objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform

his/her job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- 1) Slurred speech;
- 2) Alcohol odor on breath;
- 3) Unsteady walking and movement;
- 4) Physical impairment (e.g., glassy eyes, eye dilation, shaking, or erratic movement);
- 5) An accident involving City property;
- 6) Physical altercation;
- 7) Verbal altercation;
- 8) Unusual behavior;
- 9) Job impairment;
- 10) Possession of alcohol or drugs; or
- 11) Information obtained from a reliable person with personal knowledge.

H. Under the Influence of Drugs or Alcohol: The use of (1) any alcoholic beverage; (2) any illegal drug or substance, or (3) misuse of any prescribed drug, in a manner and to a degree that impairs the employee's work performance or ability to use City property or equipment safely.

3. Employee Responsibilities:

- A. Sign and return the Acknowledgement of Receipt of Drug Free Workplace Policy, noting specifically that the employee has read, understands, and agrees to abide by the provisions of this policy as a condition of continued employment.
- B. Not report to work or be subject to duty while under the influence of illegal drugs or alcohol.
- C. Not report to work or be subject to duty while under the influence of a legal drug whenever the use of the legal drug might (1) endanger the safety of the employee or another person; (2) pose a risk of significant damage to City property or equipment; or (3) substantially interfere with the employee's job performance or the safe or efficient operation of the City's business or equipment.
- D. Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or nonprescription, which may interfere with the safe and effective performance of duties or operation of City equipment.
- E. Not manufacture, possess, use, trade, offer to sell, sell, or buy drugs or alcohol during working hours or while subject to duty, on breaks, during meal periods, or anytime while on City property.

- F. Not store in a locker, desk, automobile, or other repository on City property, any alcohol or illegal drug. This policy is not intended to prevent an employee from possessing alcoholic beverages in sealed containers in his/her personal vehicle. Nor is this policy intended to prevent presentation of alcohol as a gift.
- G. Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty or subject to being called to duty. This policy is not intended to prevent an employee from possessing alcoholic beverages in sealed containers in his/her personal vehicle. Nor is this policy intended to prevent presentation of alcohol as a gift.
- H. Submit to an alcohol and/or drug test when requested to do so by the employee's Department Head, Administrative Services Director, or City Manager, as provided for in accordance with the guidelines set forth herein.
- I. Provide within twenty-four (24) hours of request bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug test is positive. The prescription must be in the employee's name.
- J. File an "Employee Report of Conviction for Violating Criminal Drug Statutes in the Workplace" to the Administrative Services Director within five (5) days of such conviction.

4. City Responsibilities:

- A. The City Manager, Administrative Services Director, and the Department Heads are responsible for reasonable enforcement of this policy.
- B. The City Manager, Administrative Services Director, or a Department Head may request that an employee submit to a drug and/or alcohol test in accordance with the guidelines set forth herein.
- C. Whenever an employee refuses an order to submit to a drug or alcohol test upon request, the employee shall be reminded of the requirements of this policy and the disciplinary consequences provided for in this policy. Such refusal may be considered insubordination and grounds for disciplinary action up to and including termination.
- D. Where there is a reasonable suspicion that an employee is under the influence of drugs or alcohol, the Department Head should detain the employee for a reasonable time until the employee can be safely transported home.

- E. Department Heads shall not physically search the person of employees, nor shall they search the personal possessions of employees without freely given consent in the presence of the City Manager, Administrative Services Director, or other City Manager designee.
- F. Department Heads shall notify the City Manager or Administrative Services Director, whenever they have reasonable suspicion to believe that an employee may have illegal drugs in his/her possession or in an area not jointly or fully controlled by the City. If the City Manager or Administrative Services Director concurs that there is reasonable suspicion of illegal drug possession, the City Manager or Administrative Services Director shall notify the appropriate law enforcement agency.

5. Drug Testing Guidelines:

- A. Drug Testing: Employees subjected to a drug test shall be tested by submitting to a urinalysis test.
- B. Alcohol Testing: Employees subjected to an alcohol test shall be tested by submitting to a breathalyzer test.
- C. Testing Protocol: All testing will be conducted according to DHHS/SAMHSA guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody. A copy of the DHHS/SAMHSA Guidelines may be obtained from Human Resources, or are available at the DHHS Website at: www.workplace.samhsa.gov.
- D. Pre-Employment Examinations:
 - 1) Required: All pre-employment physical examinations include drug and alcohol testing. No drug and alcohol test shall be administered prior to the applicant receiving a conditional offer of employment from the City.
 - 2) Results: A positive result for a drug and/or alcohol analysis may result in the applicant not being hired. If a drug screen is positive at the pre-employment physical, the applicant may be requested to provide within twenty-four (24) hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one

that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

- E. Alcohol/Drug Testing of Employees: The City shall require drug and/or alcohol tests of employees when reasonable suspicion exists as defined in Section 2 of this Policy. Employees shall also be required to submit to return to duty and follow-up drug/alcohol tests as part of a last chance agreement as set forth in Section 6 of this Policy.
- 1) Documentation: Any Department Head requesting an employee to submit to a drug and/or alcohol test shall document in writing the facts constituting reasonable suspicion that the employee in question is under the influence of drugs or alcohol. When possible, the Department Head should have Human Resources staff, another Department Head and/or supervisor witness the behavior and independently document it.
 - 2) Prerequisite: Prior to the administration of any drug and/or alcohol testing, the City Physician and/or the Department Head shall attempt to obtain from the employee to be tested a completed and signed consent form. This form will provide for the employee's consent in writing to physical and/or psychological examination and testing and the release of result information by the City Physician to the City. Refusal by the employee to sign a consent form may be considered insubordination and may be grounds for disciplinary action up to and including termination of employment.
 - 3) Interference with Required Test: An employee will be subject to the same consequences of a positive test if he/she:
 - a) Refuses the screening or the test;
 - b) Adulterates or dilutes the specimen;
 - c) Substitutes the specimen with that from another person or sends an imposter;
 - d) Will not sign the required forms; and/or
 - e) Refuses to cooperate in the testing process in such a way that prevents completion of the test.
 - 4) Results: If the drug screen is positive, the employee may be requested to provide within twenty-four (24) hours of the test bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name.

6. Rehabilitation:

- A. General: The City encourages those employees who think that they may have a problem with drugs and/or alcohol to seek assistance and rehabilitation at an early date prior to notification of testing for any substance abuse problem and/or prior to discovery by the City of the employee's drug and/or alcohol problem. The City reserves the right to discipline employees, up to and including termination of employment, who are discovered to have a problem with drugs and/or alcohol, and do not come forward for help prior to the City's discovery.
- B. Employee Assistance: The Employee Assistance Program (E.A.P.) is available to assist regular full-time and regular part-time employees in these efforts. Information pertaining to the City's E.A.P. provider is given to all new employees receiving this benefit at the time of orientation, the telephone number is posted with the notices of employee rights at each work site, and such information may also be obtained by contacting Human Resources staff.
- C. Voluntary Referral: A decision by an employee to voluntarily seek treatment or rehabilitation for the first time, will not be used as the basis for disciplinary action; however, the City may in such cases require such employees to comply with the provisions of the Last Chance Agreement and Follow-Up Testing. An employee who tests positive for drugs under the provisions of this Policy and then decides to enroll in a treatment or rehabilitation program does not qualify under this section. Likewise, an employee is not qualified under this section if the City discovers his/her alcohol and/or drug use prior to the employee's admission and request for treatment or rehabilitation.
- D. Leave: If necessary, the employee may be granted a leave of absence without pay in order to participate in treatment and rehabilitation. Such a leave of absence shall be unpaid and subject to the requirements of Section 13.3 of the City's Personnel Rules regarding unpaid leaves of absences. However, an employee is required to exhaust all accumulated paid leave time prior to being granted an unpaid leave of absence for the purpose of receiving treatment and rehabilitation. The City reserves the right to deny such leave if so doing would impose an undue hardship on the City.
- E. Last Chance Agreement: Employees who undergo treatment and/or rehabilitation may be required to sign a Last Chance Agreement as a condition of continued employment. In said agreement, the employee must promise to complete the treatment or the rehabilitation program and to comply with other terms stated therein. If the employee refuses to sign the Last Chance Agreement or violates such agreement, he/she may be subject to disciplinary action up to and including termination of employment.

- F. Return to Duty and Follow-up Testing: An employee entering a rehabilitation program will be required to submit to a return to duty drug/alcohol test prior to his/her return to work. An employee entering a rehabilitation program may be required to submit to random follow up testing for up to one (1) year after completion of the program. If the employee fails to comply or if further substance abuse is detected upon such testing, the employee may be subject to disciplinary action, up to and including termination of employment.
7. **Confidentiality:** Laboratory reports or test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Human Resources/Risk Management Division. The reports or test results may be disclosed to supervisors on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when:
- A. The information is compelled by law or by judicial or administrative process;
 - B. The information has been placed at issue in a formal dispute between the employer and employee;
 - C. The information is to be used in administering an employee benefit plan; or
 - D. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.
8. **Disciplinary Action:** Disciplinary action, up to and including termination of employment, may be taken against an employee for any violation of this Policy, including, but not limited to the following reasons:
- A. Failure to comply with any of the Employee Responsibilities set forth in this policy.
 - B. Positive results from a drug and/or alcohol test.
 - C. Refusal to be tested in accordance with this policy.
 - D. Violation of or refusal to enter into a "Last Chance Agreement."
9. **Relation to Disabilities:** Nothing in this Policy shall affect the City's obligation to not discriminate and to reasonably accommodate certain alcoholics and/or drug addicts who are participating in or have completed a rehabilitation program in accordance with the Americans with Disabilities Act, the Fair Employment and Housing Act, and the Rehabilitation Act of 1973. Employees should be aware that

none of these laws prohibits the City from taking disciplinary action against employees who are currently using illegal drugs.

10. Acknowledgement of Receipt of City of Moorpark Drug Free Workplace Policy:

All employees shall be required to sign the following acknowledgment, along with their printed name, signature, and date of signature, at either the time of hire or within two weeks of the initial adoption of this policy and any amendment:

I acknowledge that I have received a copy of the City of Moorpark Drug Free Workplace Policy. I further acknowledge that I have read and understand the Policy and that I will abide by its terms. I understand that compliance with the terms of this Policy is a condition of continued employment with the City.

I further recognize that the Policy supersedes any related Personnel Rules and Regulations, policy statements, manuals, and/or administrative policies previously issued by the City of Moorpark.

SECTION 47. POLICY 47 - DRUG AND ALCOHOL TESTING REGULATIONS FOR EMPLOYEES THAT ARE DRIVERS OF COMMERCIAL VEHICLES

- 1. Purpose:** The City of Moorpark ("City") has established procedures and guidelines for the performance of alcohol and drug testing to help protect the health and well being of City employees and the public and to comply with the Omnibus Transportation Employee Testing Act of 1991 (Pub. L. No. 102-143, 105 Stat. 952), and the regulations that implement it. Specifically, the City must comply with the regulations set forth by the Federal Motor Carrier Safety Administration, 49 C.F.R. Part 382 (FMCSA). This Policy incorporates those federal requirements and state requirements, and any amendments that may be made subsequent to the adoption of this policy. This Policy expressly restates portions of those requirements; however, the partial restatement should not in any way be interpreted to mean that those requirements not restated herein are inapplicable to drivers.

The obligations and requirements set forth under this Policy apply to those employees who are required to hold a commercial driver's license, and are in addition to the obligations set forth in the City of Moorpark Drug Free Workplace Policy ("DFWP") establishing a drug-free workplace. In the event that this Policy conflicts with the DFWP, this Policy and the federal Department of Transportation regulations shall supersede the DFWP.

It is the goal of the City to create a healthy and safe working environment for the safety of its employees, co-workers, and the traveling public, and to deliver the best and most efficient municipal service to the citizens of Moorpark. Employees who abuse alcohol and drugs are a danger to themselves and to other employees. Under City policy, drug and alcohol use, which affects the employee's job

performance, or jeopardizes City and public safety, is proper cause for disciplinary action up to and including termination of employment.

The City has a strong commitment to the health and well-being of its employees. Any regular full-time or regular part-time employee or eligible dependents, who may be experiencing the pressures and problems of substance abuse and/or related problems, are urged to seek help through the City's Employee Assistance Program ("EAP"). The EAP provides confidential counseling and may be called directly. Information pertaining to the City's E.A.P. provider is given to all new employees receiving this benefit at the time of orientation, the telephone number is posted with the notices of employee rights at each work site, and such information may also be obtained by contacting Human Resources staff.

Questions concerning this Policy should be directed to the Human Resources/Risk Management Division at (805) 517-6213 or (805) 517-5238.

2. **Applicability:** The Policy applies to all drivers/employees who operate a commercial motor vehicle as part of their job duties and position classification. Employees who are subject to this Policy will receive written notification from the City Manager. In order to comply with the Omnibus Transportation Employee Testing Act of 1991, and the regulations that implement it, the identification of covered job classifications can be modified at any time at the discretion of the City.
3. **Condition of Employment:** Compliance with this Policy is a condition of employment. Failure or refusal of an employee to cooperate fully, violate any section of this policy, sign any required document, submit to any inspection or test, or follow any prescribed course of substance abuse treatment is grounds for discipline up to and including termination.
4. **Definitions:** The following definitions apply to this policy:
 - A. **Accident:** An occurrence associated with the operation of a commercial motor vehicle, if, as a result, any of the following occur:
 - 1) An individual dies; or
 - 2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
 - 3) One (1) or more of the motor vehicles involved incurred disabling damage requiring that the motor vehicle be transported away from the scene by a tow truck or other motor vehicle.
 - B. **Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

- C. Applicant: Any person applying for employment with City who has been extended a conditional offer of employment.
- D. Breath Alcohol Technician ("BAT"): A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.
- E. Commerce:
- 1) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; and
 - 2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in Section 4.E.1., above.
- F. Commercial Motor Vehicle: A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:
- 1) Has a gross combination weight rating of 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
 - 2) Has a gross vehicle weight rating of 26,001 or more pounds; or
 - 3) Is designed to transport sixteen (16) or more passengers, including the driver; or
 - 4) Is used in the transportation of hazardous materials found in the Hazardous Materials Transportation Act (49 USC § 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F).
- G. Controlled Substance/Drug: Marijuana, cocaine, opiates, amphetamines, or phencyclidine.
- H. Department of Health and Human Services ("DHHS"): The United States Department of Health and Human Services.
- I. Designated Employer Representative ("DER"): An employee who is able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The City's DER is the Administrative Services Director and can be contacted at 805-517-6213. In his/her absence, the City Manager may serve as DER or designate an alternate DER.

- J. Disabling Damage: Damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. This includes damage to the motor vehicle where the vehicle could have been driven, but would have been further damaged if so driven. This excludes the following:
- 1) Damage that can be remedied temporarily at the scene of the accident without special tools or parts;
 - 2.) Tire disablement without other damage even if no spare tire is available;
 - 3) Headlamp or taillight damage; and
 - 4) Damage to turn signals, horn, or windshield wipers, which make them inoperable.
- K. DOT: The federal Department of Transportation.
- L. Driver: Any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drives; and independent owner-operator contractors.
- M. FMCSA: The Federal Motor Carrier Safety Administration.
- N. Illegal Drug(s): Any controlled substance; a legal drug which has not been legally obtained, or a legal drug which was legally obtained, but that is sold or distributed unlawfully.
- O. Legal Drug(s): Any drug, including any prescription drug or over the counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
- P. Medical Review Officer ("MRO"): A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by the City's drug testing program and evaluating medical explanations for certain drug test results.
- Q. Performing a Safety Sensitive Function: A driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- R. Safety Sensitive Function: All time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions include:

- 1) All time at a City plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;
- 2) All time inspecting equipment as required by sections 392.7 and 392.8 of Title 49, Subtitle B, Chapter III of the Code of Federal Regulations, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- 3) All time spent at the driving controls of a commercial motor vehicle in operation;
- 4) All time, other than driving time, spent on or in any commercial motor vehicle, except time spent resting in a sleeper berth;
- 5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- 6) All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

S. Substance Abuse Professional ("SAP"): A person who evaluates employees who have violated this Policy and/or other DOT drug and alcohol regulation(s) and who makes recommendations concerning education, treatment, follow-up testing, and aftercare.

T. Transferee: A person who transfers from a position in the City service that does not have safety sensitive functions to a position in the City service that does have safety sensitive functions.

U. Verified Test: A drug test result or validity testing result from a Department of Health and Human Services certified laboratory that has undergone review and final determination by an MRO.

5. General Prohibitions:

A. Controlled Substances: Under this Policy, no employee shall refuse to submit to a drug test. No employee shall report for duty, remain on duty or perform safety-sensitive functions if the employee tests positive for controlled substances under this Policy. No employee shall report for duty, remain on duty, or perform safety-sensitive functions if the employee used controlled substances, unless the driver receives authorization to work from (1) the City Manager or the Administrative Services Director; and (2) the City's MRO prior to taking any legal drugs which may cause drowsiness or which may

otherwise impair to any extent the employee's ability to safely and efficiently perform his/her job.

The City's MRO, after consultation with the City Manager or the Administrative Services Director, may authorize the employee to work while under the influence of a legal drug upon receipt of a fully completed and signed authorization form which states to the City's satisfaction that the employee will not be impaired in the performance of his/her duties. The City, in its discretion, may request the MRO to issue an independent decision, which will be binding on the employee, at any time and as to any driver who is working or intends to work while under the influence of a legal drug. In making such an independent determination, the MRO may require the employee to submit to a physical examination to ensure that the drug does not impair job performance.

B. Alcohol:

- 1) Concentration: No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions while having an alcohol concentration of 0.04 or greater.
- 2) On-Duty Use: Drivers are prohibited from using alcohol while performing safety-sensitive functions.
- 3) No driver who is found to have an alcohol concentration of 0.02 or greater, but less than 0.04, may perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following the administration of the test. In accordance with City policy the employee may be retested to ensure that his/her alcohol level is below 0.02 before being authorized to perform safety-sensitive functions.
- 4) Pre-Duty Use: Drivers are prohibited from using alcohol within four (4) hours prior to performing a safety-sensitive function.
- 5) Following an Accident: Drivers who are required to submit to a post-accident alcohol test under Section 6.C.1, are prohibited from using alcohol for eight (8) hours following the accident, or until he/she undergoes a post-alcohol accident test, whichever occurs first.
- 6) Refusal to Submit to Testing: Drivers are prohibited from refusing to submit to an alcohol test under this Policy.
- 7) On Call Employees: Under City Policy, any driver who is subject to being on call or who is on standby is prohibited from using alcohol while the employee remains on call or on standby. If a driver has

consumed alcohol during this time, and he/she is called to report to duty, he/she must immediately notify his/her supervisor that he/she has consumed alcohol. The employee must also notify the supervisor whether the employee believes that he/she can perform his/her safety-sensitive function. If the employee admits to having consumed alcohol, but asserts that he/she can perform safety-sensitive functions, the employee shall be required to submit to an alcohol test prior to performing any safety-sensitive functions.

6. Types of Drug and Alcohol Testing:

A. Pre-Employment/Promotional:

- 1) All applicants and transferees who will perform safety-sensitive functions are required to submit to a pre-employment drug and alcohol test before the performance of safety-sensitive functions. Only applicants and transferees who have been made a conditional offer of employment or transfer shall be subject to the pre-employment/promotional drug and alcohol tests. No applicant or transferee shall be permitted to perform safety-sensitive functions until the applicant or transferee's drug test has a verified negative result. No applicant or transferee shall perform safety-sensitive functions until the applicant or transferee's alcohol test indicates that he/she has an alcohol concentration of less than 0.02.
- 2) When a driver or applicant has not performed a safety-sensitive function for thirty (30) consecutive calendar days, regardless of the reason, and the employee has not been in the City's random selection pool during that time, the City shall ensure that the employee takes a pre-employment drug test with a verified negative result.
- 3) Under City policy if an applicant does not pass an alcohol and drug test, he/she must wait twelve (12) months before reapplying and then must present evidence of completion of a drug and/or alcohol rehabilitation program that is acceptable to the City before he/she is eligible to reapply.

B. Random: All drivers are subject to random drug and alcohol testing. The minimum annual percentage rate for random drug testing is fifty percent (50%) of all drivers and the random alcohol testing rate shall be ten percent (10%) of all drivers. The City may test more than these minimum percentages.

- 1) Selection of Employees: The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' social security numbers, or

other identifying numbers. Each driver shall have an equal chance of being tested each time selections are made.

- 2) Testing Pool: Drivers will be placed in a pool of all employees covered under this policy, who are required to be randomly tested by the DOT. The City Manager may at his/her discretion determine to partner with another public agency to increase the size of the pool of employees for random testing.
- 3) Timing: The City will ensure that random drug and alcohol tests are unannounced and unpredictable, and that the dates for administering the random tests are spread reasonably throughout the calendar year. An employee shall only be randomly tested for alcohol while performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. An employee can be randomly tested for drugs anytime while on duty.
- 4) Procedures: Employees who are notified that they have been selected for random testing under this Policy are required to proceed immediately to the test site.

C. Post-Accident:

- 1) Alcohol Test: As soon as practicable following an occurrence involving a City commercial motor vehicle operator on a public road in commerce, the City shall conduct a test for alcohol on each of its surviving drivers:
 - a) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b) Who was performing safety-sensitive functions with respect to the vehicle and who receives a citation within eight (8) hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:
 - i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

If an alcohol test is required, it should be administered within two (2) hours following the accident, but it must be administered within eight (8) hours following the accident. If it is not administered within eight (8) hours following the accident, the City shall cease attempts to administer the alcohol test. The supervising Department Head must submit documentation to the Human Resources/Risk Management Division explaining why the test was not promptly administered. Drivers subject to post-accident testing must refrain from using alcohol for eight (8) hours following the accident or until completing a post-accident alcohol test, whichever comes first.

2) Drug Test: As soon as practicable following an occurrence involving a City commercial motor vehicle operator on a public road in commerce, the City shall conduct a test for controlled substances on each of its surviving drivers:

a) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

b) Who was performing safety-sensitive functions with respect to the vehicle and who receives a citation within thirty-two (32) hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:

i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

ii) One or more of the motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

If a drug test is required, it must be administered within thirty-two (32) hours following the accident, or the City must cease its attempts to administer the drug test and the supervising Department Head must submit documentation to the Human Resources/Risk Management Division explaining why the test was not promptly administered.

3) Failure to Remain Available: An employee who is subject to post-accident drug and/or alcohol testing, and who fails to remain readily available for such testing, including notifying the employee's supervisor or Department Head of his/her location if he/she leaves the scene of the accident prior to submitting to such test, will be deemed to have refused to submit to testing.

- 4) Need for Medical Attention: Nothing in the post-accident testing requirements should be read to require the delay of necessary medical attention for the injured following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

D. Reasonable Suspicion: The City shall order an employee to submit to a drug and/or alcohol test when the City has reasonable suspicion to believe that the employee has used a controlled substance and/or has misused alcohol.

- 1) Finding of Reasonable Suspicion: The City's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances. A supervisor who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.

- 2) Reasonable Suspicion Alcohol Testing: An employee may only be subjected to alcohol testing if the observations are made during, just preceding, or just after the period of the workday that the driver is performing safety-sensitive functions. A reasonable suspicion alcohol test should be performed within two (2) hours of the reasonable suspicion finding. If not, the supervisor making the observation shall provide written documentation as to why the test was not promptly conducted. An alcohol test shall not be administered more than eight (8) hours after making the reasonable suspicion finding.

Notwithstanding the absence of a reasonable suspicion alcohol test, drivers shall not perform safety-sensitive functions if under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse until:

- a) An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
- b) Twenty-four (24) hours have elapsed following the reasonable suspicion finding.
- 3) Reasonable Suspicion Drug Testing: An employee may be subjected to drug testing under reasonable suspicion based on observations at any time the employee is on duty.
- 4) Written Record of Reasonable Suspicion: A written record shall be made of the observations leading to an alcohol or drug reasonable

suspicion test and signed by the supervisor who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the alcohol and/or drug tests are released, whichever is earlier.

5) Commuting to Test Site: It is City policy, that under no circumstances will an employee being directed to submit to a reasonable suspicion test be allowed to self commute. A supervisor or manager must drive the employee to the test site and return the employee to the worksite.

E. Return-to-Duty and Follow-Up Testing: Before the City allows an employee to return to duty to perform a safety-sensitive function following certain prohibited conduct, including refusing to submit to a test, having a verified positive drug test result, and/or a confirmed alcohol test result of 0.04 or greater, the employee must first have been evaluated by the SAP, successfully participated and complied with any prescribed treatment program, and passed a controlled substance and/or alcohol return-to-duty test.

The employee must have a verified negative test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties. If allowed to return to duty, an employee must be subject to unannounced follow-up testing, which is separate from the random testing obligations, for at least twelve (12) months.

All testing under this Section shall be in accordance with 49 CFR Part 40, Subpart O.

7. **Alcohol Testing Procedures:** Testing will be performed in strict compliance with DOT regulations for alcohol testing (49 CFR Part 40) by professionals on contract with the City. This Section contains selected portions of the DOT regulations. A complete copy of 49 CFR Part 40 is available at www.dot.gov, or a copy may be requested from the Human Resources/Risk Management Division.

Under no circumstance will testing be conducted by a supervisor of the employee. The City will take every possible step to ensure that testing can be completed and the employee can return to work prior to the end of the employee's shift, in order to accommodate the employee's off-duty schedule, including carpooling and other transportation concerns.

A. General Testing Procedures: Tests for alcohol concentration will be conducted at the City's expense utilizing an NHTSA-approved EBT device operated by a qualified BAT. Non-EBT devices may be used for the initial test ("screening test").

The screening test is conducted first. If the result is an alcohol concentration of anything less than 0.02, no further testing is required and the test will be

reported as a "negative" test. If the alcohol concentration is 0.02 or greater, a second test will be performed ("confirmation test"), no earlier than fifteen (15) minutes and no later than thirty (30) minutes after the screening test, to confirm the results of the screening test.

In the event that the screening test and confirmation test results are not identical, the confirmation test result shall be deemed to be the final result upon which any action pursuant to this Policy shall be based. The BAT will transmit all results to the DER in a confidential manner and shall notify the DER immediately if an employee must be removed from safety-sensitive functions. An employee with an alcohol concentration of 0.02 or greater, but less than 0.04, must be removed from duty for 24 hours. If the alcohol concentration is 0.04 or greater, the driver shall be removed from his/her driving duties and attendant safety-sensitive functions and be evaluated by a SAP.

- B. Inability to Provide Sufficient Amount of Breath: If an employee is unable after two (2) attempts to provide an amount of breath sufficient to permit a valid breath test, the City shall direct the employee to obtain, at the City's expense, an evaluation from a licensed physician, satisfactory to the City, concerning the employee's medical ability to provide an adequate amount of breath. If the physician determines that a medical condition has, or with a high degree of probability could have, precluded the employee from providing an adequate amount of breath, the employee's failure to do so shall not be deemed a refusal to test. If the physician is not able to make such a determination, then the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to test.

8. **Drug Testing Procedures:** Testing will be performed in strict compliance with DOT regulations for drug testing (49 CFR Part 40) by professionals on contract with the City. This Section contains selected portions of the DOT regulations. A complete copy of 49 CFR Part 40 is available at www.dot.gov, or a copy may be requested from the Human Resources/Risk Management Division.

Under no circumstance will testing be conducted by a supervisor of the employee. The City will take every possible step to ensure that testing can be completed and the employee can return to work prior to the end of the employee's shift, in order to accommodate the employee's off-duty schedule, including carpooling and other transportation concerns.

- A. All drug tests performed under this Policy shall test for the following controlled substances (or their metabolites): marijuana, cocaine, opiates, amphetamines, and phencyclidine. Pursuant to the DOT and FMCSA regulations the drugs or classes of drugs to be tested, as well as the initial and confirmatory cutoff levels for each drug or class of drug, are listed in Attachment A to this resolution.

- B. Drug testing is a two-stage process utilizing a urine specimen. First a screening test using an immunoassay technique is performed. If it is positive for one or more drugs, a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis.
- C. DOT regulations require that all urine specimens be collected at an appropriate collection site. The City uses off-site collection sites staffed by medical/technical personnel that meet the DOT requirements. A trained health care worker will collect a split urine sample at the designated collection site approved by the City. A strict chain of custody will be followed from the point of collection to the DHHS certified testing laboratory approved by the City. The primary sample is screen tested by the laboratory using an immunoassay technique. If the sample is positive for one or more drugs covered by this Policy, a confirmatory test is performed for each identified drug using gas chromatography/mass spectrometry.
- D. All test results will be reviewed at the City's expense by a MRO approved by the City for the purpose of verifying and validating the test results. If test results are positive, the MRO will contact the employee, as confidentially as possible, to determine if there is an alternate medical explanation for the drugs found. If the employee provides appropriate documentation, or if the MRO determines based upon all available information that there is a legitimate medical use, or other valid explanation, the test result is reported as negative.
- E. The employee may request that the MRO have the split specimen sent to another DHHS-certified laboratory for analysis at the employee's expense. If such costs are paid by the City, the costs may be reimbursed to the City through payroll deduction. This request must be made by the employee directly to the MRO no later than seventy-two (72) hours after the MRO has notified the employee of a positive test result, which has been confirmed by the MRO. The split specimen will be tested according to the same screening and confirmatory procedures for that drug(s) or drug metabolite(s) found in the primary specimen.
- F. The employee shall provide a minimum of forty-five (45) milliliters of urine for the collection. If the employee is unable to provide such a quantity of urine, the employee shall drink not more than forty (40) ounces of fluids and, after a period of up to three (3) hours, again attempt to provide a complete sample. If the employee is unable to provide an adequate specimen the testing shall be discontinued. The DER shall refer the employee, at the City's expense, for a medical evaluation from a licensed physician satisfactory to the MRO concerning whether the inability to provide a specimen is genuine. If the physician determines and the MRO accepts the physician's recommendation that a medical condition has, or with a high degree of probability could have,

precluded the employee from providing an adequate urine sample, the employee's failure to do so shall not be deemed a refusal to test. If the physician is not able to make such a determination, then the employee's failure to provide an adequate urine sample shall be regarded as a failure of the test.

G. Under City policy any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be subject to disciplinary action up to and including termination of employment.

H. The privacy of the employee shall be protected at all times. The City shall adhere to all standards of confidentiality regarding employee testing.

9. **Medical Review Officer:** The City's MRO shall be qualified under the DOT regulations, and will adhere to all pertinent DOT regulations in performing his/her duties as an MRO. The MRO shall have no relationship with the drug testing laboratory that creates a conflict of interest. The City's MRO is: The WorkPlace at Simi Valley Hospital, 2755 North Alamo Street or 2965 North Sycamore Drive, Simi Valley, CA 93065, (805) 955-8170. The City Manager shall have the authority to select a qualified alternate MRO.

10. **Breath Alcohol Technician:** The City's BAT shall be qualified under the DOT regulations, and will adhere to all pertinent DOT regulations in performing his/her duties as a BAT. The City's BAT is: The WorkPlace at Simi Valley Hospital, 2755 North Alamo Street or 2965 North Sycamore Drive, Simi Valley, CA 93065, (805) 955-8170. The City Manager shall have the authority to select a qualified alternate BAT.

11. **Testing Laboratory:** The City shall only use testing laboratories that are certified by DHHS under the National Laboratory Certification Program. The testing laboratory must adhere to all requirements set forth in the DOT regulations. The drug testing laboratory and the MRO may not have any relationship that creates a conflict of interest. The City's drug testing laboratory is: Pac Tox, 9348 De Soto Avenue, Chatsworth, CA. The City's alcohol testing laboratory is: Pac Tox, 9348 De Soto Avenue, Chatsworth, CA, (800) 328-6942. The City Manager shall have the authority to select a qualified alternate drug testing laboratory and alternate alcohol testing laboratory.

12. **Refusal to Submit to Testing:**

A. Acts that Constitute a Refusal to Submit to Testing: In accordance with DOT regulations, a driver who engages in any of the following conduct has refused to submit to a drug and/or alcohol test under this Section:

- 1) Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City, consistent with DOT regulations, after being directed to do so by the City.
- 2) Fails to remain at the testing site until the testing process is complete, except for an employee who leaves the testing site prior to the commencement of a pre-employment test;
- 3) Fails to provide a urine specimen for any drug test, except for an employee who leaves the testing site prior to the commencement of a pre-employment test;
- 4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
- 5) Fails to provide a sufficient amount of urine when directed, and it has been determined, though a required medical evaluation, that there was no adequate medical explanation for the failure;
- 6) Fails or declines to take a second test the City or collector has directed the driver to take;
- 7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER when the employee cannot produce a sufficient amount of urine;
- 8) Fails to cooperate with any part of the testing process; or
- 9) Is reported by the MRO as having a verified adulterated or substituted test result.

13. Consequences of a Positive Test or a Refusal to Test:

- A. Pre-Employment Test: Under City Policy, an applicant whose test results are positive for any illegal drug or alcohol will not be hired. Under City Policy, any applicant who refuses to submit to testing shall be disqualified for employment.
- B. Transfer, Reasonable Suspicion, Post-Accident, Return-to-Duty, or Random Tests:
 - 1) Drugs:
 - a) A driver who refuses to submit to a drug test or has a verified positive controlled substances test result under this Policy shall not be permitted to perform safety-sensitive functions.

- b) A driver who refuses to submit to a drug test or receives a verified positive drug test result under this Policy shall be placed off work and shall be referred to a SAP for evaluation. The SAP shall make a determination as to whether the employee requires rehabilitation, and if so, shall recommend a course of rehabilitation to be completed under the City's EAP.
- c) A driver may not be returned to his/her former safety-sensitive position until the employee complies with the Return-to-Duty and Follow-Up Testing set forth in 49 USC 40, Subpart O and summarized in Section 6.E of this Policy.
- d) In accordance with City policy, a driver whose test results are positive for any illegal drug will be subject to disciplinary action up to and including termination of employment. The City shall treat any refusal to submit to testing by an employee to be both insubordination and as though the employee had tested positive, and the City will proceed accordingly.
- e) In accordance with City policy, a driver whose test results are positive for a legal drug which has not been approved by the City's MRO for use by that employee at work (or such authorization has been revoked) may be placed off work pending the employee obtaining such approval.

2) Alcohol:

- a) A driver who refuses to submit to an alcohol test or has an alcohol concentration of 0.04 or greater shall not be permitted to perform safety-sensitive functions.
- b) A driver whose final test result shows an alcohol percentage of 0.02 or greater but less than 0.04 shall not be permitted to perform safety-sensitive functions and shall not return for duty until at least twenty-four (24) hours following the administration of the test.
- c) A driver who refuses to submit to an alcohol test or has an alcohol concentration of 0.04 under this Policy shall be placed off work and shall be referred to a SAP for evaluation. The SAP shall make a determination as to whether the employee requires rehabilitation, and if so, shall recommend a course of rehabilitation for the misuse of alcohol to be completed under the City's EAP.
- d) A driver may not be returned to his/her former safety-sensitive position until the employee complies with the Return-to-Duty

and Follow-Up Testing set forth in 49 USC 40, Subpart O and summarized in Section 6.E of this Policy.

- e) In accordance with the City policy, a driver whose test results are positive for alcohol will be subject to disciplinary action up to and including termination of employment. The City shall treat any refusal to submit to testing by an employee to be both insubordination and as though the employee had tested positive, and the City will act accordingly.

14. Employee Admission of Drug and/or Alcohol Use:

A. An employee who admits to alcohol misuse or drug use is not subject to the referral, evaluation, and treatment requirements of the DOT regulations, and the referral, evaluation, and treatment provisions discussed above when the following conditions are met:

- 1) The admission is pursuant to the provisions set forth in the City's DFWP;
- 2) The driver does not self-identify in order to avoid drug or alcohol testing under this policy;
- 3) The driver makes the admission of alcohol misuse or drug use prior to performing a safety-sensitive function; and
- 4) The driver does not perform a safety-sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the provisions of the City's DFWP.

In the event that all of the above criteria are not met, the employee remains subject to all DOT regulations regarding referral, evaluation, and treatment.

B. When the employee is qualified to seek treatment or rehabilitation under the City's DFWP and the employee meets the above-stated criteria, the following conditions shall also apply:

- 1) The City will not take adverse job action against an employee who comes forward for the first time and makes a voluntary admission of alcohol misuse or controlled substances use within the guidelines set forth in Section 14A;
- 2) The employee shall have sufficient opportunity to seek evaluation, education, or treatment to establish control over the employee's drug or alcohol problem;

- 3) The employee may return to safety-sensitive functions only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert (i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor);
- 4) Prior to the employee participating in a safety-sensitive function, the employee shall undergo a return to duty alcohol test which must indicate an alcohol concentration of less than 0.02 and/or a return to duty drug test which must be verified negative for controlled substances; and
- 5) The employee must adhere to the follow-up testing and monitoring established under Section 6.E.

15. Education:

A. Training: To assist employees and their families to understand and to avoid the perils of drug and alcohol abuse, the City has developed a comprehensive Drug and Alcohol Awareness Program. The City will use that program in an ongoing educational and training effort to prevent and eliminate drug and alcohol abuse that may affect the workplace. The Drug and Alcohol Awareness Program will include the display and distribution of informational material and will inform employees and their families about: (1) the dangers of alcohol and drug abuse in the workplace; (2) the consequences of drug and/or alcohol use on personal health, safety, and the work environment; (3) the manifestation and behavioral cues that may indicate drug and/or alcohol use and abuse; (4) this Policy; (5) the availability of treatment and counseling service hotline telephone number for employee assistance, and (6) the sanctions the City will impose for violations of this Policy.

1) Drivers: Drivers will receive at least sixty (60) minutes of training on the effects and consequences of prohibited drug use and alcohol use on personal health, safety, and the work environment. The training shall also include the signs and symptoms that may indicate prohibited drug use and alcohol use.

2) Supervisors: Supervisors who are authorized to make determinations of reasonable suspicion shall receive at least sixty (60) minutes of training on the physical, behavioral, speech, and performance indicators of probable drug use. Supervisors shall also receive at least sixty (60) minutes of training on physical, behavioral, speech, and performance indicators of probable alcohol misuse.

16. Employee Assistance Program: The City maintains an Employee Assistance Program ("EAP") which offers confidential, professional counseling to eligible

employees and their family members. It provides a constructive way by which employees can deal with alcohol and/or drug-related problems before such problems impact job performance, family relations, and other areas of one's life. Employees experiencing personal or work performance problems associated with alcohol or drug use are urged to utilize the EAP.

It is the responsibility of employees to seek assistance from the EAP before alcohol and/or drug problems lead to disciplinary action, which under City Personnel Rules and Policies can include termination of employment for a first offense. Enrollment and participation in the EAP will not be used as the basis for disciplinary action and will not be used against the employee in any disciplinary proceeding. However, enrollment and participation in the EAP will not exempt an employee from discipline if that employee is found to have violated this Policy.

Provisions for leaves of absence for employees with alcohol and/or drug related problems who have not been found in violation of the Policy and who voluntarily have sought assistance through the EAP will be granted in accordance with the City Personnel Rules and Policies.

Any employee who tests positive for the presence of illegal drugs or alcohol at or above the cutoff levels established by the DOT shall be referred to a Substance Abuse Professional ("SAP") to determine what assistance, if any, the employee needs in resolving problems associated with drugs or alcohol misuse.

The cost of any treatment or rehabilitation services may be covered by the medical insurance policy provided by the City, which may require a co-payment by the employee paid directly by the employee or his/her insurance provider. The City will not pay for treatment or rehabilitation.

17. **Confidentiality:** The City shall make every effort to assure confidentiality throughout the testing process and to protect the individual dignity and right to privacy of all employees. Personal data regarding the drug and alcohol testing results and EAP evaluations will be forwarded only to the MRO or the SAP and are confidential. Except as required by law, or expressly authorized or required by the DOT and FMCSA regulations, the City shall not release any information from the records it is required to maintain under the regulations. The employee, upon written request, is entitled to obtain copies of any records pertaining to the employee's drug and alcohol testing.

18. **Acknowledgment:** All City employees that are required to maintain a Class A or B Commercial Driver License shall be required to sign the following acknowledgment, along with their printed name, signature, and date of signature, at either the time of hire or within two weeks of the initial adoption of this policy and any amendment:

I acknowledge that I have received a copy of the City of Moorpark Policy for Drivers of Commercial Vehicles Subject to Department of Transportation Drug and Alcohol Testing Regulations ("Policy"). I understand that conformance with this Policy is a

condition of my employment, and that violation of this Policy can, in certain circumstances, be grounds for discipline, up to and including termination of employment. I further understand that additional information regarding the testing procedures that will be used under the DOT regulations are available from the Human Resources/Risk Management Division should I wish to review them. I understand that it is my obligation to read this Policy, and will abide by its terms.

SECTION 3448. This Council Policies resolution shall be updated from time to time as needed but not less often than following each General Municipal Election. The revised resolution will be presented to the City Council for review and adoption.

SECTION 3549. City Council Resolutions Nos. 2004-216093-951 and 2006-246683 are hereby rescinded.

SECTION 3650. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 19th day of September, 2007.

Patrick Hunter, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk

Attachment A: Policy 47 Drug Testing Cutoff Concentrations for Initial and Confirmation Tests

ATTACHMENT A

POLICY 47 - CUTOFF CONCENTRATIONS FOR INITIAL AND CONFIRMATION TESTS

| <u>Type of Drug or Metabolite</u> | <u>Initial Test</u> | <u>Confirmation Test</u> |
|---|----------------------------|--|
| (1) <u>Marijuana metabolites</u> | <u>50</u> | |
| <u>(a) Delta-9-tetrahydrocannabinol-9-carboxylic acid (THC)</u> | | <u>15</u> |
| (2) <u>Cocaine metabolites (Benzoylecgonine)</u> | <u>300</u> | <u>150</u> |
| (3) <u>Phencyclidine (PCP)</u> | <u>25</u> | <u>25</u> |
| (4) <u>Amphetamines</u> | <u>1000</u> | |
| <u>(a) Amphetamine</u> | | <u>500</u> |
| <u>(b) Methamphetamine</u> | | <u>500 (Specimen must also contain amphetamine at a concentration of greater than or equal to 200 ng/mL.)</u> |
| (5) <u>Opiate metabolites</u> | <u>2000</u> | |
| <u>(a) Codeine</u> | | <u>2000</u> |
| <u>(b) Morphine</u> | | <u>2000</u> |
| <u>(c) 6acetylmorphine</u> | | <u>10</u> <u>(Test for 6-AM in the specimen. Conduct this test only when specimen contains morphine at a concentration of greater than or equal to 2000 ng/mL.)</u> |