


Part 9. Personnel Rules & Regulations

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.1 GENERAL PERSONNEL PROVISIONS		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/14/2015 12/10/2018	Revised by:	City Council Resolution 2015-35 City Council Resolution 2018-35
Authority:	City Council		

9.1.1 ADOPTION AND AMENDMENT

The following personnel policies, rules and procedures have been adopted by the City Council by resolution pursuant to the authority granted by the Belvedere Municipal Code. These policies, rules and procedures may be amended only by the City Council. The City retains the full discretion to modify these Policies at any time in accordance with law.

9.1.2 APPLICABILITY

These Personnel Policies (“Policies”) do not create any contract right, nor any express or implied contract of employment.

These Policies apply to all categories of employees of the City unless a specific section or provision excludes them. Independent contractors, volunteers, and council members are not employees.

9.1.3 PURPOSE

The purpose of these policies, rules and procedures is to facilitate effective and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. This manual sets forth in detail the policies, rules and procedures that will ensure equal treatment for both applicants and employees, and define the obligations, rights, privileges, benefits and prohibitions placed upon all employees. The policies, rules and procedures are intended to indicate the customary and the most reasonable methods whereby the aims of the personnel program of the City can be carried out in all City operating departments under the direction of the City Manager.

9.1.4 DEFINITIONS

- (A) Administrative Personnel (see also Exempt Service). The following positions are classified as administrative: City Manager, Police Chief, Director of Planning and Building, Finance Officer/Administrative Services Manager, Public Works Manager,

Building Official/Code Enforcement Officer, and City Clerk/Management Analyst. Administrative personnel serve at the pleasure of the City Council, have no property right in continued employment, and have no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

- (B) Appeal. An application for review of an alleged grievance submitted or instituted by an employee to higher authority.
- (C) Applicant. An individual who has completed and submitted an application for employment with the City.
- (D) Appointment. The offer to and acceptance by a person of a position either on a regular or temporary basis.
- (E) Appointing Authority. The City Manager shall be the appointing authority.
- (F) Class. A group of positions which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, class specifications and pay range.
- (G) Classification. The act of grouping positions in classes with regard to: (1) duties and responsibilities; (2) requirement as to education, knowledge, experience and ability; (3) tests of fitness; and (4) ranges of pay.
- (H) Classification Plan. The official or approved system of grouping positions into appropriate classes consisting of: (1) an index to the class specifications; (2) the class specifications; (3) rules for administering the classification plan.
- (I) Classified Service. All offices and positions in the service of the City which fall within the classification plan.
- (J) Compensation Plan. The official schedule of pay as approved by the City Council, assigning a rate of pay to each class title.
- (K) Compensation. The standard rates of pay which have been established for the respective classes of work, as set forth in the compensation plan.
- (L) Demotion. Assignment of an employee from one class to another which has a lower maximum rate of pay.
- (M) Department. The primary organizational unit which is under the immediate charge of a department head who reports directly to the City Manager.
- (N) Discharge. Separation from City employment for cause.
- (O) Employee. An individual who is legally employed by the City and is compensated through the City payroll for his/her services. Individual or groups compensated on a fee basis are not included.
- (P) Examination. The process of testing, evaluating or investigating the fitness and qualifications of applicants and employees.
- (Q) Exempt Service. Those positions as defined by the Fair Labor Standards Act (FLSA). See also Administrative Personnel.
- (R) Full-time employee. A full time employee is one whose position is budgeted to work at least 40 hours per week. Full-time employees receive all benefits provided in these Policies, unless otherwise provided in an MOU, or an employment agreement approved by the City Council.
- (S) Immediate Family. Includes spouse, parent, child, brother, sister or a close relative residing in the household of employee.
- (T) Independent Contractor. An independent contractor is not an employee, and serves solely pursuant to a contract that has been formed and approved as required by the City purchasing policies and procedures. An independent contractor cannot be used to

- perform any part of the City's regular and customary work.
- (U) Job Description. A written description of a class consisting of a class title, a general statement of the level of work, and of the distinguishing features of the work, examples of duties and the desirable knowledge, skills, abilities and qualifications for the class.
 - (V) Layoff. The involuntary non-disciplinary separation of an employee from a position.
 - (W) Overtime. Authorized time worked by a non-exempt employee in excess of his/her normal working hours per week.
 - (X) Part-time employee. A part-time employee is one whose position is budgeted to work less than 40 hours per week. Part-time employees may have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.
 - (Y) Pay Range. Specific dollar amounts expressed as either annual rates, monthly rates or hourly rates, as shown in the pay plan of the City.
 - (Z) Personnel Action Form. A form used to record and changes in salary or employment status.
 - (AA) Position. Any office or employment, whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities as assigned to one individual by a competent authority.
 - (BB) Probationary Employee. A probationary employee is one who is serving a probationary period at either: the outset of initial employment with the City; or the outset of a promotion to a higher classification. During the initial probationary period, a probationary employee serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. A probationary employee serving in the initial probationary period is an at-will employee.
 - (CC) Probationary Period. The working test or trial period of employment beginning with the date of an employee's original or promotional appointments in the classified service and ending within the prescribed time period for the class.
 - (DD) Promotion. Assignment of an employee from one class to another which has a higher maximum rate of pay.
 - (EE) Public Safety Employees. Those employees defined as public safety employees by the Public Employees Retirement System.
 - (FF) Regular Employee. An individual receiving a regular full or part-time appointment in either the classified or exempt service. A regular employee is one who has satisfactorily completed the initial probationary period and cannot be disciplined except when the City has cause to do so. A for-cause employee has a property right in continued employment, and has the right to pre- and post-disciplinary procedural due process and an evidentiary appeal for certain types of disciplinary actions that result in a significant deprivation of property. Part-time regular employees must work at least fifty percent the schedule of a full-time employee.
 - (GG) Rejection. Separation of an employee on probation.
 - (HH) Suspension. An enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.
 - (II) Temporary/Seasonal Employee. A temporary/seasonal employee is an at-will employee who is appointed other than from an eligible list for a short-term or seasonal basis, not to exceed six months. A temporary/seasonal employee serves at-will and at the pleasure of

the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

- (JJ) Transfer. Assignment of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of the same class or between positions of different classes.
- (KK) Volunteer. A volunteer is not an employee, but instead is an individual who provides services to the City for civic or philanthropic reasons and receives no compensation or benefits other than nominal fees and reimbursement of expenses. A volunteer serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.
- (LL) Work Day. Scheduled number of hours that an employee is required to work per day.

9.1.5 PERSONNEL POLICY

The following statements are the personnel policies of the City, and the personnel rules and procedures shall be administered and interpreted with reference to these policies.

- (A) By law, it is the duty and obligation of the City Manager to supervise all City personnel and administer these policies and procedures. The City Council will not allow employees or individual members of the Council to interfere with this duty.
- (B) The sole reason for the existence of the City is to provide services to citizens; therefore, all actions and activities of employees will be viewed in terms of this fact.
- (C) Employment, promotion and all employment decisions made by the City shall be based on job-related merit and fitness. Furthermore, these procedures shall be administered in such a manner as to work toward equal employment opportunity for all, without discrimination on the basis of race, color, creed, national origin, ancestry, religion, disabilities, veteran status, medical condition, marital status, sex, age, sexual orientation, or organizational affiliation (except when sex, age, disability, or medical condition is a bona fide occupational qualification).
- (D) Tenure of employees covered by these rules and regulations shall be subject to a satisfactory work performance, necessity for the performance of work and the availability of funds.

9.1.6 ADMINISTRATION AND INTERPRETATION OF RULES AND PROCEDURES

The City Manager shall administer and interpret these rules and procedures. He/She is further authorized to delegate this responsibility as circumstances require.

The City Council delegates to the City Manager the authority to authorize employment, establish job responsibilities, and perform other personnel actions as to all subordinate employees in accordance with all federal and state laws and regulations and these Policies. The City Manager may delegate responsibility to perform personnel actions in accordance with this section.

As to those elected officials, or employees who directly report to the City Council the City Council, retains all authority over all personnel actions as authorized by law and these Policies.

9.1.7 COLLECTIVE BARGAINING AGREEMENTS

Wherever these rules and procedures conflict with the provisions of a valid collective bargaining agreement between the City and a recognized employee organization, the provisions of the agreement shall apply to employees covered by that collective bargaining unit.


9.1.8 EMPLOYMENT CONDITIONS

In accepting employment with the City of Belvedere, each employee agrees to be governed by and to comply with these personnel policies, rules and procedures, and such administrative rules and procedures established by the City Manager and regulations and directives of the department in which he/she is employed. All employees holding a position in the municipal service on the effective date of these policies, rules and procedures shall thereafter be subject to the provisions herein.

Each employee is required to sign a statement of receipt acknowledging that: a) he or she has received a copy, or has been provided access to the Policies; and b) understands that he or she is responsible to read and become familiar with the contents and any revisions to the Policies.

9.1.9 SEVERABILITY

Should any provision contained in this manual be rendered or declared invalid by reason of any state or federal legislation, court action, or emergency situation, such invalidation so declared shall not invalidate the remaining portion of this manual, which shall remain in full force and effect.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.2 PERSONNEL FILES		
Adoption Date:	12/10/2018	Adopted by:	City Council Resolution 2018-35
Revised Date:	-	Revised by:	-
Authority:	City Council		

9.2.1 **CONFIDENTIAL CITY FILES**

The City maintains a personnel file on each employee. Files are kept for at least three years after separation of employment. (Labor Code § 1198.5(c)(1).) A personnel file will contain only material that the City deems necessary and relevant or that is required by law. Personnel files are the property of the City, and access to the information they contain is restricted to protect employee privacy interests.

9.2.2 **NOTIFICATION OF CHANGES**

Each employee is responsible for promptly notifying the City Manager or his designee of any changes in his or her contact and benefits information, including: mailing address; telephone number; persons to contact in emergency; and number and names of dependents.

9.2.3 **MEDICAL INFORMATION**


All medical information about an employee or applicant is kept in separate medical files and is treated as confidential. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for the City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations. (2 Cal.Code Regs § 11069(g)(1).)

9.2.4 **EMPLOYEE ACCESS TO PERSONNEL FILE**


- (A) **Inspection of File:** A current employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect his or her personnel records one time per year. (Labor Code § 1198.5(d).) A current or former employee and/or his or her representative, who wishes to review his or her personnel file should make a written request to the Human Resources Department. (Labor Code § 1198.5(b)(2)(A).)
The inspection must occur in the presence of the City Manager or his designee or

designee and: at a location where the employee works and at a time other than the employee's work time (Labor Code § 1198.5(b)(1)); or 2) at another agreed upon location without loss of compensation to the employee. (Labor Code § 1198.5(c)(2).)

- (B) Copies: A current or former employee is entitled to receive a copy of his or her personnel records within 30 days after the employer receives a written request. (Labor Code § 1198.5(b)(1).) A current or former employee who wishes to receive such a copy should contact the Human Resources Department in writing. The City may charge a fee for the actual cost of copying. (Labor Code § 1198.5(b)(1); 1198.5 (b)(2)(A).)
- (C) Representative's Inspection: If the current or former employee wishes to have another person/representative inspect his or her personnel file, he or she must provide the person/representative with written authorization. (Labor Code § 1198.5(e).) The Human Resources Department will notify the employee and/or representative of the date, time and place of the inspection in writing.
- (D) No Removal of File Documents: No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.
Prior to making a copy of personnel records or allowing inspection, the City may redact the names of nonsupervisory employees. (Labor Code § 1198.5(g).) Under no circumstances will the City provide access or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination. (Labor Code § 1198.5(h).)

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.3 EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

It is the intent of the City to recognize all legally constituted employee organizations in compliance with state and federal laws governing such employer-employee organizations. The City will meet and confer with recognized employee organizations regarding matters that directly affect and involve wages, hours and other terms and conditions of employment of employees in appropriate units and that are not pre-empted by state or federal laws. However, nothing in this statement of purpose shall be construed to restrict any legal or inherently exclusive City rights with respect to matters of general legislative or managerial policy, which include among others: the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or funds or for other legitimate reasons; maintain the efficiency of governmental operations; determine the organization and assignment of work; take all necessary actions to carry out its mission in emergencies; and exercise control and discretion over its organization and the technology of performing its work.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.4 AMERICANS WITH DISABILITIES ACT		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

The Americans with Disabilities Act of 1990, as amended, prohibits discrimination on the basis of disability, and protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, and other aspects of employment. The law also requires that covered entities provide qualified applicants and employees with disabilities with necessary reasonable accommodations that do not impose undue hardship. The law covers applicants to and employees of local government agencies.

9.4.1 **A.D.A. NON-DISCRIMINATION POLICY**

The City of Belvedere does not discriminate against employees and prospective employees with legally protected disabilities. Legally protected disabilities include: Physical or mental impairment that substantially limits one or more major life activities; a record of such impairment; or being regarded as having such impairment.

The City of Belvedere maintains non-discrimination in recruitment, employment, job assignment, compensation, benefits, performance assessment, promotion, training, leaves, layoffs, terminations, and in other actions and practices affecting applicants and employees. Also, the City does not discriminate against applicants or employees due to their relationship or association with an individual with a known disability.

9.4.2 **REASONABLE ACCOMMODATION POLICY**

Absent undue hardship or direct threats to the health and safety of employee(s), the City provides employment-related reasonable accommodations to:

- A. qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions (Gov. Code § 12940(m)); and
- B. employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider (Gov. Code § 12945(3)(A)); and
- C. employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work (Labor Code § 230(f)(4)); and
- D. employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement (Gov. Code § 12940(l)).

If individuals with protected disabilities are the best qualified candidates for the job, but are unable to safely perform one or more of the essential job functions without an accommodation, the City will consider requests for reasonable accommodations which would permit the candidate to perform the assigned duties.

Potential accommodations will be evaluated based on their effectiveness in facilitating safe and successful job performance in a timely manner. The City will not undertake accommodations that would cause undue hardship to the organization.

9.4.3 SUPPORTING DOCUMENTATION OR CERTIFICATION

If the disability or the need for reasonable accommodation is not obvious, the City may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the City will: 1) explain the insufficiency; 2) allow the employee or applicant to supplement the documentation; and 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided. (2 Cal.Code Regs § 11069(c)(2) & (d).)

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the City will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer. (2 Cal.Code Regs § 11050(b)(3).)

An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his or her safety while at work must provide both of the following:

- a. a written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- b. a certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking. (Labor Code § 230(f)(7).)

9.4.4 A.D.A. COMPLAINT RESOLUTION

The City Manager's Office shall be utilized for logging and responding to ADA complaints from an employee or prospective employee with a legally protected disability that believes he or she has been discriminated against due to that disability.

If an employee believes they have a legally protected disability and have been discriminated against due to that disability; or have been discriminated against due to their relationship or association with an individual with a known disability, the employee should follow the City's Grievance Procedure to lodge any ADA complaints.

All complaints will be treated confidentially and investigated carefully. Each employee, or prospective employee will be notified as to the outcome of the investigation and any action that will be taken as a result. An employee or prospective employee will in no way be affected negatively due to informing the City of their concern.

The City Manager shall be responsible for ensuring compliance with the Americans with Disabilities Act, and has been designated by the City Council as such.

9.4.5 REASSIGNMENT OF EMPLOYEES WHO DEVELOP DISABILITIES

If an employee is no longer able to resume his or her same job after a disability occurs, the employee will be considered for other job openings for which the employee is qualified and which the employee is able to perform. In the event the employee's disability is covered under the ADA, the City will consider making reasonable accommodations for the employee to be able to perform the essential job functions. The objective is to return the employee to a position of comparable status - in type of work and compensation.

When this is not possible, the employee will be considered for other available positions. In the event the employee is offered a position with a lower or higher compensation range, the employee's compensation may be subject to change.



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**POLICY 9.5
FEDERALLY FUNDED PROGRAM**

Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

No person shall, on the grounds of race, color, national origin, age, sex, religion or disability, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or in part, by Federal funds.



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**POLICY 9.6
EQUAL EMPLOYMENT OPPORTUNITY**

Adoption Date:	12/10/2018	Adopted by:	City Council Resolution 2018-35
Revised Date:		Revised by:	
Authority:	City Council		

The City affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. The City prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, military and veteran status or any other basis protected by law. (Gov. Code § 12940(a).) Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing.



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**POLICY 9.7
DISCRIMINATION, HARASSMENT, AND
RETALIATION POLICY**

Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.7.1 **GENERAL**

The City has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. The City has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. The City encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible. Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

The City takes a proactive approach to potential Policy violations and will conduct an investigation if supervisory or management employees become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

9.7.2 **SCOPE OF POLICY**

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

9.7.3 **DEFINITIONS**

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

12940(a).) This Policy prohibits discrimination, harassment or retaliation because: 1) of an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.

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

This Policy prohibits treating covered individuals differently and adversely because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy. (Gov. Code § 12926(o).) Harassment includes, but is not limited to, the following types of behavior that are taken because of a covered individual's actual or perceived protected classification:

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

9.7.4 DETERMINING HARASSMENT GUIDELINES

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

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

Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.


- C. Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- D. Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

9.7.5 COMPLAINT PROCEDURE

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor, manager, or department head, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the City Manager or his or her designee. Upon receiving notification of a harassment complaint, the City Manager or his designee will complete and/or delegate the following steps. If the City Manager or his designee is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps:

- A. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
- B. Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- C. Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
- D. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- E. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.8 POLICY AGAINST VIOLENCE IN THE WORKPLACE		
	Adoption Date:	12/10/2018	Adopted by:
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Authority:	City Council		

9.8.1 **SAFE AND SECURE WORKPLACE**

The City is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. (Labor Code § 6400.) The workplace includes any location where City business is conducted, including vehicles and parking lots. Any violation of this Policy may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

9.8.2 **PROHIBITED BEHAVIOR**

Employees are prohibited from participating in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of City employment. The City has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

9.8.3 **WORKPLACE VIOLENCE**

“Workplace violence” is defined as any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

- A. Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
- B. The destruction of, or threat of destruction of City property or another employee’s property.
- C. Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
- D. Striking, punching, slapping, or assaulting another person.
- E. Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
- F. Harassing or threatening phone calls.
- G. Surveillance.
- H. Stalking.
- I. Possessing a weapon(s) during work hours unless the City issues the weapon(s) for

performance of the job. “Weapon” is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

9.8.4 **INCIDENT REPORTING PROCEDURES**

- A. Employees must immediately report to their supervisor or department director whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department director will immediately report the matter to the City Manager or his or her designee.
- B. The City Manager or his designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and will provide any other relevant information regarding the incident.
- C. The City Manager or his designee will take appropriate steps to provide security, such as:
 - Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
 - Asking any threatening or potentially violent person to leave the site; or
 - Immediately contacting an appropriate law enforcement official.


9.8.5 **INVESTIGATION**

The City Manager or his designee will see that reported violations of this Policy are investigated as necessary.

9.8.6 **PREVENTION**

Each department head has authority to enforce this Policy by:

- A. Training supervisors and subordinates about their responsibilities under this Policy;
- B. Assuring that reports of workplace violence are accurately and timely documented and addressed;
- C. Notifying the City Manager or his designee and/or law enforcement authorities of any incidents;
- D. Making all reasonable efforts to maintain a safe and secure workplace; and
- E. Maintaining records as to reports of workplace violence and follow up actions.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.9 WHISTLEBLOWER PROTECTION		
Adoption Date:	12/10/2018	Adopted by:	City Council Resolution 2018-35
Revised Date:	-	Revised by:	-
Authority:	City Council		

9.9.1 GENERAL

This Policy governs and protects City officials, officers, employees, seasonal/temporary/extra help employees, or applicants for employment that engage in whistleblowing in good faith. The City prohibits all of the following:

- A. Taking any retaliatory adverse employment action against an employee because the employee has, or is believed to have, disclosed information to any government or law enforcement official, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(b));
- B. Preventing an employee from disclosing information to a government official, including to the City, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(a));
- C. Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(c)); and
- D. Retaliating against an employee because the employee’s family member has, or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

9.9.2 DEFINITIONS

- A. “Protected activity” includes any of the following:
 - Filing a complaint with a federal or state enforcement or administrative official that discloses any information that the employee has reasonable cause to believe violates state or federal law or is in noncompliance with a local, state, or federal rule or regulation.
 - Participating in or cooperating in good faith with a local, federal or state enforcement official that is conducting an investigation into alleged unlawful activity.
 - Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.
 - Associating with another covered individual who is engaged in any of the protected activities enumerated here.
 - Making or filing in good faith and with reasonable cause an internal complaint with

the City regarding alleged unlawful activity.


- Providing informal notice to the City regarding alleged unlawful activity.
- Calling a governmental City's "Whistleblower hotline" in good faith.
- Filing a written complaint under penalty of perjury that the City has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety. (Labor Code §§ 53296(c) & 53297(d).)
- Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. (Labor Code § 1102.5(c).)

B. "Adverse action" may include, but is not limited to, any of the following:

- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.
- Refusing to hire an individual because of actual or potential protected activity.
- Denying promotion to an individual because of actual or potential protected activity.
- Taking any form of disciplinary action because of actual or potential protected activity.
- Extending a probationary period because of actual or potential protected activity.
- Altering work schedules or work assignments because of actual or potential protected activity.
- Condoning hostility and criticism of co-workers and third parties because of actual or protected activity.
- Spreading rumors about a person because of that person's actual or perceived protected activity.
- Shunning or unreasonably avoiding a person because of that person's actual or perceived protected activity.

9.9.3 COMPLAINT PROCEDURES

An applicant, employee, or seasonal/temporary/extra help employee who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct in accordance with the complaint procedure in the City's Discrimination, Harassment or Retaliation Policy so that the complaint can be resolved fairly and quickly. Supervisors and Managers have the same responsibilities as defined in the Discrimination, Harassment or Retaliation Policy.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.10 POSITION CLASSIFICATION PLAN		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.10.1 **PURPOSE OF CLASSIFICATION PLAN**

The purpose of the classification plan is to allocate, describe and organize positions and jobs into classes on the basis of assigned duties, responsibilities, job-related requirements and tests of fitness. Every position in the municipal service shall be allocated to an appropriate classification based on the assigned duties and responsibilities of such position.

9.10.2 **COMPOSITION OF CLASSIFICATION PLAN**


The classification plan shall consist of a grouping, by classification, of all City positions where the same title is appropriate, the duties and responsibilities are similar, but not identical, the same requirements and tests of fitness apply and the same salary rate is appropriate. A class may consist of one or more positions. Each classification shall have a job description which includes a concise, descriptive title, an illustrative summary of the duties and responsibilities of positions in the classification; and a listing of the qualifications, knowledge, skills, and other requirements for successful performance in that classification.

9.10.3 **USE OF CLASSES**

Class titles are to be used in all personnel, accounting, budget, appropriation and financial records. No person will be appointed to or employed in a position under a title not included in the classification plan. Class descriptions are considered to be illustrative only and shall be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Class descriptions are, furthermore, deemed to be descriptive of the kind of work performed and are not necessarily inclusive of all duties performed.

9.10.4 **ADOPTION AND AMENDMENT OF CLASSIFICATION PLAN**

The class descriptions included in this policies and procedures manual constitute the City's classification plan. The classification plan may be amended at any time by resolution of the City Council upon the recommendation of the City Manager.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.11 RECRUITMENT		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.11.1 **GENERAL**

It is the policy of the City to select, promote and transfer the best qualified individual for each job opening without regard to race, religion, color, sex, age, national origin, marital status, disability, veteran's status, or any other condition not related to job performance. All qualified applicants are given an equal opportunity to demonstrate their job-related qualifications.

Candidates shall be recruited from appropriate geographic areas necessary to ensure a well-qualified candidate pool. The City Manager or his/her designee shall prepare recruiting notices to publicize vacancies and to recruit candidates for vacant positions. Various media and publicity strategies may be utilized to provide notice of vacancies. The City Manager retains discretion to conduct internal recruitment and to promote employees internally. The selection process may be changed, from time to time, as deemed necessary and/or appropriate by the City Manager.

9.11.2 **CITIZENSHIP**

Employment is open to qualified citizens of the United States or to qualified non-citizens who have the right to work in the State of California. Verification of this right shall be required upon appointment.

9.11.3 **APPLICATION**

All candidates for employment shall submit an application to the City on an official city application form or other form as deemed by the City as appropriate.

9.11.4 **CATEGORIES FOR APPOINTMENT**

The following categories of appointments may be made to City employment:

- A. Regular Employees. A regular employee works full or part-time on a regularly scheduled basis. A regular full-time employee works a scheduled 40-hour work week. To qualify as a regular part-time employee, an individual must work at least 50% of a full time (40 hour) schedule on a monthly basis. Regular employees are subject to all policies and

procedures and receive all benefits (either full or prorated) as provided in these policies and procedures.

- B. Temporary or Provisional Employees. Temporary or provisional employees are appointed by the City Manager for a period not to exceed six (6) months. These employees are subject to the same policies and procedures as regular employees, however, they are not eligible for City benefit programs. Temporary or provisional appointments may include students, emergency appointments, or appointments made for the term of a special project or a position vacancy during the recruitment/selection process.

9.11.5 **PROBATIONARY PERIOD**

All appointments to regular, non-exempt positions in City employment shall be tentative and subject to a probationary period. The probationary period for sworn peace officers is eighteen months; for all other employees, one year. The probationary period applies to all regular employees, including part-time employees, but does not apply to temporary or provisional employees. A probationary employee is an at-will employee, has no rights of tenure, and may be terminated with or without cause. There is no provision for extension of the probationary period.

9.11.6 **OBJECTIVE OF THE PROBATIONARY PERIOD**


The probationary period shall be considered as an extension of the selection procedure and a trial period of employment. It shall be utilized to observe the employee's work performance, and to reject any probationary employee whose performance does not meet the acceptable standards for the position.

9.11.7 **PROBATIONARY EMPLOYEE PERFORMANCE REPORTS**

Performance reports on each probationary employee shall be filed with the City Manager by the department head during and prior to the completion of, the employee's probationary period with the City.

9.11.8 **REJECTION OF PROBATIONER**

During the probationary period an employee may be suspended, demoted or rejected at any time by the City Manager without the right of appeal or grievance.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.12 MEDICAL EVALUATIONS AND BACKGROUND INVESTIGATIONS		
Adoption Date:	4/3/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.12.1 PURPOSE

The purpose of this policy is to ensure that the City hires and retains the best-qualified candidates, and that selected applicants are appropriately screened and tested for proposed positions with the City.

All offers of employment with the City shall be expressly conditioned upon approval by the City of the results of any required pre-employment medical examinations, pursuant to the policy established below, as well as a required background investigation. The selection process may be changed, from time to time, as deemed necessary and/or appropriate by the City Manager.

9.12.2 FITNESS FOR DUTY EXAMINATIONS

After a conditional offer of employment has been extended to an applicant, the City may require the applicant to submit to a fitness for duty examination that is job-related; necessary for efficient operations of the City; and required of all applicants for the job classification. (Gov. Code § 12940(e) &(f).) The City shall determine which positions require a medical examination as a business necessity. As a prerequisite to employment, a City-selected applicant for one of these positions shall satisfactorily pass a medical examination given by a City-designated physician to determine if he or she can perform the essential job duties of the position with or without reasonable accommodation. The results of a successfully completed medical examination will be used to evaluate the applicant’s ability to perform job-related functions, such as operating City vehicles or equipment safely. Therefore, the City will provide the examining physician with a copy of the position description prior to the examination. This examination shall be provided at City expense. All results will be kept confidential as required under California law. Under no circumstances will the City require an applicant to undergo a medical examination prior to a conditional offer of employment.

An applicant or employee who is required to pass a medical and/or psychological examination will be notified of his/her right to obtain a second opinion at his/her expense and that he/she may submit such second opinions for consideration. (2 Cal.Code Regs § 11071(b)(2).).

- A. In addition to a standard physical examination, City selected applicants in the following full time and/or hourly classifications shall be required to undergo a pre-employment lumbar X-ray and audiometric (hearing) evaluation:

- Maintenance Worker I
- Maintenance Worker II
- Senior Maintenance Worker
- Public Works Manager
- Police Officer
- Police Sergeant

B. City selected applicants in the following classifications shall be required to undergo a pre-employment Drug Screen:

- Building Inspector I
- Building Inspector II
- Maintenance Worker I
- Maintenance Worker II
- Senior Maintenance Worker
- Public Works Manager
- Police Officer
- Police Sergeant

9.12.3 MEDICAL EVALUATIONS APPLICABLE TO CURRENT EMPLOYEES

A. Employees may be required to undergo additional medical evaluation by a City-designated physician or their preferred doctor in circumstances where, in the opinion of the City Manager, based upon evidence presented to and/or observed by him/her, one or more of the following events have occurred:

- The employee's ability to perform one or more essential functions of his or her job has declined; or
- The employee's behavior could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties, or is still capable of performing those duties in a manner that does not harm himself or herself or others. (Gov. Code § 12940(e) & (f).)
- Job performance constituting a safety hazard to the individual employee and/or others.
- Return to work by an employee who has lost three (3) or more consecutive days at work because of a serious illness, work-related injury or illness, or an off-the-job injury.
- Return to work with City following resignation or leave-without-pay status for any duration.
- Transfer to a position that requires greater physical capability than previous position.
- Excessive use of sick leave.
- More than one on-the-job injury or accident in a calendar year, or repeated reoccurrences of a disability resulting from a previous on or off the job injury.
- Discovery of a physical problem or condition not disclosed or evaluated during the pre-employment physical when the condition may have an effect on the employee's ability to perform his/her job.

- B. Employees returning to work after a medical examination are expected to: 1) possess a written authorization allowing them to return to work from the examining physician; 2) notify the City of any medication(s) prescribed by the examining physician; and 3) comply with the examining physician's recommendations.

9.12.4 BASIC BACKGROUND INVESTIGATIONS

- A. Upon selection of an applicant for hire, the Department Head and/or City Manager shall be responsible for verifying the following:
- All relevant prior employment;
 - All required professional credentials.
 - All required academic credentials as shown by certified transcripts (when specified by the City Manager, a review of academic credentials may be included as part of a required criminal background check.)
 - For those positions which require the use of an automobile: a current driving license and acceptable driving record (see Additional Hiring Procedures for Authorized Drivers below).

9.12.5 CRIMINAL BACKGROUND INVESTIGATIONS

- A. As a prerequisite to employment for certain positions, a City-selected applicant may be required to complete a questionnaire regarding criminal history, and to successfully pass a criminal background check in accordance with City policy, which may include a live scan fingerprint examination and other job-related criminal background investigation procedures. The City shall pay the cost of the criminal background check.
- B. The City may obtain criminal background information on prospective full-time and hourly employees. If a criminal background check of an applicant reveals any conviction for any of the following crimes of moral turpitude, the City shall have the discretion to refuse to hire such applicant on those grounds (all section number references are to the California Penal Code):
- Section 68: Asking for or receiving bribes
 - Section 72: Presentation of fraudulent claims
 - Section 73, 74: Bribes for appointment to office
 - Section 187, 189: Murder
 - Section 209: Kidnapping for ransom, extortion or robbery
 - Section 211: Robbery: taking personal property in possession of someone, by force or fear
 - Section 245: Assault with deadly weapon
 - Section 261: Rape
 - Section 451: Arson of structure, forest land or property
 - Section 459: Burglary
 - Section 484: Theft
 - Section 487: Grand theft

- Section 503: Embezzlement: fraudulent appropriation of property by a person to whom it has been entrusted
 - Section 518: Extortion: obtaining property by a wrongful use of force or fear, or under color of official right
- C. Any information obtained from the Department of Justice shall be used, in part, to determine whether the selected applicant shall be offered a position with the City.
- D. State summary criminal history information is confidential and shall not be disclosed, except to those individuals designated to make employment decisions.
- E. Pursuant to California Penal Code Section 11077, the Attorney General is responsible for the security of Criminal Offender Record Information (CORI) and has the authority to establish regulations to assure the security of Criminal Offender Record Information against unauthorized access and disclosures by individuals and/or public and private agencies at all levels of operation in this State. The following are requirements as prescribed by the State of California, Department of Justice, Bureau of Criminal Identification and Information, Field Operations and Record Security for any City that maintains or receives criminal history information.
1. Record Security: Any inquiries regarding the release, security or privacy of Criminal Offender Record Information (CORI) are to be received and responded to by the City Manager.
 2. Record Storage: CORI shall be under lock and key and accessible only to the City Manager, who shall be charged with responsibility for and committed to protecting CORI from unauthorized access, use or disclosure.
 3. Record Dissemination: CORI shall be used only for the purpose for which the City Manager requested it.
 4. Record Destruction: After the employment determination has been made, CORI and all copies of the same shall be destroyed in such a way and to the extent necessary to ensure that the employee's name may no longer be identified thereon.
 5. Record Reproduction: CORI may not be reproduced for dissemination.
 6. Training: The City Manager, and any employee(s) appointed by the City Manager, with access to CORI are required:
 - a. To read and abide by this policy;
 - b. To be fingerprinted and have a background check completed;
 - c. To have on file a signed copy of the Employee Statement Regarding the Use of Criminal Record Information, which acknowledges an understanding of laws prohibiting misuse of CORI.
- F. Penalties: Misuse of CORI is a criminal offense. Violation of this policy regarding CORI may result in suspension, dismissal, and/or criminal or civil prosecution.

9.12.6 ADDITIONAL HIRING PROCEDURES FOR AUTHORIZED DRIVING POSITIONS

- A. For the purposes of this policy, there are established three classes of authorized drivers:

1. Frequent Drivers Of City Vehicles:
 - Building Inspector
 - Public Works Manager
 - Public Works Supervisor
 - Maintenance Workers

2. Frequent Drivers Of Personal Passenger Vehicles on City Business:
 - City Manager
 - Building Official/Code Enforcement Officer
 - Finance Officer/Administrative Services Manager
 - Director Planning and Building
 - Associate Planner

3. Occasional Drivers of Personal Passenger Vehicles on City Business:
 - City Clerk

- B. In addition to a valid California driver license, the City Manager may require applicants for City positions who will operate any vehicle (City or personal) on behalf of the City to provide a copy of their most recent motor vehicle record (MVR) to the City before the employee is hired. This report can be obtained from any office of the California Department of Motor Vehicles (DMV).
- C. Only those persons whose MVR meet the following criteria shall be considered for employment: no major convictions in the last five (5) years, and no more than two (2) minor convictions or technical violations in the last three (3) years, or one (1) at-fault accident and one (1) minor conviction in the last three (3) years. At the discretion of the City Manager, an applicant who has an at-fault accident in the last three years may be required to provide to the City a copy of the police accident report and the type and severity of the accident may be taken into consideration in determining the applicant's qualifications for the position. (For the definition of major, minor and technical convictions, refer to the Chapter "Motor Vehicle Safety Program" in the Belvedere Injury and Illness Prevention Program.)
- D. Oral Interview. The City shall conduct an oral interview during which the applicant should expect to address the following topics:
- Previous driving experience
 - Knowledge of basic safe working rules and regulations
 - Knowledge of operating motor vehicles
 - Convictions associated with the operation of motor vehicles
- E. Proof of Financial Responsibility for Personal Vehicles Used for City Business. Unless waived in writing by the City Manager, employees who drive personal vehicles on City business are required to maintain a minimum of \$100,000 of personal insurance coverage for bodily injury and property damage. Upon hire, and in January of each year thereafter, employees are required to provide proof of financial responsibility. Mileage reimbursement/allowances for use of personal vehicles will only be made for those employees whose insurance files are current.


See Appendix 128.A for a sample memo which contains information which it is important to remind employees of on a yearly basis.

- F. **Liability for Vehicle Claims.** Personal vehicles are not insured under the City's insurance policy, as the City's insurance follows the vehicle(s). In case of an accident, the employee's personal automobile insurance policy shall be the primary carrier and all claims must be submitted to the employee's personal agents, even if the accident/damages occurred while using the vehicle on City business. The City's liability policy will only apply on an excess basis when the limits of the employee's policy are exhausted.

- G. **Enrollment in DMV Pull Notice Program.** For those who will drive frequently in the course of employment, whether using City vehicles or their personal vehicle, enrollment is mandatory in the City's Government Employee Pull Notice Program (EPN). Employees who frequently drive as part of their jobs must maintain an acceptable MVR as a condition of employment. (Requirements for driver training and for maintaining an acceptable MVR are included in the City of Belvedere's Illness and Injury Prevention Program, Chapter 4, "Motor Vehicle Safety Program.")

- H. **The DMV has issued guidelines to assist EPN account holders in complying with security requirements for record information received from the DMV. The City's implementation of these guidelines takes the following form:**
 - 1. DMV information may only be used for the purpose for which it was approved by the DMV. It may not be combined with any other information.
 - 2. DMV information must be destroyed when it is no longer needed for the reason for which it was originally requested. The method of destruction must be in such a manner that it cannot be reproduced or identified in any physical or electronic form. DMV information, as part of an employee's personal record, is kept during the term of the individual's employment and is destroyed two years after the individual has terminated employment with the City.
 - 3. Security measures must be in place to prevent unauthorized access to any DMV data.
 - 4. DMV requestor codes are confidential and must be protected from unauthorized use or disclosure.
 - 5. An EPN contact person should be appointed and placed in charge of maintaining the security of department record information.
 - 6. Any changes in information contained in the City's application/contract with the DMV must be made to the DMV within 10 days of occurrence.

This regulation, by inclusion in this chapter of the Administrative Policy Manual, is thereby adopted as an official City policy.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.13 EMPLOYEE RELATIONSHIPS		
	Adoption Date: 1/10/2006	Adopted by:	City Council motion
Revised Date: 9/9/2013 12/10/2018	Revised by:	City Council Resolution 2013-32 City Council Resolution 2018-35	
Authority:	City Council		

9.13.1 EMPLOYMENT OF RELATIVES

It is the policy of the City Council of the City of Belvedere to restrict the hiring and/or employment of relatives of City employees based on the following criteria:

A “relative” is defined as a spouse, child, step-child, parent, step-parent, parent-in-law, legal guardian, brother, sister, step-brother, step-sister, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, grandchild, grandparent, or any other individual related by blood or marriage living within the same household as the City employee.

An “employee” is defined as any person who receives a City payroll check for services, full or hourly, rendered to the City of Belvedere.

An applicant may not be denied the right to file an employment application and to compete in the examination process. Following examination, if the applicant is successfully certified as eligible, he/she may not be employed in a department or office in which a relative, as defined above, is employed if they:

- Perform joint duties; or
- Share responsibility or authority; or
- Report to the same Supervisor; or
- Would be supervised by, or would supervise, a relative; or
- Are related to the cognizant City Council Member, City Manager, Board, or Committee Member with the department or area of responsibility of such City-appointed Board, or Committee Member.

When the eligible applicant is refused employment by virtue of this provision, the name of the eligible applicant shall remain on the eligibility list for openings in the same classification as otherwise provided in these Rules, where no relative is employed, is supervised or supervising the vacant position.

When two employees of the City become married so as to create a situation in which they perform joint duties, share responsibility or authority, report to the same Supervisor, or supervise each other, then every attempt will be made to offer a transfer to another department. In the event a transfer to another department is not accepted and/or unavailable, the employee shall make the decision as to which one shall resign. In the event that neither employee resigns, the least senior

employee shall be terminated.

9.13.2 NON-FRATERNIZATION

A. PURPOSE.

Consensual romantic or sexual relationships between City employees can lead to misunderstandings, complaints of favoritism, and adverse effects on employee morale, supervision, and security. These relationships can also create potential claims of sexual harassment during or after termination of the relationship. As a result, such relationships may create existing or potential conflicts that adversely affect an organization.

B. POLICY.

The City discourages romantic or sexual relationships between employees and requires employees who have such relationships to adhere to this policy. Relationships that present an actual conflict adversely affecting the workplace are strictly prohibited. This policy shall apply to all City employees, who have a romantic or sexual relationship with another City employee. Employees who marry or become domestic partners shall be governed by Section 132.05, "Employment of Relatives," of this Policy Manual.

C. DEFINITIONS.


1. **Conflict:** For purposes of this policy, a conflict exists if employee supervision, safety, security, or morale would be impacted by a romantic or sexual relationship between two employees, if the relationship results in complaints of favoritism or perceived favoritism, or if the relationship affects the efficient operation of the City.
2. **Supervisor or Manager:** For purposes of this policy, a supervisor or manager is an individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, evaluate, or discipline employees. A supervisor also has the responsibility to direct employees, to adjust their grievances as outlined in the City's grievance procedure, or effectively to recommend that action, if the exercise of that authority requires the use of independent judgment and not routine or clerical nature.

D. RESPONSIBILITIES.

1. **Employee Conduct:** Employees are prohibited from engaging in intimate, physical, or other conduct in furtherance of a romantic or sexual relationship with another City employee during work hours, on City premises, or at City events. If an employee ends a romantic or sexual relationship with another City employee, the employees are prohibited from engaging in behavior that adversely affects the working conditions of any City employee in accordance with the policy against harassment. Employees are expected to observe appropriate standards of workplace conduct in their interactions with other City employees.
2. **Supervisor's Duty to Report:** If a romantic or sexual relationship exists between a supervisor and another employee (including an employee not in the supervisor's direct chain-of-command or another supervisor), the supervisor is required to disclose the relationship to the City Manager and request a determination as to whether the relationship presents a conflict. The disclosure must identify the

names and positions of both employees. Non-supervisory employees are encouraged, but not required, to make the disclosure. A supervisor's failure to comply with this policy shall be grounds for discipline up to and including termination.

3. Determination by City Manager: Within 10 business days, the City Manager shall issue a written determination as to whether the relationship presents a conflict, and is thereby prohibited. The City Manager shall have exclusive discretion in making the determination.
4. Determination by City Attorney: If the City Manager is one of the parties in the relationship in question, the report shall be made to the City Attorney and the City Attorney shall make the subsequent determination.
5. Resolution of Conflicts: Subject to limitations imposed by applicable memoranda of understanding and personnel rules, the City Manager will work in good faith with the supervisor or employees involved to consider options to eliminate the conflict. Options may include removing the supervisory authority that created the conflict; reassignment; transfer; or voluntary demotion of a supervisory employee. If modification of a supervisor's assignment is not feasible, the City Manager can reassign, transfer or voluntarily demote the non-supervisory employee. The City Manager retains discretion to determine that the conflict may be resolved by a voluntary resignation or termination only. Any termination under this policy will be in accordance with relevant disciplinary procedures.
6. Complaints: Employees who believe they have been adversely affected by romantic or sexual relationships between City employees should follow the complaint procedures provided under the City's policy against harassment. The complaint procedures are available to all employees regardless of their past or present participation in a romantic or sexual relationship with another City employee.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.14 WORK HOURS & ATTENDANCE		
	Adoption Date: 1/10/2006	Adopted by:	City Council motion
Revised Date: 6/9/2014 12/10/2018 8/9/2021	Revised by:	City Council Resolution 2014-20 City Council Resolution 2018-35 City Council Resolution 2021-33	
Authority:	City Council		

9.14.1 STANDARD WORK WEEK—ALTERNATE WORK SCHEDULE

For employees using the 9-80 work schedule, the standard work week shall begin at noon on Friday and end at 11:59 a.m. on the following Friday. The workday begins at noon on any given day and continues until 11:59 a.m. on the following day. The 9-80 schedule is consistent and repeatable every two weeks. Employees working a 9/80 work schedule will have a regular day off every other week as determined by the City.

Employees using the 9-80 work schedule are required to work nine hours for eight work days, and eight hours on a ninth work day. Employees participating in a 9-80 work schedule will have alternate Fridays off.

The workweek thus defined herein continues to provide a normal schedule of 40 hours in a work week although the employee works 44 hours in one calendar week and 36 hours in the second calendar week of the two-week period. Overtime would not be paid unless an employee exceeds 40 hours of work in the work week.

The work period for the City’s sworn police employees is that regularly recurring 28-day period that began on January 1, 2019.

9.14.2 FLEXIBLE WORKPLACE PROGRAM

- A. The Flexible Workplace Program (FWP) is intended to:
 - 1. Reduce time spent commuting thereby improving employee productivity and enhancing work/life balance.
 - 2. Contribute to the alleviation of traffic on the Tiburon Peninsula and reduce carbon emissions.
 - 3. Attract and retain employees who cannot afford to live in Marin County.
 - 4. Allow for continuity of government services in the event of an emergency.

- B. The Flexible Workplace Program (“FWP”) is available to all active employees regardless of classification, with the proviso that not all positions lend themselves to offsite work. The City Manager has the sole discretion to determine which employees and positions are

suitable for a partial work-from-home schedule. Among the criteria used by the City Manager to evaluate a flexible workplace application are:

1. The operational needs of the City and the employee's department
 2. Customer service needs of the City
 3. The ability of the employee to perform his or her specific job duties from a location separate from his or her City worksite without diminishing the quantity or quality of the work performed
 4. The degree to which in-person interaction with other City employees and the public is important
 5. Other considerations deemed necessary and appropriate by the employee's immediate Supervisor, Department Head, and the Finance/Human Resources Department.
- C. The FWP provides for employees to enter into an agreement to schedule portions of their work week away from their regular worksite. Participating employees are expected to work a full workday at their offsite locations.
- D. The City Manager, or his/her designee, has discretion to approve or disapprove all Flexible Workplace Applications.
- E. Flexible Workplace Applications are made a part of the employee's personnel file.
- F. Participants are bound by all City of Belvedere policies just as if they were working onsite, including but not limited to:
1. Policies governing appropriate conduct in the workplace and towards one's fellow employees.
 2. Policies governing employee usage of City of Belvedere computers, internet connections, and mobile devices.
- Any employee who violates City of Belvedere policies while participating in the FWP shall be subject to revocation of his or her FWP approval and are subject to any disciplinary measures that would be taken if the employee were working onsite.
- G. A Flexible Workplace schedule (affecting one or more days of the week) includes days and hours worked in Belvedere and at the remote location. It must be approved by the City Manager in advance and can be modified or revoked by the City Manager at any time and for any reason. Under special circumstances or in the event of an emergency, employees who are able to work a majority or all of their scheduled hours remotely may be required to do so.
- H. The duties, obligations, responsibilities, and conditions of a Flexible Workplace participant's employment with the City remain unchanged. The participating employee's salary, retirement, benefits, and City-sponsored insurance coverage shall remain unchanged, except for auto allowances. Any participant who is eligible to receive an auto allowance shall receive a modified allowance as determined by the City Manager.

- I. Expenses incurred as a result of participating in the FWP will not be reimbursed by the City of Belvedere unless they are normally reimbursable pursuant to City of Belvedere policies. Such non-reimbursable expenses include, but are not limited to, utility costs, home improvements, any construction, and any alterations to real or personal property.
- J. Participants are obligated to comply with all City, State, and Federal rules, policies, regulations, procedures, and practices. In the event that Federal and/or State regulations are mandated and conflict with this Regulation, the Federal and/or State regulations shall prevail.
- K. Eligibility.
 - 1. Any employee may apply for the FWP, although positions requiring significant field work or direct in-person interaction with the public may not be compatible with the FWP. The City Manager may consider whether a portion of an employee's work duties is compatible with remote work and could be scheduled as part of an alternative work schedule.
 - 2. Employee participation in the FWP is at the discretion of the City Manager or his/her designee, and the City Manager's decision is final and may not be appealed.
 - 3. The City Manager may or may not disclose the specific criteria used to determine Approval or Denial of an Application.
 - 4. The City of Belvedere has no obligation to allow one employee to participate in the FWP merely because another employee who performs the same or similar job duties has been approved to participate in the FWP.
- L. FWP participants are covered under the City's Workers' Compensation Insurance Program. Since the employee's off-site workspace shall be considered an extension of the City's workspace, the City's Workers' Compensation liability for job-related accidents or injuries shall continue to exist during the employee's FWP-scheduled work hours as defined by Workers' Compensation law.
 - 1. The employee remains liable for injuries to third-party persons and/or members of the employee's family on the employee's premises.
 - 2. Any injury or illness that may be associated with work-related activities should be immediately reported by the employee to his or her supervisor so that the City's Workers' Compensation third-party administrator can determine compensability.
 - 3. Actions that a participant may take during break periods from working and actions not directly related to the approved off-site work location will not be covered under Workers' Compensation. These non-covered actions include, but are not limited to, all actions that the employee would not be able to perform in his or her City of Belvedere office, such as caring for children or pets, domestic tasks, yard work, retrieving the mail, cooking, exercising, and interacting with non-City employees for non-business purposes.
- M. The FWP shall be a cooperative effort between the employee and the department. It is a

privilege and not a right or an entitlement.

- N. The City Manager shall review the employee's FWP on a periodic basis.
- O. The City reserves the right to change, amend, or discontinue an employee's participation in the FWP at any time for any reason, including at the employee's reasonable request. Termination of participation in the FWP is administrative and the decision may not be appealed.

9.14.3 HOLIDAYS

For any week in which there is a scheduled holiday, City offices are closed. An employee working a 9-80 work schedule will work their normally scheduled work days (except for the holiday off), and will be paid for 80 hours. In cases where a holiday falls on an employee's regular Friday off, the employee will receive 8 hours of compensatory time off to be used at a later date which is approved in advance by the employee's supervisor.

9.14.4 ATTENDANCE

An employee is expected to be in attendance during regular work hours in accordance with these procedures and with general departmental regulations. Daily attendance records of employees shall be maintained which shall be reported to the City Manager.

9.14.5 MANDATORY TRAINING

- A. This section applies only to compulsory training. Training announcements given to supervisors and employees shall clearly state when a training is mandatory and which employee classifications are required to attend.
- B. To facilitate the selection of training days, employees shall endeavor to list their planned time off on the City calendar. As much as possible, employee trainings shall be scheduled to work around listed vacation, administrative leave, and sick leave dates and dates on which attendees have scheduled appointments on the applicable calendar(s): City Hall Shared Calendar, Police Department Leave Calendar, and/or Public Works Department Leave Calendar.
- C. Training for staff who work at City Hall shall be scheduled for Fridays when City Hall is closed to the public, with the following exceptions: holidays, the Friday before a City Council meeting; the two Fridays before a Planning Commission meeting; the Friday before a Monday which is a City holiday. Salaried employees on flex schedules who have that day scheduled to be off shall make every attempt to float their day off to an alternate day. Hourly employees whose regular day off was scheduled for that Friday will be required to attend and be paid overtime, when applicable. Such regular days off will not be taken into consideration when scheduling training days.

- D. Any employee who misses a training for any reason will be required to make up that course or course equivalent within a reasonable period of time, as stipulated by the supervisor.
- E. If a makeup course is not available during the employee's normal working hours, the employee must attend the training on his/her own time without pay. This rule shall apply except in cases where the course was missed due to a medical emergency in the immediate family, bereavement leave, leave prescribed by a treating physician for a work-related illness or injury, or unexpected illness or injury of the employee. When an employee is absent from training due to personal illness or injury, at the discretion of the department head, a physician's certificate of illness or injury shall be required prior to the resumption of normal duties.
- F. Trainings are deemed compulsory when they are required by California State Law or deemed so by the City Manager (at his sole discretion).

9.14.6 RECOMMENDED TRAINING

- A. This section applies to recommended training, which is often department- or position-based. Training announcements given to supervisors and employees shall clearly state when a training is recommended and which employee classifications are expected to attend.
- B. Training shall be scheduled in accordance with the restrictions listed in Subsections 9.14.4 B & C.
- C. Employees are encouraged not to request voluntary leave for times when they are scheduled to participate in recommended training.
- D. Supervisors shall encourage their employees to be present for recommended trainings. Because makeup classes may be unavailable locally, and because classes may have a minimum number of required participants, supervisors shall consult with the City's Training Coordinator and City Manager before pre-approving a voluntary absence from recommended training.
- E. Any employee who voluntarily misses a course that is offered locally shall make up that course or an approved course equivalent within a reasonable period of time, as stipulated by the supervisor.
- F. Successful completion and implementation of recommended training courses and/or training beyond the minimum required for a department or position shall be listed within the annual personnel evaluation for each employee and may be used to indicate service beyond what is required for satisfactory performance.
- G. The designation of recommended training is solely at the discretion of the City Manager.


9.14.7 **OPTIONAL TRAINING**

- A. This section applies only to training that is purely voluntary. Training announcements given to supervisors and employees shall clearly state when a course is voluntary and whether a minimum number of sign-ups will be needed to hold the class.

- B. All employees may request training through their supervisors. Supervisors shall consult with the Training Coordinator regarding possible training resources before scheduling voluntary training.

9.14.8 **DEPARTMENTAL TRAINING**

This chapter does not apply to in-department training courses that are not listed above and which are required by an authority other than the City Manager (e.g. a department head, the State or Federal government, or an accrediting City).

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.15 POLITICAL ACTIVITIES		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.15.1 POLICY

City employees are not prohibited from engaging in political activity as private citizens. However, Section 3201 et. seq. of the State of California, Government Code does limit the political activities of City employees. The purpose of these restrictions is to keep the City employee’s job free from political influences.

No one who holds, or who is seeking election or appointment to, any office or employment in a state or local government shall use, promise, threaten or attempt to use, any office, authority, or influence, to confer upon, or secure, or to aid, or obstruct any individual person in securing any position, nomination, confirmation, promotion, or change in compensation or position within the state or local City.

9.15.2 NO SOLICITATION DURING WORK HOURS

City employees or officers may not solicit or receive political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during the working hours of its officers and employees, or in City offices. (Gov. Code § 3209.)

9.15.3 NO TARGETED SOLICITATION


Officers or employees of the City, or candidates for elective office of the City, may not directly or indirectly solicit political contributions from other officers or employees of the City, unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers and employees of the City (Gov. Code § 3205(c).)

9.15.4 CITY UNIFORM

No City employee or official shall participate in political activities of any kind while in a City uniform or other City-issued clothing. (Gov. Code § 3206.)

9.15.5 NO POLITICAL ACTIVITY ON CITY PROPERTY OR WORK HOURS

City employees and officials are prohibited from engaging in political activity during working hours or on City property. (Gov. Code § 3207.)

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.16 USE OF CITY EQUIPMENT		
	Adoption Date:	12/10/2018	Adopted by:
Revised Date:	-	Revised by:	-
Authority:	City Council		

9.16.1 **POLICY**

City equipment and resources may only be used to conduct City business, except for incidental personal use that is consistent with this Policy. Every City employee is required to adhere to this Policy.

City equipment or resources is any City-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, City network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through City electronic resources or equipment.

9.16.2 **NO EXPECTATION OF PRIVACY**

The City periodically, and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through City networks or electronic resources. City employees must provide the City with the employee’s username or password for any City issued equipment or resource. The existence of passwords or delete functions does not restrict the City access. As a result, City employees have no expectation of privacy in their use of any City equipment or resources.

9.16.3 **APPROPRIATE USE ONLY**

Employees may only use City equipment or resources in compliance with City policies. Except as authorized by this Policy, employees are expected to avoid any use or communication which is unrelated to City business, destructive, wasteful, or illegal. The City has discretion to restrict or rescind employee access to City equipment or resources. The following are examples of misuse of City equipment or resources:

- a. Any use that violates applicable law and/or City policies, rules or procedures.
- b. Exposing others to material which is offensive, harassing, obscene or in poor taste.
 This includes information which could create an intimidating, offensive or hostile work environment.

- c. Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law.
- d. Communication of confidential City information to unauthorized individuals within or outside of City.
- e. Unauthorized attempts to access or use City data.
- f. Theft or unauthorized transmission or copying of paper or electronic files or data.
- g. Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication.
- h. Misrepresentation of one's identity for improper or illegal purposes.
- i. Personal commercial or business activities (e.g. "for sale" notices, personal ads, etc.).
- j. Transmitting/accessing obscene material and/or pornography.
- k. E-Commerce.
- l. Online gambling.
- m. Installing or downloading unauthorized software or equipment.
- n. Violating terms of software licensing agreements.
- o. Using City equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- p. Any unauthorized access to City equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to his or her email or other electronic resources; or making City equipment or resources available to others who would otherwise have no authorized access.
- q. Using City equipment or resources to speak on the City's behalf without authorization.

9.16.4 CITY EMAIL ADDRESS MUST BE USED FOR CITY BUSINESS


The City's email system is an official communication tool for City business. The City establishes and assigns official email addresses to each employee as the City deems necessary. Employees must send all City communications that are sent via email to and from his or her official City email address. Employees are prohibited from using their private email address (such as Gmail, yahoo, MSN/Hotmail, etc.) when communicating City business via email. Should an email related to City business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's City email account and responded to accordingly.

9.16.5 INCIDENTAL PERSONAL USE

Employees may use City telephones, cell phones, internet access, and e-mail for incidental personal communications provided that the use:

- a. Is kept to a minimum and limited to break times or non-working hours;
- b. Does not interfere or conflict with City operations or the work performance of any City employees;

- c. Allows the employee to more efficiently perform City work;
- d. Is not abusive, illegal, inappropriate, or prohibited by this Policy (for example, no social media use, no electronic dating, no gaming); and
- e. Clearly indicates it is for personal use and does not indicate or imply City sponsorship or endorsement.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.17 OUTSIDE EMPLOYMENT		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.17.1 APPROVAL

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with his or her City duties, functions, responsibilities, or that of the department in which he or she is employed at the City. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the appropriate Department Head prior to undertaking any outside employment as described in this Policy. (Gov. Code §1126(a).)

- A. **Written Request:** Any employee who wants to undertake paid outside employment, activity, or enterprise must submit a written request to his or her department head. The written request must include: the work hours and/or time required; job title or the nature of the activity; the work location; and the supervisor, manager and name of the employer or activity.

- B. **Analysis and Decision:** The Department Head will determine if the outside employment, activity, or enterprise is compatible with the employee’s employment at the City. If the Department Head determines such activity is compatible, or would be if any conditions or restrictions applied, he or she will authorize the activity and specify the conditions/restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee’s personnel file.

- C. **One Year Authorization:** An outside employment authorization is valid only up to one year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, he or she must make another request following the process in this Policy.

- D. **Appeal:** If the Department Head denies an employee’s outside employment request, the employee may submit a written notice of appeal to the City Manager within 10 days after the date of the denial. The decision on appeal will be put in writing, provided within 10 days after the receipt of the appeal, and will be final.

9.17.2 PROHIBITIONS ON OUTSIDE EMPLOYMENT

An employee’s outside employment, activity, or enterprise may be prohibited if it:


- A. involves the use for private gain or advantage of City time, facilities, equipment, and supplies; or the badge, uniform, prestige, or influence of the City; or employment at the City;
- B. involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act that the employee would be required or expected to render in the regular course of his/her City employment;
- C. involves the performance of an act in other than his/her capacity as a City employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he/she is employed; or
- D. involves time demands that would render the employee's performance of his or her regular City employment less efficient or dangerous to the employee.

Under no circumstances may an employee use any City equipment, vehicles, tools, supplies, machines, or any other item that is City property while an employee is engaged in any outside employment, activity or enterprise.

9.17.3 CHANGES IN EMPLOYMENT

The employee must promptly report in writing to the Department Head any of the following changes that may occur during the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties. Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this Policy.

- A. The employee's work performance declines; or
- B. An employee's conduct or outside employment conflicts with the conditions of the outside work authorization, or is incompatible with the employee's work for the City.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.18 PERIODIC PERFORMANCE EVALUATION		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.18.1 **GENERAL**

The City Manager, in cooperation with department heads, shall establish and implement a system of performance evaluation based on standards of performance. The standards shall reference the quality and quantity of work to be performed, the manner in which the service is to be rendered and the expectations of the employees in the performance of the work. At a minimum, performance evaluations shall be given yearly. To the extent feasible, annual evaluations shall be scheduled by the City Manager and department heads to be given during the months of August and September. Other periodic evaluations of employees are permitted at the discretion of the City Manager.


Performance evaluations shall be discussed with each employee and shall be confidential between the immediate supervisor, if any, who may be delegated to prepare the evaluation, the department head, the City Manager and the employee. Performance evaluation shall be signed by the employee indicating that it has been seen by and discussed with him/her, and that a copy has been provided to the employee. If an employee refuses to sign a performance evaluation, the supervisor shall so indicate on the evaluation. Within two weeks of receipt of the performance evaluation, the employee may submit a written response to any matter contained in the evaluation, and the evaluation and any response shall be placed in the employee's personnel files. If the employee fails to submit a written response within said two-week period, the right to respond shall be deemed waived. Performance evaluations may not be grieved unless the employee believes and can document that he/she has been treated in a discriminatory manner.

9.18.2 **REAPPOINTMENTS**

Reappointment after separation from employment for any reason will be considered as new employment.

9.18.3 **CONTINUED EMPLOYMENT**

Continued employment of employees with the City shall be subject to continued satisfactory work performance and availability of funds and work.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.19 EMPLOYEE COMPENSATION AND PAYROLL		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018 6/14/2021	Revised by:	City Council Resolution 2018-35 City Council Resolution 2021-15
Authority:	City Council		

9.19.1 **WORK SCHEDULES**

Work schedules are determined at the discretion of the department head and are subject to change with or without notice, according to the needs of the department or City. An overtime-eligible employee shall be in attendance and at work during the hours specified by the supervisor.

9.19.2 **MEAL AND REST PERIODS**

A one hour non-compensated meal period will be provided to all full-time overtime-eligible employees who work at least an eight hour work day. A 30-minute non-compensated meal period will be provided to all overtime-eligible full-time employees who work more than five hours, but less than eight hours, during the work day. Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

A 15-minute compensated rest period will be provided to all overtime-eligible employees for each four-hour period of service. The rest period shall be taken at a time designated by the employee’s supervisor. Rest periods may not be combined to shorten the workday or to extend the meal period.

An overtime-eligible employee is required to seek advance permission from his or her supervisor for any foreseeable absence or deviation from regular working, break, and meal times.

9.19.3 **LACTATION BREAKS**

An overtime-eligible employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. (Labor Code § 1030; 29 USC § 207(r).) Those desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. (Labor Code § 1032.) Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

The City will make reasonable efforts to accommodate employees by providing an appropriate location to express milk in private. The City will attempt to find a location in close proximity to

the employee's work area, and the location will be other than a toilet stall. (Labor Code § 1031; 29 USC § 207(r).) Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

Any employee storing expressed milk in any authorized refrigerated area within the City shall clearly label it as such. No expressed milk shall be stored at the City beyond the employee's work day/shift.

9.19.4 NOTIFICATION OF UNFORESEEN LATE ARRIVAL OR ABSENCE

An overtime-eligible employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor no later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the department head.

9.19.5 UNAUTHORIZED ABSENCE IS PROHIBITED

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. An overtime-eligible employee who fails to timely notify the supervisor of any absences as required by this Policy, or who is not present and ready to work during all scheduled work times, will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

9.19.6 EXCESSIVE TARDINESS/ABSENTEEISM AND ABUSE OF LEAVE

Excessive tardiness occurs when an overtime-eligible employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.

Abuse of leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination. Should the City suspect that there is an abuse of leave by an employee, the City may require that the employee submit a physician's certificate to support the absence.

9.19.7 EMPLOYEE COMPENSATION PLAN

An employee compensation plan shall be established to provide salary schedules, salary rates, salary ranges and steps, and time intervals for salary review. Each class in the classification plan

shall be assigned to a salary rate or range in the compensation plan. All persons employed by the City shall be compensated in accordance with the compensation plan then in effect.

9.19.8 RATES OF COMPENSATION

The rates of compensation for salary for all employees are in the salary resolution adopted by City Council on an annual basis.

The City Manager may provide time-limited increases to compensate an employee for time-limited extra duties, provided that such increases cannot exceed 10% of current salary for the employee and the duration of the arrangement cannot exceed 9 months.

9.19.9 ADVANCEMENT

For employees not represented by the Belvedere Peace Officers Association (“BPOA”):

- A. Appointments are normally made at the first step.
- B. An employee is eligible to advance to the next step after one year of satisfactory service and approval of the City Manager.
- C. The time frames required for advancement to higher steps within a given pay range are fixed. Advancement of more than one step within a given pay range is possible provided the department Director, City Manager or his or her designee, and City Manager approve of this advancement.
- D. Advancements are based upon acceptable work performance as evidenced in the employee performance appraisals. Advancements are recommended by the supervisor/director and approved by the City Manager at yearly intervals.
- E. An employee who is appointed at Step A within a given salary range becomes eligible for advancement:
 - To Step B after 1 year;
 - To Step C after another year;
 - To Step D after another year;
 - To Step E after another year.

It will take an employee appointed at Step A four years to advance to Step E of a given pay range.

For employees represented by the BPOA:

- A. Appointments are normally made at the first step.
- B. An employee is eligible to advance to the next step after six months of satisfactory service and approval of the City Manager. This does not however constitute successful completion of the one-year probationary requirement.
- C. The time frames required for advancement to higher steps within a given pay range are fixed. Advancement of more than one step within a given pay range is possible provided the department Director, City Manager or his or her designee, and City Manager approve


of this advancement.

- D. Advancements are based upon acceptable work performance as evidenced in the employee performance appraisals. Advancements are recommended by the supervisor/director and approved by the City Manager at six-month intervals in the first year of employment and, at yearly intervals thereafter.
- E. An employee who is appointed at Step A within a given salary range becomes eligible for advancement:
 - To Step B after 6 months;
 - To Step C after an additional 6 months;
 - To Step D after an additional 1 year;
 - To Step E after another year.
- F. An employee who is appointed at Step B will be eligible for advancement to Step “C” after 6 months.
- G. An employee who is appointed at Step “C” or “D” will be eligible for advancement to the succeeding step after 1 year.

It will take an employee appointed at Step A three years to advance to Step E of a given pay range.

9.19.10 EXEMPT EMPLOYEES

Nothing in these rules and regulations shall be construed to prevent the City Manager from making special provisions for exempt personnel by written contract.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.20		
	COMPUTATION OF SALARY		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

The salary rates for all authorized City positions are set forth in the employee compensation plan. In the conversion of monthly salaries, hourly rates are computed as follows:


$$\frac{12 \times \text{monthly salary}}{2,080}$$

9.20.1 PAY PERIODS

The pay periods for all employees shall be bi-weekly, from Sunday of the first week through Saturday of the second week. Salaries will be paid every other Thursday for the two-week period just ended.

The Administrative Services Department shall publish an annual Payroll and Holiday Calendar in December that includes the City’s pay periods, timesheet due dates, pay dates, and holidays for the coming year.

Except for employees separated from service by the City, salaries will be paid only on regular paydays.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.21 OVERTIME COMPENSATION		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

Job classes are designated as exempt and non-exempt in conformance with the guidelines of the Fair Labor Standards Act (FLSA). Exempt employees are not eligible for overtime compensation.

Overtime consists of all hours an overtime-eligible employee actually works over 40 hours in his or her designated work week. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so. Overtime is paid for all eligible non-exempt employees for time worked in excess of forty (40) hours per week. Overtime is paid at one and one-half times the base pay and is earned in increments of 5 minutes. (29 CFR § 785.48(b).) Overtime will be paid at the end of each pay period in which it is earned.

Overtime must be authorized by the Department Head. Such authorization must be in advance of when the overtime is to occur, unless emergency situations or service to the public requires unscheduled overtime. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.

Unless the City Manager or his designee specifies otherwise in writing, overtime-eligible employees may not have remote access to City equipment, resources, or email.

All employees must accurately report all work time to the nearest five minutes. All time spent for the benefit of the City must be reported as hours worked on time records so that the employee is paid for all work. Overtime-eligible employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties. Employees have no authorization to work without compensation. No supervisor has authority to request overtime-eligible employees to volunteer work time.

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

- H. **Accrual Rate:** CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of 80 hours at any given time.
- I. **Employee Request to Use CTO:** The City will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off without undue disruption, the City will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.
- J. **Cash Out:** The City reserves the right to cash out accumulated CTO at any time.
- K. **Value of CTO Cash Out:** During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays). Employees separating from City service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher. (29 USC § 207(o)(3)(B) & (4); 29 CFR § 553.27.)



CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL

**POLICY 9.22
CALL BACK**

Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

Non-exempt employees who are called to work on their day off, or other off duty hours, shall be compensated for a minimum of four hours overtime or for the actual time worked, whichever is greater. Work time shall commence upon arrival at the place where he/she is directed to report, and shall continue until the time he/she is released or the work is completed, whichever is earlier.



CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL


POLICY 9.23
COMPENSATION IN DISASTER SITUATIONS

Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		


Pursuant to Section 3100 of the California Government Code, all public employees automatically assume the role of disaster service workers in the event of disaster situations.

Emergencies may occur in the City of Belvedere that may require response by emergency services personnel. In addition, the City has entered into mutual aid agreements with local jurisdictions to provide emergency assistance.

In the event any salaried or "exempt" employee is required to serve as an official disaster service worker pursuant to California Government Code Section 3100, such employee shall be compensated for those hours worked in excess of the total number of hours in the employee's regular work week at the employees current hourly rate.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.24		
	UNIFORM ALLOWANCE		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

Certain employee classifications, as determined by the City Manager, shall be required to wear uniforms on the job. For those employees who are not provided uniforms by the City, clothing allowances shall be payable by the City, in amounts specified by City Council policy, for the purchase and maintenance of such uniforms.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.25 PAY DISAGREEMENT		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

If an employee believes there is a discrepancy regarding pay, he/she should first talk with his/her supervisor and the supervisor should call the Finance Office regarding the discrepancy. For a discrepancy on a paycheck, the employee must notify the Finance Officer within ten calendar days from the date on which the check is issued. If a discrepancy is found, corrections will be made on the next check.

9.25.1 LOSS OF PAYCHECK

Employees must notify the Finance Officer as soon as possible if a paycheck is lost. A “Stop Payment” will be issued on the check immediately, and a new check will be issued only after receiving “Stop Payment” confirmation (approximately three days) from the bank.


9.25.2 DEDUCTIONS

- A. Involuntary Deductions (Federal, State, & Medicare):
 1. Varies with earnings and number of exemptions claimed on W-4 form.
 2. All employees will receive a W-2 indicating taxable Federal, State & Medicare wages, and taxes withheld during the previous year by January 31 in order to file Federal & State income tax returns.

- B. Voluntary Deductions:
 Voluntary deductions consist of deferred compensation, optional insurance, and union dues.

9.25.3 DIRECT DEPOSIT

Full-time and hourly employees may participate in direct deposit by having their paychecks automatically deposited into a checking or savings account in a bank of their choice.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.26 HOLIDAYS		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.26.1 STATEMENT OF POLICY

- A. **Regular Holidays.** City employees, other than non-exempt public safety employees, receive the following eleven fixed holidays. If a holiday falls on a Saturday, the preceding Friday shall be the holiday. If a holiday falls on a Sunday, the following Monday shall be the holiday. Part-time employees whose scheduled work time falls on a holiday will receive that holiday off with pay for the hours they were scheduled to work.
- 1st (New Year’s Day);
 - The third Monday in January (Martin Luther King, Jr. Day);
 - The third Monday in February (President's Day);
 - The last Monday in May (Memorial Day);
 - July 4th (Independence Day);
 - The first Monday in September (Labor Day);
 - November 11th (Veterans Day);
 - Last Thursday in November (Thanksgiving Day) and the day following;
 - Christmas Day and the day preceding.
- B. **Floating Holidays.** In addition to the above fixed holidays, all employees, who have worked for the City for at least six (6) months, shall be entitled to 24 hours paid floating personal leave time each year. Before taking the floating personal leave time, the employee must obtain written permission from his/her immediate supervisor. Non-exempt public safety employees must take their floating personal leave day as a day off and may not receive holiday pay therefor. Any employee who fails to take his/her floating personal leave day(s) during the course of the year shall forfeit them effective January 1 of the following year.

9.26.2 ELIGIBILITY


All regular full and part-time employees are eligible for holiday compensation if the employee is in a paid status on the day prior to and following the holiday.

9.26.3 **COMPENSATION FOR WORK ON PAID HOLIDAYS**

Regular full-time employees assigned to work on holidays shall receive pay for each hour worked at their regular rate in addition to their regular salary. Regular part-time employees are not eligible for such holiday compensation.

9.26.4 **HOLIDAY PAY FOR PUBLIC SAFETY EMPLOYEES**

Except as relates to clerical employees and the Police Chief, City-recognized holidays shall not be granted to employees of the Police Department. These employees shall be granted eight hours of additional pay in lieu of each holiday falling within the pay period, whether or not the employee actually worked on the holiday.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.27 VACATION LEAVE		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018 2/11/2019	Revised by:	City Council Resolution 2018-35 City Council Resolution 2019-01
Authority:	City Council		

9.27.1 STATEMENT OF POLICY

The purpose of annual vacation leave is to enable employees to enjoy a change from their normal work schedule.

9.27.2 ELIGIBILITY

Regular full-time and part-time employees are eligible for paid vacation leave. Regular part-time employees shall earn annual vacation leave on a pro-rated basis based upon actual hours worked.

9.27.3 VACATION ACCRUAL

Eligible full-time and part-time employees, with the exception of temporary/seasonal and extra help employees, earn vacation leave while in paid status until they reach the applicable vacation accrual cap. Employees accrue vacation time according to their full or part-time status and the number of consecutive years the employee has worked for the City as follows:

A. Non-exempt full-time public safety employees:

<u>Months of Service</u>	<u>Monthly Accrual Rate</u>
0-12 months	6.67 hours
13-36 months	8.00 hours
37-120 months	10.00 hours
121+ months	12.00 hours

B. All other non-exempt full-time employees:

<u>Months of Service</u>	<u>Monthly Accrual Rate</u>
0-36 months	6.67 hours
37-60 months	10.00 hours
61-72 months	10.67 hours
73-84 months	11.34 hours
85-96 months	12.00 hours
97-108 months	12.67 hours
109+ months	13.33 hours

C. **Exempt employees:**

Each exempt employee shall accrue vacation at the rate provided for in the current City Council policies governing that employee's compensation and benefits.

No employee may accrue more than the equivalent of two times the employee's annual vacation leave accrual rate, or for part-time employees, the equivalent of two times the pro-rated accrual rate. Should an employee accumulate vacation hours in excess of the equivalent of two times the employee's annual vacation leave accrual rate at the end of a given calendar year, the employee shall be paid for any excess hours at the rate of compensation for that calendar year. Every employee shall endeavor to utilize the excess hours prior to the end of the calendar year, Vacation leave will not accrue during leaves of absence without pay unless required by law.

9.27.4 USE OF VACATION

The time in which an employee may use his/her accrued vacation leave, and the amount to be taken at any one time, shall be determined by the supervisor or department head in consultation with the employee. Employees shall not work for the City during their vacation in order to earn double compensation.

Vacation leave may not be used until it is earned. The employee and the department head will schedule the times when an employee may take vacation leave. The scheduling will be based on the employee's preference and the City's operational needs. An employee shall provide a minimum of one week's written advance notice, unless waived by the department head, when requesting vacation time off. The City may, at its discretion, require an employee to use accrued vacation.

Any employee separating from the City who has accrued vacation leave shall be paid for all accrued vacation at his or her rate of pay at the time of separation.

9.27.5 HOLIDAY DURING VACATION


Except for non-exempt public safety employees who receive holiday pay, in the event a City-recognized holiday falls within an employee's vacation period which would have excused the employee from work and for which no other compensation is made, said holiday shall not be charged as a vacation day.

9.27.6 VACATION AT SEPARATION

Employees leaving City employment who have accumulated vacation leave shall be paid the amounts of accrued vacation to the date of separation. Except for such payment upon separation, employees shall not be entitled to be compensated for vacation leave.

9.27.8 EFFECT OF EXTENDED MILITARY LEAVE

An employee who interrupts his/her city employment because of extended military leave may be compensated for accrued vacation at the time the leave becomes effective if such request is made.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.28 SICK LEAVE		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.28.1 STATEMENT OF POLICY

The purpose of sick leave is to provide an employee time off without loss of pay for illness or injury which is not work-related. (Leave for illness or injury that is determined to be work-related is covered by Workers' Compensation.) Sick leave is provided in recognition of the fact that a sick employee is not fully productive and that time off will allow such an employee to recuperate more rapidly. Sick leave shall be allowed and used only in cases of actual personal sickness or disability, medical or dental treatment, or an emergency illness in the immediate family. Immediate family shall mean the spouse, parent, child, brother, sister, or a close relative residing in the household of the employee. Sick leave must be approved by the supervisor or department head.

9.28.2 PURPOSE

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

1. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling (Labor Code §§ 233(b)(2); 245.5(c); 246.5(a)(1)); or
2. For an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety. (Labor Code §§ 230(c); 233(b)(3)(A); 246.5(a)(2).)

9.28.3 ELIGIBILITY & RELEASE TO RETURN TO WORK

A. Accrual & Carryover for Different Categories of Employees:

1. Full time employees who are not seasonal/temporary or extra help accrue eight

hours of sick leave for each calendar month of paid status; part-time employees who are not seasonal/temporary or extra help accrue sick leave in an amount prorated to the lower number of hours they work each calendar month in paid status. Accrued sick leave carries over from year to year. No accrual limit applies.

2. A seasonal/temporary or extra help employee who works 30 or more days within a year from the commencement of employment with the City accrues one hour of paid sick leave for every 30 hours worked. (Labor Code § 246(a).) Accrued and unused sick leave carries over to the following year of employment but a seasonal/temporary or extra help employee stops earning sick leave once he or she has accrued 48 hours or 6 work days/shifts, whichever is greater. (Labor Code § 246(i).)
- B. Sick Leave Use: An employee may use accrued sick leave, in a minimum increment of two hours, beginning on the 90th day after the first day of employment with the City, subject to the limits and request provisions in this Policy. (Labor Code § 246(c) & (j).)
- C. Protected Sick Leave:
1. For full-time employees who are not seasonal/temporary or extra help, one-half of the employee's accrued and available annual sick leave is protected and may be used for any of the purposes stated in this Policy. (Labor Code §§ 233(b)(2); 233(b)(3)(A); 246(d).)
 2. For seasonal/temporary or extra help employees, up to 24 hours, or three days, whichever is greater, of accrued and available sick leave each year is protected and may be used for any of the purposes stated in this Policy. (Labor Code § 246(d).) The year is measured beginning on July 1 or the employee's anniversary of hire date, whichever is later.
 3. Sick Leave Request: To request to use sick leave, if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice. (Labor Code §§ 246(l); 246.5(a).) If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable. (Labor Code § 246(l).) If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by this Policy without good reason may result in the employee being treated as absent without leave.
 4. Certification: The City may require that employees who are not seasonal, temporary, or extra help, provide a physician's certification to support any absence that involves the illness of the employee or family member, if the City suspects that there is an abuse of sick leave by the employee. All employees, including seasonal, temporary, or extra help, who use paid leave to address issues

related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave, must provide certification of the need for leave within a reasonable time thereafter. (Labor Code § 230(d)(2).)

5. Sick Leave on Separation from Employment: Unused sick leave is not cashed out upon termination, resignation, retirement, or other separation from employment. (Labor Code § 246(f)(1).) Unused sick leave may be converted to retirement service credits only as may be permitted under applicable retirement system laws and regulations.
6. Sick Leave Reinstatement: If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of 6 days or 48 hours, whichever is greater, will be reinstated. (Labor Code § 246(f)(2).) An employee who worked at least 90 days in the initial employment with the City may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with the City must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave. (Labor Code § 246(c).)

In order to receive compensation while absent on sick leave, the employee shall notify the supervisor or department head on the first day's absence and at regular intervals thereafter as determined by the supervisor or department head in order to facilitate effective coverage. When an employee is absent due to a personal illness or injury for three or more consecutive working days, the City may require a physician's certificate of illness or injury to confirm the employee's ability to return to normal job responsibilities. Further, if an employee returns to the work place with an injury, illness, or treatment for the same that affects the employee's ability to return to normal work duties, the City may require a physician's certificate to confirm the employee's ability to return to normal job responsibilities.

In the event the employee is absent due to a work-related illness or injury, a physician's certificate or "release to return to regular work" will be required prior to the resumption of duties.

9.28.4 APPROVAL OF SICK LEAVE

Sick leave with pay shall be granted for medical, dental or other similar medical practitioner appointments, which are made during normal working hours.

In the event an employee suffers a non-work related catastrophic injury or illness and has exhausted all of his or her accrued sick leave credits, the City shall permit other individual employees to contribute up to 50% of their accrued sick leave to the seriously injured or gravely ill employee, provided however that any such individual's contribution shall not exceed 40 hours in any given calendar year.

9.28.5 ATTENDANCE RECOGNITION PROGRAM

The City recognizes employees who demonstrate an outstanding attendance record over a prior calendar year. Under this program, employees are allowed to convert a portion of their unused sick leave to pay or compensatory time-off. In order to be eligible for this recognition, an employee must have been a regular full-time or part-time paid employee of the City for the full preceding calendar year; and must have used 48 or fewer hours of sick leave during the preceding calendar year.

Participation of part-time employees in this benefit shall be on a pro-rata basis, providing however, that the regular part-time employee works in excess of an average of 20 hours per week.

Employees have the option of buying back specified unused sick leave or converting that same amount to compensatory time on a straight time basis.

Recognition Levels:

Level 1: Employees who have not used any sick leave hours over the past year have the option to buy-back up to 40 hours of unused sick leave. The option to buy-back all 40 hours is subject to the requirement that the employee have a minimum balance prior to buyback of 80 hours of combined leave (vacation, sick, and floating leave). Those employees maintaining a combined leave account balance of more than 120 hours may buy-back up to 60 hours per year of sick leave.

Level 2: Employees who have used more than 0 but less than 24 sick leave hours over the past calendar year have the option to buy-back up to 24 hours of unused sick leave.

Level 3: Employees who have used more than 24 but less than 48 sick leave hours over the past calendar year have the option to buy-back up to 15 hours of unused sick leave.

Eligible employees will be provided with a letter in January from the Finance Department regarding the prior year's conversion options. Employees will be required to respond in writing to the Finance Department by the due date on the eligibility letter.

9.28.6 WORKERS' COMPENSATION

Under provisions of the Workers' Compensation Insurance Law of California, any employee injured on the job in the course of employment is entitled to disability compensation and medical care.

- A. This insurance provides a weekly prorated payment based upon salary or regular wages, as well as coverage for medical and hospital expenses. Compensation begins three days after the accident, not including the day of the accident.
- B. During this type of disability, the employee will receive compensation allowable under the program, but total compensation from all sources may not be higher

- than regular wages.
- C. The City is self-insured for workers' compensation through the Public Agency Risk Sharing Authority of California (PARSAC).
 - D. Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony.

9.28.7 UTILIZATION OF SICK LEAVE WHILE ON WORKERS' COMPENSATION

Full-time employees on workers' compensation leave may use their own personal sick leave to cover the period of time off from work. By law, the first three days of leave is not covered under workers' compensation unless the employee is hospitalized as an inpatient or is unable to work for more than 14 days. Benefits do begin on the fourth day and are generally two-thirds of wages, up to a specified maximum amount per week. Payments are normally mailed within 14 days.

Full-time employees may continue utilizing sick time during the period of absence due to a work-related illness or injury. However, when payment of workers' compensation benefits is received by the employee:

- He/she must endorse the check over to the city.
- The City will convert the dollar amount of the check to sick leave hours (Total amount of check divided by hourly wage).
- The City will credit the employee's sick leave account by that number of hours. Employees who do not wish to cover this period with sick leave, or who lack adequate sick leave hours, may of course keep the check from workers' compensation.



CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL

**POLICY 9.29
LEAVES OF ABSENCE**

Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.29.1 LEAVE OF ABSENCE WITHOUT PAY

A leave of absence without pay may be granted by the City Manager in cases of emergency or where such absence would not be contrary to the best interests of the City. Such leave is not a right but a privilege. No vacation or sick leave benefits shall be used for illness occurring during such leave. Vacation and sick leave shall not be accrued during an unpaid leave of absence extending more than five (5) working days. Holiday compensation shall not be paid during any period of leave of absence without pay. Unless otherwise specified herein, continuation of employee benefits during an unpaid leave shall be in the discretion of the City Manager.

9.29.2 CITY-IMPOSED FURLOUGH DUE TO LACK OF FUNDS

The City Manager may at any time, if he deems it necessary due to the City's lack of funds, impose on any City employee a mandatory temporary work furlough. Any such temporary furlough shall constitute a leave without pay, however, all City benefits shall continue to accrue during the furlough period.

9.29.3 UNAUTHORIZED LEAVE OF ABSENCE

Unauthorized leaves or absences shall be considered to be without pay and reductions in the employee's pay shall be made accordingly. Absence without authorization for more than three consecutive working days shall be deemed abandonment of the job and shall result in termination of employment.

9.29.4 BEREAVEMENT LEAVE

Leave of absence with pay for a period not to exceed three (3) days may be granted to a regular employee by the City Manager in the event of death to an immediate family member. Immediate family shall mean spouse, parent, child, brother, sister or a close relative residing in the household of the employee. For additional time, with the recommendation of the department head and the approval of the City Manager, an employee may use accumulated sick or vacation leave.

Leave without pay may be granted to a regular employee by the City Manager in the event of death to family members other than one of the immediate family.

9.29.5 **MILITARY LEAVE OF ABSENCE**

State and other applicable laws shall govern the granting of military leaves of absence and the rights of employees returning from such absence.

9.29.6 **PATERNITY LEAVE**

An employee who wishes to take time off from work before, during and/or after the employee's spouse gives birth may apply sick leave to cover this period. This applies to any pregnancy, with or without a cesarean section or complications. If there is not enough time available to cover this period, the employee may request a leave of absence without pay. The amount of time off requested will be considered on a case-by-case basis, and should be approved in advance through the employee's supervisor. See also Family and Medical Leave Section.

9.29.7 **VOTING LEAVE**

Time off with pay to vote at any general, direct primary or presidential primary election shall be granted as provided in the State of California Elections Code, and notice that an employee desires such time off shall be in accordance with provisions of said Code.

9.29.8 **LEAVE FOR COURT OR JURY DUTY**

An employee who is required to report for jury duty shall be granted a leave of absence with pay from his/her assigned duties until released by the Court, provided the employee remits to the City all fees received for such duties, other than mileage and subsistence allowance, within thirty (30) days from the termination of his/her jury service. All FLSA-exempt employees will continue to receive their normal salary while on jury duty, or while serving as a witness, only for any work week in which they perform any work duties. (29 CFR § 541.602(a) & (b)(3).) The City will offset the amount from pay the employee receives from the Court for jury fees. (29 CFR § 541.602(b)(3).)

Any employee, including a temporary, seasonal, or extra help employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his or her supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her supervisor. (Gov. Code § 1230; Labor Code § 230; 28 USC § 1875(c).)

All overtime-eligible employees will be paid for actual work hours missed because of time spent in jury service or court. The time spent on jury duty is not work time for purposes of calculating overtime compensation. The City will offset from pay the amount the employee receives from the Court for jury fees.

Any employee, including a temporary, seasonal, or extra help employee, who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of his or her City job duties, must give his or her supervisor as much advance notice as is possible. The City will determine whether the matter involves an event or transaction in the course of the employee's City job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time. The City will offset the amount from pay the employee receives for witness fees.

The employee shall remit all fees for such appearances to the City within thirty (30) days of the termination of his/her services. Compensation for mileage and subsistence allowances shall not be considered as a fee and shall be retained by the employee. Absences due to personal litigation or subpoena are not compensable; however, vacation time may be requested and approved by the department head, or time off without pay may be requested and approved by the City Manager.

9.29.9 LEAVE FOR VICTIMS OF CRIME

Any employee, including a temporary, seasonal, or extra help employee, who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the City a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the City, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court /governing official that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off. (Labor Code § 230.2.)

Any employee, including a temporary, seasonal, or extra help employee, who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the City, within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met. The leave is unpaid unless the employee elects to use accrued vacation or paid leave, or compensatory time off.

Any employee, including a temporary, seasonal, or extra help employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his or her

child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use sick leave (Labor Code § 246.5(a)(2)), accrued vacation or paid leave, or compensatory time off. (Labor Code § 230.5(f).)

Any employee, including a temporary, seasonal, or extra help employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the City within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use sick leave (Labor Code § 246.5(a)(2)), accrued vacation or personal leave, or compensatory time off.

9.29.10 ADMINISTRATIVE PROCEDURES

Any employee, including a temporary, seasonal, or extra help employee, who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that he or she initiated, is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission, is entitled to paid release time. (Gov. Code § 3505.3(a)(2) & (3).)

9.29.11 ADMINISTRATIVE LEAVE

Administrative leave with pay may be taken, subject to prior approval by the City Manager, by exempt employees as specifically provided by then current City Council policies governing the particular employee's compensation and benefits.

Administrative leave with pay may be granted in the discretion of the City Manager to an employee during the course of a City-mandated investigation of an occurrence or claim involving such employee.

Administrative leave days shall only accrue for one calendar year, and any employee who fails to take his/her administrative leave days during the course of the calendar year shall forfeit any

remaining administrative leave days accrued for that year effective January 1 of the following year.

9.29.12 WORKERS' COMPENSATION HEARINGS

Employees who have been injured in the course and scope of their employment with the City and who are required, as a result of such injury, to be absent from duty to take physical examinations required by the City's Workers' Compensation insurer or the Industrial Accident Commission may be granted leave with pay for such absences by the City Manager, when it is determined that such absences are in the best interest of the City, and only if the employee is in pay status at the time of the scheduled examination or hearing.

9.29.13 FAMILY AND MEDICAL LEAVE

The following policy is established to ensure compliance with the California Family Rights Act (CFRA) of 1993 and the Federal Family and Medical Leave Act (FMLA) of 1993.

The City provides family and medical care leave for eligible employees as required by State and federal law. Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. This Policy is supplemented by the Federal Family and Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). Unless otherwise stated in this Policy, "Leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the City will run each employee's FMLA and CFRA leaves concurrently.

The provisions of these Rules that address leaves shall be construed so as to comply with the Pregnancy Discrimination Act, the Americans with Disabilities Act, all state and federal family leave laws, and any other applicable laws.

9.29.14 ELIGIBLE EMPLOYEES

A full-time or hourly employee is eligible for leave under this policy who has been employed by the City for at least 12 months at the time the leave is requested (these twelve months need not have been consecutive) and has worked at least 1,250 hours during the 12-month period

An employee is eligible for 12 weeks of parental leave to bond with a new child within one year of the child's birth, adoption or foster care placement if:

1. The employee has been employed by the City for at least 12 months; and
2. The employee has been employed by the City for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
3. The City directly employs at least 20 full or part-time employees within a 75-mile radius. (Gov. Code § 12945.6(a)(1).)

9.29.15 DEFINITIONS

- A. “12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken. (29 CFR § 825.200(b)(4); 2 Cal.Code Regs § 11090(b).)

- B. “Single 12-Month Period” means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date. (29 CFR § 825.200(f).)

- C. “Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is “incapable of self-care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories. (29 CFR § 825.102; Gov. Code § 12945.2(c)(1).)

- D. “Parent” means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law. (29 CFR § 825.102; Gov. Code § 12945.2(c)(7).)

- E. “Spouse” means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below. (29 CFR § 825.102; Fam. Code § 300; 2 Cal.Code Regs § 11087(r).)

- F. “Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring, and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient. (Fam. Code § 299.2.)

- G. “Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves:
 - 1. Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or

2. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
 - Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
3. Any period of incapacity due to pregnancy or for prenatal care. (29 CFR § 825.120; Gov. Code §12945.2(c)(8).) Note that pregnancy is a “serious health condition” only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave. (See Policy 808, Leave Because of Pregnancy, Childbirth, or Related Medical Condition.)
4. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
 - Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
5. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
6. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment. (29 CFR § 825.113; Gov. Code § 12945.2(c)(8); 2 Cal.Code Regs § 11087(q)(1).)

- H. “Health Care Provider” means:
1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
 2. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;
 3. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
 4. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
 5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
 6. Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits. (29 CFR § 825.102; Gov. Code § 12945.2(c)(6).)
- I. “Covered active duty” means: 1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or 2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions. (29 CFR § 825.102.)
- J. “Covered Servicemember” means: 1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or 2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. (29 CFR § 825.102 & 825.122.)
- K. “Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 CFR § 825.102.)
- L. “Next of Kin of a Covered Servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents,

aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. (29 CFR § 825.102.)

- M. “Serious Injury or Illness” means: 1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating; or 2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran. (29 CFR § 825.102.)

9.29.16 LEAVE ENTITLEMENT

Eligible employees are entitled to a total of 12 (twelve) workweeks of unpaid, job-protected leave during any 12 (twelve) month period for one or more of the following:

- A. The birth of the employee’s child and in order to care for the child;
- B. The placement of a child with the employee for adoption or foster care;
- C. To care for a child, spouse, domestic partner, or parent who has a serious health condition
- D. A serious health condition that renders the employee unable to perform one or more of the essential functions of his or her position;
- E. Qualifying exigencies arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation (29 CFR § 825.126 -- This is a FMLA leave and not a CFRA leave); or
- F. Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered servicemember of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period. (29 CFR § 825.127 -- This is a FMLA leave and not a CFRA leave.

9.29.17 PAY STATUS

Family or medical leave will be unpaid. Full time employees on family leave will utilize any accumulated leave according to the following situations:

- A. In the event of placement of a child for adoption or foster care, the employee will be required to use accrued, unused paid vacation and/or floating holiday hours.
- B. In the event of leave to care for a child, spouse, or parent with a serious health condition,

the employee will be required to use accrued unused paid vacation, floating holiday hours, and/or sick leave hours.

9.29.18 **DURATION OF LEAVE**

Eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered servicemember) of leave during any 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first. (29 CFR § 825.127.)

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two weeks duration on any two occasions. (2 Cal.Code Regs § 11090(d).) If leave is requested to care for a child, parent, spouse or the employee him/herself with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this Policy is required. (29 CFR § 825.205; 2 Cal.Code Regs § 11090(e).)

If both parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period. (29 CFR § 825.120(a)(3).) If both parents of a covered servicemember are employed by the City and are entitled to leave to care for a covered servicemember, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 work weeks during the 12-month period. This limitation does not apply to any other type of leave under this Policy. (29 CFR § 825.127(f).)

Leave taken under California's CFRA runs concurrently with leave take under FMLA (except for pregnancy disability leave), and the aggregate amount (except for pregnancy disability leave) shall not exceed 12 work weeks in a 12 month period. That is, the employee is not entitled to more than twelve (12) weeks by claiming leave under State law and later under Federal law. Although family and medical care leave is unpaid, an employee may elect and the City will require an employee to concurrently use all paid accrued leaves during family and medical care leave as described below.

9.29.19 **LEAVE CONDITIONS**

- A. Leave for birth or adoption may not be taken intermittently or on a reduced leave schedule, unless approved the City Manager.
- B. Leave for a serious health condition affecting the employee or a family member may be taken on a consecutive basis, or intermittently, or on a reduced work schedule when medically necessary.
- C. The City may require an employee who wants intermittent leave or a reduced leave schedule to care for a spouse, son, daughter, or parent, or because of the employee's serious health condition, to transfer temporarily to a different job with equivalent pay and

- benefits in order to better accommodate recurring periods of leave.
- D. There is no minimum duration of leave that must be taken for serious health conditions of the employee or family member.
 - E. If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. (2 Cal.Code Regs § 11092(b)(4)(A).) However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the City may require the employee to exhaust accrued leave. (2 Cal.Code Regs § 11092(b)(4)(A)(1).)

9.29.20 MAINTENANCE OF BENEFITS

- A. Group Health Benefits During Unpaid Leave: Leave under this Policy is unpaid. While on unpaid leave, employees will continue to be covered by the City's group health benefits for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the City will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks). (Gov. Code §§ 12945(a)(2)(A) & 12945.2(s).)

For the purposes of this policy, group health benefits are defined as medical and dental insurance (if applicable).

- B. Other Benefits: The City will also continue to pay premiums under Group disability and life insurance plans (if applicable) for up to 12 weeks of the family leave. Seniority and other benefits (leave accruals, for example) do not accrue during an unpaid leave of absence. However, the employee would return to work with the same seniority and unused leave balances they had when the unpaid leave commenced.
- C. Payment of Premiums: Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using his or her paid leave) or direct payments (if the employee is not using his or her paid leave). The City will inform the employee whether the direct payments for premiums should be paid to the carrier or to the City, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.
- D. Recovery of Premium if the Employee Fails to Return from Leave: If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. (29 CFR § 825.213; Gov. Code § 12945.2(f)(1); 2 Cal.Code Regs § 11092(c)(5).)

At the conclusion of the twelve (12) weeks, and for the balance of the authorized leave, the employee will be required to pay premiums to maintain coverage.

9.29.21 MATERNITY DISABILITY LEAVE

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid leave for up to the number of hours she would normally work within four calendar months (one-third of a year or 17 1/3 weeks). (Gov. Code § 12945(a).) For a full-time employee who works 40 hours per week, “four months” means 693 hours of leave entitlement, based on 40 hour per week times 17 1/3 weeks. (2 Cal. Code Regs § 11042(a)(1).) An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave. (2 Cal. Code Regs § 11042(a)(2).)

Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. (2 Cal.Code Regs § 11042(c)(1).) All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the City Manager or his or her designee. (2 Cal.Code Regs § 11042(a).)

The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: 1) the employee is disabled from working by pregnancy, childbirth or a related medical condition; 2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and 3) the estimated duration or end date of the leave. (2 Cal.Code Regs §§ 11050(b)(7); 11050(e).)

Pregnancy disability leaves are without pay. However, the employee must first use sick leave, if any. (2 Cal.Code Regs § 11044(b)(1).) Once sick leave is depleted, the employee may elect to use vacation leave or any other accrued paid time off during the leave. (2 Cal.Code Regs § 11044(b)(2).)

- a. **Group Health Insurance:** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. (Gov. Code § 12945(a)(2)(A); 2 Cal. Code Regs § 11044(c).) The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act. (Gov. Code § 12945(a)(2)(A); 2 Cal.Code Regs § 11044(c)(3).)
- b. **Sick and Vacation Leaves:** Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave. (See 2 Cal. Code Regs § 11044(d)(1).)

- c. Employee Status during Leave: The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions. (2 Cal.Code Regs § 11044(e).)

Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave. (2 Cal.Code Regs § 11043(c).) If the employee's original position is no longer available, the employee will be assigned to a comparable, open position. (2 Cal.Code Regs § 11043(c)(2).) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies.

9.29.22 RETURN FROM LEAVE

The City will provide the employee a guarantee of employment in the same or an equivalent job with equivalent pay, benefits, and other employment terms and conditions upon returning from leave. An employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave.

The City shall require the employee to provide a fitness for duty certificate in cases where the leave was requested for the employee's serious health condition. During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

A "key" employee (an employee who is among the highest paid 10% of all the employees) may be denied reinstatement provided that:

- A. Denial is necessary to prevent substantial and grievous economic injury to the operation of the City;
- B. The City notifies the employee of the intent to deny restoration on such basis at the time the City determines that such injury would occur; and
- C. In any case where leave has commenced, the employee elects not to return to employment after receiving such notice from the City.

9.29.23 PROCEDURE

To ensure employees receive the best benefit of leave provisions, requests for leave must comply with City procedures and policies. Notwithstanding the provisions of these laws, employees are required to observe all City policies regarding leave requests, absences, notification to supervisors and appointing authorities, payment of insurance premiums, and use of paid leave,

whether or not addressed herein.

Application for Leave: In all cases, an employee requesting leave must submit leave requests using the City's electronic timesheet system and submit the request to his/her Department Head for approval. The Department Head shall process the request within the electronic timesheet system, and the Administrative Services Director will ensure the leave request is reflected in the employee's leave accrual balances.

Notice of Leave: When the need for family or medical leave is foreseeable, such as the expected birth or placement of an adopted or foster child, or because of a planned medical treatment, the employee must submit a leave request at least thirty (30) days before the leave is to begin.

If the need for leave is based on planned medical treatment of a family member or the employee's illness, the employee shall attempt to schedule the treatment so as not to disrupt the department's operations, subject to the health care provider's approval.

If the need for leave is not foreseeable, notice must be given as soon as possible, but not later than 5 working days after learning of the need. The City shall respond to the leave request as soon as possible and in any event no later than 10 days after receiving the request.

For City purposes, electronic notice will be required, but may be submitted after an oral request. Oral notice must be provided according to department policies regarding emergency or unplanned absences.

Medical Certification: Employees requesting leave for their own serious health condition or a covered family member's serious health condition will be required to submit a completed "Certification of Physician or Practitioner" form. Such certification must be provided to the City within fifteen (15) days in advance of the leave request or as far in advance as practicable. Such certification is not required with regard to birth or placement of a child.

If leave is needed for intermittent treatment (the employee's or the family member's) or reduced leave schedule, the certification must state the dates of treatment, duration, and that the leave is medically necessary to care for the family member or assist in the recovery of the family member. In addition, if the leave is for the employee's own serious health condition, the certification must contain a statement that the employee is unable to perform the essential functions of the job.

The City of Belvedere may challenge a certification if there is "reason to doubt the validity of the certification." A second opinion from an employer-approved health care practitioner may be required at the City's expense. If the second opinion is different from the first, the City may require the opinion of a third provider, jointly approved by the City and the employee. The opinion of the third provider will be binding. The City may also require that the employee obtain subsequent re-certifications on a reasonable basis.


Review and Determination: Upon receipt, the Finance Officer shall review the application, and when applicable, the medical certification and determine (1) if the employee is eligible, (2) if the notification/certification is sufficient, (3) if the employee is eligible for or required to take any

paid leave, and (4) if the leave is limited (alternate schedule, duration, etc.) Upon determination, the Finance Officer shall notify the employee in writing.

Failure to Return from Leave: The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is requested and granted. An employee who requests an extension of family or medical leave due to the continuation, recurrence, or onset of his/her own serious health condition, or of the serious health condition of the employee's spouse, child, or parent, must submit a request for an extension in writing. This written request should be made as soon as the employee realizes that he/she will not be able to return at the expiration of the leave period.

City Designation of Family Medical Leave:

- A. The City of Belvedere may require employees to use accrued paid leave concurrently with FMLA leave and to use FMLA leave concurrently with non-FMLA leave which is FMLA-qualifying (e.g. in conjunction with Workers' Compensation).
- B. The City will notify the employee of the designation of leave as FMLA leave.
- C. Absent extenuating circumstances, the City will notify the employee of the FMLA leave designation within two (2) days. Notice may be given orally or in writing.
- D. The City may retroactively designate leave as FMLA leave if:
 - 1. The City learns for the first time that leave is for a FMLA purpose after such leave has begun, such as when an employee gives notice of the need for an extension of paid leave (e.g. vacation) with an unpaid FMLA leave. In such a situation, the entire period of paid leave may be retroactively counted as FMLA leave for the period of the leave that was FMLA qualifying; or,
 - 2. The City ultimately confirms leave as FMLA-qualifying and knew the reason for the leave, but was unable to determine if the leave qualified under FMLA.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.30 TRANSITIONAL RETURN TO WORK PROGRAM		
	Adoption Date:	12/13/2010	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.30.1 SCOPE

The purpose of this policy is to establish procedures for handling the City’s modified duty/return to work program. The transitional return to work program is available to all regular employees of the City of Belvedere, including public safety personnel. All employees are eligible to return to work on a "modified duty" status. All modified duty work assignments must be within limitations set by the treating physician.

- The restrictions imposed by the treating physician must be specific (e.g. no lifting over a specified number of pounds);
- The restrictions must be temporary in nature; and
- There must be work-related tasks available within the limitations set by the treating physician and within the skill capacities of the subject employee, with reasonable accommodations made by the employer, employee or both.

9.30.2 BENEFITS AND OBJECTIVES

It is the City’s goal, with cooperation from all departments, to locate and assign modified duty, when feasible. It has been shown that employees who return to meaningful work during the recuperation period experience a more productive recovery.

This Policy allows the City to monitor the employee’s recovery and reduce workers’ compensation costs.

9.30.3 DEFINITION OF WORK ASSIGNMENTS

Duty assignments are separated into three distinct categories:

- **Full Duty:** Full duty is the performance of all duties and requirements for which the employee is employed. The release to full duty indicates the employee is capable of performing all essential and non-essential functions of the employee’s hired position.
- **Modified Duty:** Modified duty is the performance of all essential functions of the pre-

injury position with modifications to schedule or method of performance. The employee may perform only a portion of the assigned duties that are within the employee's current capabilities as outlined by the treating physician. Modified duty may include varying the hours of work, using mechanical means to assist performance, or using other employees to assist with job performance.

- Light Duty: Light duty is the performance of all essentials of a job or position other than that for which the person was hired. Light duty allows an employee to perform other duties and tasks that are permissible given medical limitations. These duties may or may not be at the permanent employment location. The light duty position offer should be for a specified time period. Light duty is a temporary assignment until the employee can resume full duty in the position for which he was hired.

9.30.4 INITIATING THE RETURN TO WORK PROGRAM

The staff members responsible for implementing the transitional work program are the City Manager, the Risk Manager, and the subject employee's supervisor, in concert with the claims examiner/adjuster assigned by the City's third-party, workers' compensation administrator (WC Administrator).

Close coordination/communication shall be maintained between the Risk Manager, the assigned claim adjuster, and the subject employee's supervisor. When there is a reasonable presumption that the subject employee will experience a recuperation period that will preclude an immediate return to his/her full duties, the Risk Manager shall keep in close touch with the claim adjuster who will encourage the attending physician to release the employee to return to work with appropriate restrictions. As soon as the release date and restrictions are made known by the physician in writing, the Risk Manager and City Manager, in coordination with the supervisor, shall review the restrictions and determine if the City can offer the employee a transitional return to work program.

If the restrictions make it impossible for the employee to return to work in a modified or light duty status in his pre-injury department, the Risk Manager and City Manager shall attempt to coordinate a return to work assignment within another department.

9.30.5 TRANSITIONAL DUTIES

Any combination of the following duties may generally be assigned at City Hall at any time of the year:

- Assisting in answering and directing phone calls.
- Opening mail.
- Making photocopies.
- Stuffing envelopes.
- Document scanning.

The following duties are periodically available in Public Works:

- Inspection of sidewalk conditions.
- Visual inspection of street trees.
- Visual inspection of City streets.
- Filing.
- Organizing.
- General cleaning.

9.30.6 DEPLOYING THE RETURN TO WORK PROGRAM

Once a decision is made regarding the duties and length of transitional assignment, the Risk Manager shall prepare the Offer of Modified or Alternate Work – Transitional Return to Work Memorandum for the City Manager’s signature. The subject employee’s supervisor shall contact the employee to present the offer and obtain the employee’s signature. The Risk Manager will forward the signed form to the claim adjuster.

On the employee’s first day of the transitional assignment, the employee’s regular supervisor shall emphasize the specific requirements with the employee and identify all limitations. If the employee is assigned to a different department, the City Manager shall appoint a supervisor to monitor the employee and assure that he is performing in accordance with the restrictions prescribed by the attending physician.

The Risk Manager, case manager, original supervisor, and any temporary supervisor shall maintain contact to monitor the employee’s progress. The transitional duty assignment shall be adapted as the employee's medical condition improves, and physician-imposed physical restrictions are changed. The subject employee shall be returned to a regular job assignment when released by the treating physician to return to full-duty employment.

9.30.7 MONETARY COMPENSATION

This section shall not apply to safety officers who are covered by salary continuation rather than by temporary disability payments.

Employees shall be compensated their normal hourly wage during the performance of short-term light or modified duty activities. Light or modified duty activities shall be coordinated with any short or long-term disability programs.

9.30.8 REFUSAL OF TRANSITIONAL DUTY ASSIGNMENT

As previously noted, the City will make every reasonable effort to provide employees with transitional assignments following an injury or illness for which the treating physician imposes temporary physical restrictions. As long as these assignments do not violate the treating physician's imposed physical restrictions, and as long as these duty assignments are within the employee's physical and skill level capabilities, the employee is expected to return to work.

9.30.9 RESPONSIBILITIES OF EMPLOYEE REGARDING WORKERS' COMPENSATION

The following are responsibilities of all employees involved in a work-related injury or illness:


- Report any work-related injury or illness to your supervisor immediately. (Failure to report a work-related injury or illness in a timely manner may result in denial of workers' compensation benefits.)
- If released to return-to-work with temporary, physician-imposed physical restrictions, immediately contact your supervisor and provide the form on which the treating physician prescribed temporary physical restrictions. If seen by a physician during the normal business hours of your department, you must report back to work the day of the injury, unless otherwise instructed by your treating physician or supervisor. If seen by a physician after the normal business hours of your department, you must report back to work the day after the injury (at your normal reporting time), unless otherwise instructed by your treating physician or supervisor.
- Adhere to the physical restrictions imposed by the treating physician for the entire period for which those physical restrictions were imposed.
- Maintain a positive attitude toward working within the temporary, physician-imposed physical restrictions.
- Continue to seek appropriate medical care throughout your recovery period, as directed by the treating physician and/or the City's workers' compensation claims adjuster. Report any changes in temporary, physician-imposed physical restrictions (in writing) to your supervisor immediately.

9.30.10 PAY FOR FOLLOW-UP MEDICAL TREATMENT

Employees who are released to work in a modified or light duty status, and who are required by the City's workers' compensation claims administrators to undergo follow-up medical treatment, will be paid their regular wages for time missed from work due to these medical visits.

Employees will be required to use accrued leave or leave without pay if they miss work for medical visits under any of the following circumstances:

- The transitional duty assignment relates to a non-occupational injury or illness;
- The transitional duty assignment is less than full-time and the required medical appointments are available during hours when the employee is not scheduled to work;
- The employee has been released by the physician to full duty status.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.31 INSURANCE		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

Health insurance, Dental Insurance, Life Insurance and Long Term Disability insurance are provided to full-time and part-time permanent employees. City payment of insurance premiums is as stated in the current salary and benefits resolution.

9.31.1 CONTINUATION OF GROUP COVERAGE—COBRA

Employees and dependents are allowed to continue health coverage when an event occurs that would normally terminate coverage under the COBRA program. The monthly premium under COBRA is 102% of the current health plan rate.

Employees can continue COBRA coverage for the following events:

18-Month Events


- Separation from employment (except for “gross misconduct”)
- Resignation resulting in loss of coverage
- Involuntary termination resulting in loss of coverage
- Reduction in time base that causes a loss of coverage
- Ineligible for coverage as an annuitant (separation from employment & retirement date exceeds 120 days.)

Dependents may enroll in COBRA for the following events:

36-Month Events

- Divorce
- Legal separation or spouse moves out of household
- Death of an employee/annuitant that causes a covered spouse or dependent child to lose coverage (widow is pending determination for survivor benefits due to the “Pre-Retirement Death” of member)
- Employee becomes eligible for Medicare and the Medicare entitlement causes covered dependent(s) (spouse or child) to lose coverage
- Dependent child ceases to be a dependent

Upon termination, or reduction in hours, PERS will notify the employee of the employee’s right to choose continuation coverage. Under the law, the employee has at least 60 days from the date coverage would be lost because of one of the events described above to inform PERS that continuation coverage is desired.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.32 RETIREMENT BENEFITS		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	6/9/2014 12/10/2018 6/14/2021	Revised by:	City Council Resolution 2014-20 City Council Resolution 2018-35 City Council Resolution 2021-15
Authority:	City Council		

9.32.1 PENSIONS

The City provides retirement benefits under the California Public Employee's Retirement System (PERS) for all regular employees. Part-time employees must work a minimum number of hours as stipulated under the retirement program provisions to be eligible.


To be eligible for service retirement, a Miscellaneous employee defined as “Classic” by CalPERS and all Safety employees must be at least age 50 and have a minimum of five years of CalPERS credited service. A Miscellaneous employee defined as “New” by CalPERS must be at least 52 and have a minimum of five years of CalPERS-credited service to be eligible for service retirement.

In a defined benefit retirement plan, a retiree will receive a benefit determined by a set formula. CalPERS uses the member’s years of service, age at retirement, and highest one-year compensation while employed to determine retirement benefits.

More information regarding retirement benefits can be found at the CalPERS website located at www.calpers.ca.gov.

9.32.2 OTHER POST EMPLOYMENT BENEFITS (OPEB)

The City currently offers certain post-employment medical benefits (the “OPEB Plan”) to retirees of the City, subject to eligibility requirements set by CalPERS. The City reserves the power to revise all rules and procedures related to the OPEB Plan, including the power to terminate or change the coverage for any person or class of persons.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.33 EMPLOYMENT DEVELOPMENT		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.33.1 STATEMENT OF POLICY

It is the policy of the City to foster and promote in-service training and other job-related educational activities of employees for the purpose of improving the quality of services rendered by the City and to assist employees in preparing for advancement in municipal service. For this reason the City has instituted an educational reimbursement program.

9.33.2 ELIGIBILITY FOR EDUCATION COST REIMBURSEMENT

To qualify for educational reimbursement, the employee must be a regular employee and the course selected must be considered job-related. Employees seeking college degrees will be eligible for reimbursement only for those courses that are approved as job-related. An employee must attend the course(s) on his/her own time, and complete the course satisfactorily with a passing grade of "C" or its numerical equivalent.

The education reimbursement policy covers tuition for courses taken at accredited colleges and universities or for correspondence courses approved by the City. The policy also covers the cost of textbooks and other required course materials. Education cost reimbursement is subject to the availability of funds and shall not exceed of a maximum reimbursement of \$2,500 per calendar year. Current San Francisco State University fees will be used as a guideline for determining the maximum amount.


Staff members using tuition reimbursement funds under a degree program (i.e., associate’s, bachelor’s, master’s, or doctorate) are required to maintain full employment status with the City for a period of one year following use of the funds. If full employment status is not maintained and the employee separates from employment voluntarily, the funds used within the last twelve months of employment are required to be reimbursed upon separation.

9.33.3 PROCEDURES FOR OBTAINING REIMBURSEMENT

In order to obtain educational reimbursement, the employee shall, prior to commencement of the course, obtain City Manager approval of the requested course as job-related and shall also approve reimbursement for the course costs.

Upon completion of the course, verification of the grade received must be sent to the City Manager. This verification may be either in the form of a transcript, a letter from the class instructor or other responsible member of the school staff, or a certificate of satisfactory completion in the case of correspondence course. This verification should be accompanied by a memo requesting payment and a paid receipt for the tuition, books and materials.

None of the preceding instructions will be construed as applying to training courses which may be taken by employees at the request of the City or which the City may designate as a required course.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.34 LEAVING CITY EMPLOYMENT		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.34.1 NOTICE OF RESIGNATION OR RETIREMENT

All separations of employees from positions in City employment are designated as one of the following types:

- Probationary Release;
- Release of temporary/seasonal/extra help employee;
- Resignation;
- Retirement;
- Job abandonment;
- Layoff;
- Non-disciplinary separation;
- Disciplinary separation.

9.34.2 PROBATIONARY RELEASE

Probationary employees serving in their initial probationary period with the City may be released at any time during the probationary period as recommended by the Department Director/Department Head/City Manager or his or her designee, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance.

9.34.3 RELEASE OF TEMPORARY EMPLOYEES

A temporary/seasonal/extra help employee may be separated at any time, without cause, and without right to any appeal or grievance.

9.34.4 NOTICE OF RESIGNATION OR RETIREMENT

An employee in good standing, wishing to leave the services of the City, either by resignation or retirement, should give the department head and/or City Manager at least two-week's notice. The written notice must state the reasons for the resignation. Failure to follow the aforementioned procedure may be cause for denying future employment with the City. A resignation becomes final when the Department Head accepts the resignation in writing. Once a resignation has been

accepted, it is final and irrevocable. A resignation can be accepted by the Department Head even if it is submitted less than two weeks prior to the planned resignation date.

9.34.5 RETIREMENT

An employee planning to retire may provide a written notice to the Department Head prior to the effective date of the retirement. A notice of retirement becomes final when the Department Head accepts the notice of retirement in writing. Once a notice of retirement has been accepted, it is final and irrevocable.

9.34.6 ABANDONMENT

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

9.34.7 LAYOFFS

Whenever, in the judgment of the City Council, a reduction in personnel is necessary for economic or operational reasons such as a reorganization, any employee may be laid off or demoted for non-disciplinary reasons. Employees to be laid off will be given 21 calendar days' notice of layoff.

An employee's position may be abolished or his/her hours reduced because of changes of duties or organization, shortage of work or funds, or completion of the work.

9.34.8 TRANSFER IN LIEU OF LAYOFF

If the City Manager determines that a for-cause employee who is subject to layoff is qualified to perform the duties in a vacant position, the employee will receive a written notice of option to transfer in lieu of layoff. An employee who does not accept a transfer within 10 days after the date of the written notice, forfeits the option to transfer. An employee who accepts a transfer will be paid the rate applicable to the position into which he or she transfers.

A regular employee who has been laid off may revert to the next lower level position if that employee held the lower position in the City within the twenty-four (24) months immediately prior to the layoff.

A regular employee who has been laid off may be reinstated without probation within twenty-four (24) months of the date of his/her layoff, to the position from which he/she was separated, or to any other lower level position to which he/she would have been eligible to transfer. In case of such reinstatement, benefits will be reinstated at the level accruing prior to the layoff and seniority will only be affected by the number of months off the City payroll.

9.34.9 LAYOFF PROCEDURE

Employees will be laid off in the inverse order of their seniority in their classification in the department. Seniority is determined based on the length of employment in the affected classification in the department, or higher classifications in the department. Length of employment includes all days of employment in attendance at work and on authorized or legally-protected leaves of absence. Length of service does not include unauthorized periods of leave or suspension or layoff. Within each classification, employees will be laid off in the following order: temporary; part-time; probationary; and for-cause status. If two or more employees in a classification to be laid off have the same length of employment, the employee to be laid off will be decided by lottery.


For-cause employees who are noticed for layoff and who have held for-cause status in a lower classification within the same classification series in the same department, may displace employees in the lower classification provided that the employee seeking to displace has greater length of employment in the lower classification than the incumbent in the lower classification. Employees in lower classifications will be displaced in inverse order of their length of employment in the classification. Any employee who seeks to displace another must provide the City Manager with written notice no later than five working days after the date of the notice of layoff.

9.34.10 LAYOFF DISPUTES

An employee who has been noticed for layoff, and who has any questions or concerns about the layoff decision or process may make an appointment to be heard by the City Manager for an informal pre-layoff review. The employee must request this appeal in writing within five work days from the date of the notice of layoff. The City Manager's decision is final.

9.34.11 EXIT PROCEDURES

Upon separation from employment, an employee must return all City property prior to receiving final compensation. Compensation will be paid for all hours worked, accumulated vacation, overtime, holiday pay, and other compensation to which the employee is entitled.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.35 DRUG & ALCOHOL ABUSE PREVENTION		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

The purpose of this policy is to provide consistent and relevant guidelines for all employees regarding alcohol and drug use at the workplace. The City of Belvedere intends to provide a working environment that is safe and free from employee use of drugs and/or alcohol. Employees are expected to be in suitable mental and physical condition, perform their jobs satisfactorily, and behave appropriately. Should the use of alcohol or other drugs interfere with these expectations, employees will be offered rehabilitative assistance. Failure to meet these expectations could result in disciplinary action. This policy complies with the Drug-Free Workplace Act of 1988, requiring the City to implement a comprehensive substance abuse policy.

This Policy applies to all City employees, whether they are on City property, or they are performing City-related business elsewhere, except as this policy is superseded by a memorandum of understanding or federally-mandated drug and alcohol policies. Compliance with this policy is a condition of employment. Disciplinary action will be taken against those who violate this policy.

9.35.1 POLICY

The manufacture, distribution, possession, transfer, sale, or use of alcohol or other drugs, legal or illegal, while on City premises or during work hours or breaks, will be controlled by the procedures specified in this policy up to and including the pursuit of legal action. This includes all forms of alcohol, narcotics, depressants, stimulants, hallucinogens, marijuana, and any other substances. The unlawful manufacture of a controlled substance is prohibited in the workplace. City employees are prohibited from drinking alcoholic beverages or using drugs, other than for medical reasons, during working hours, while on City premises at any time, or while driving a City vehicle. The consumption of alcohol by City employees may be allowed only at designated City facilities, during certain special City functions and with prior authorization by the City Manager.

Employees who may be taking prescribed or over-the-counter drugs that may affect job performance or behavior are encouraged to advise their supervisor that they are taking such drugs for medical reasons; medical evaluation may be necessary.

The City of Belvedere will give the same consideration to persons with chemical dependency problems as it does to employees having other health problems. Seeking assistance for such a problem will not jeopardize an employee's job, whereas continued problems with performance, attendance, or behavior may.

9.35.2 PROHIBITED CONDUCT

- A. The manufacture, distribution, sale, dispensation, possession, or use of alcohol or any controlled substance in either City workplaces or wherever City business is performed. (41 USC §§ 701-702; Gov. Code § 8355(a)(1).)
- B. Working or being subject to call in if impaired by alcohol or any controlled substance.
- C. An employee's failure to notify his/her department head before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of City. An employee's failure to notify the City Manager or his designee of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction. (41 USC § 701-702.)
- D. An employee's criminal conviction for a drug violation that occurred in the workplace.

9.35.3 TESTING

The City has discretion to test applicants and employees for alcohol and drug use under the following circumstances. The City will use an outside laboratory to perform all testing.

- A. Pre-Employment Testing for External Applicants for Certain Jobs: Those external applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but is not limited to:
 - 1. Safety-sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, enforcing drug laws, and/or operating natural gas pipelines; and
 - 2. Jobs that involve the direct influence over children.

9.35.4 REASONABLE SUSPICION TESTING

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances. When an employee's supervisor and a second employee or supervisor have reasonable suspicion to believe that an employee may be under the influence of intoxicating liquor and/or narcotics, that employee may be asked to report to a City-designated medical clinic on City time and at City expense for a medical evaluation. This medical evaluation will be conducted in order to determine if in fact that employee has evidence of alcohol and/or drugs in his/her system.

“Reasonable suspicion” to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to:

- Body odor
- Unkempt appearance

Lack of Coordination
Bloodshot or watery eyes
Slurred speech
Sleeping on the job
Puncture marks or sores on skin
Runny nose
Dry mouth
Dilated or constricted pupils
Agitation/hostility
Confused or incoherent behavior
Paranoia
Euphoria
Disorientation
Inappropriate wearing of sunglasses
Tremors
Alcohol on breath
Physical and/or verbal altercation
Inability to walk a straight line
An accident involving City property
Possession of drugs or alcohol
Frequent absenteeism
Confusion/difficulty in concentration
Noticeable change in behavior

If reasonable suspicion pertaining to the use of drugs and/or alcohol by an employee is determined during normal working hours, the following steps shall be followed to facilitate the medical evaluation process:

- A. In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the City Manager
- B. The supervisor shall contact the City Manager at the earliest available opportunity to discuss the event(s) that led to a belief that an employee is intoxicated. At that time, it will be determined whether or not sufficient facts exist to indicate that drug testing may be appropriate. If the evidence indicates that the employee may be under the influence, The Administrative Services Manager will arrange for an immediate appointment with a medical facility to conduct the test. The supervisor shall inform his/her department head of this situation. Refusal by an employee to submit immediately to an alcohol and/or drug analysis when requested by management may constitute insubordination and may be grounds for discipline up to and including termination. The actual type of testing including possible urine or blood screens will be determined by the physician.
- C. If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the City Manager or his designee has approved, the employee will be relieved from duty, transported to the testing facility and to his or her home after the test. The employee will be placed on sick or other paid leave until the test results are received.

- D. The employee will then be transported home or, in appropriate situations, to the hospital as deemed necessary by the doctor. The employee will continue receiving pay during this time and disciplinary action will not be administered unless the test results are confirmed. Information obtained through this testing will be treated with strict confidentiality.
- E. If the employee is found to have alcohol or drugs in his/her system, the supervisor shall meet with the employee to counsel him/her on the matter and explain the proposed disciplinary action on the next day. The supervisor shall encourage the employee to seek professional assistance in dealing with any drug or alcohol problem. The employee's medical group may provide the needed drug/alcohol counseling. Also, the City's Employee Assistance Program can provide referrals for professional help.

Should an incident arise after normal work hours, the above procedures should be followed with the exception of contacting the Administrative Services Manager.

9.35.5 **DOCUMENTATION**

Records pertaining to job performance, attendance, and behavior shall be maintained in the employee's personnel file. Behavior associated with alcohol or other drugs, such as those listed in this policy under causes for reasonable suspicion should be documented in the form of a memorandum to the City Manager; however, references made by the supervisor regarding alcohol or drug related appearances as a medical diagnosis should not appear in personnel files.

9.35.6 **DISCIPLINARY ACTION**

The City views the use, possession, transfer, or sale of alcohol or drugs in violation of this policy as being very serious and subject to disciplinary action in accordance with the Chapter in this Manual on Disciplinary Action.


9.35.7 **FOLLOW UP**

Should the results of an employee drug test be positive, the following steps shall occur:

- A. The department director will have a discussion with the City Manager to determine the type of disciplinary action that would be most suitable. The City Manager will evaluate the services of a rehabilitation program and provide a referral for the employee to undergo treatment through this program.
- B. Should the results of the drug testing be negative, the employee is free to return to the workplace and assume his/her regular job duties. No further action needs to be taken.

9.35.8 DRUG- AND ALCOHOL-FREE AWARENESS

The City's employee assistance provider offers counseling and treatment of drug- or alcohol-related problems. The employee assistance provider has information about: (a) the dangers of drug or alcohol abuse in the workplace; (b) the penalties that may be imposed for drug or alcohol abuse violations; (c) the [City]'s policy of maintaining a drug- and alcohol free workplace; and (d) any available drug or alcohol counseling, rehabilitation or employee assistance programs. (41 USC § 701(a)(1)(B) – federal contractors; 41 USC § 702(a)(1)(B) – federal grant recipients; Gov. Code § 8355(a)(2).)

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 9.36 DISCIPLINARY ACTION		
	Adoption Date:	1/10/2006	Adopted by:
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.36.1 DISCIPLINARY POLICY STATEMENTS

Discipline shall be administered generally according to a progressive disciplinary system. Whenever an employee's performance or on-the-job conduct at any time falls below an acceptable level, supervisors are expected to inform employees promptly and specifically of such instances and to counsel and assist the employee in improving his or her performance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating formal disciplinary action. In certain situations, even a single incident may justify severe disciplinary action; the disciplinary action to be taken depends upon the seriousness of the incident and the pattern of the employee's past performance and conduct. As used in this chapter "disciplinary action" shall include any oral reprimand, written reprimand, suspension, reduction in pay, demotion or discharge.

9.36.2 CAUSES FOR DISCIPLINARY ACTION

Causes for disciplinary action against any non-probationary employee covered by these Rules may include, but shall not be limited to, the following:

- A. Work performance below accepted standards;
- B. On-the-job misconduct or misconduct off the job that adversely affects the City or the employee's effectiveness on the job;
- C. Insubordination, including refusal to perform assigned work or leaving the work site without permission;
- D. Failing to abide by City ordinance, resolution, work rules, policies or procedures;
- E. Releasing confidential information to others or accepting a personal gift or payment for any service provided as a result of an individual's employment with the City;
- F. Theft, dishonesty or falsification of any records or documents, including the employment application or time records;
- G. Unacceptable behavior towards the general public, fellow employees, or officers of the City;
- H. Using or removing from a City work site any City or other employee property without receiving proper authorization;
- I. Misuse or unauthorized use of City property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, City communication systems, City vehicles or intellectual property;
- J. Absence without authorized leave or tardiness;

- K. Excessive tardiness or absenteeism or absence without any acceptable reason;
- L. Use of leave from work in a manner not authorized or provided for under City policies;
- M. Failing to immediately report an on-the-job accident or injury;
- N. Using, selling or possessing alcohol or drugs while on duty or in such a manner that affects an employee's ability to perform city work, unless such drugs are taken under the direction of a licensed physician;
- O. Disorderly conduct, participation in fights, horseplay or brawls on the job;
- P. Establishment of a pattern of violations of any City policy or rules and regulations over an extended period of time in which a specific incident in and of itself would not warrant disciplinary action, however, the cumulative effect would warrant such action;
- Q. Conduct unbecoming a City employee;
- R. Bringing disrespect to the City;
- S. Conduct inimical to the public service;
- T. Making any false representation or statement, or making any omission of a material fact;
- U. Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;
- V. Inefficiency;
- W. Damaging any City property, equipment, resource, or vehicle, or the waste of City supplies through negligence or misconduct;
- X. Mishandling of public funds;
- Y. Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance;
- Z. Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
- AA. Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the City;
- BB. Working overtime without prior authorization or refusing to work assigned overtime;
- CC. Carrying firearms or other dangerous weapons while on duty when not required by job duties.

9.36.3 SPECIFIC DISCIPLINARY ACTIONS

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

- A. Counseling Memo: A counseling memo will be provided to an employee to identify: a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below. A counseling memo is not considered "punitive action" under the Public Safety Officers Procedural Bill of Rights Act (Government Code §3300, et seq.).
- B. Verbal Reprimand: A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the

completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.

- C. Written Reprimand: A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be retained in the employee's personnel file and documented in the performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below. The employee has the right to have his or her written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the City Manager within 14 days after the reprimand is received. Any written reprimand shall be served upon the employee either personally or by Certified Mail. Any reprimand shall include a statement of reasons for the reprimand, with sufficient specificity and detail to ensure that the employee is aware of the specific misconduct complained of by times, dates, places, etc., and any remedial action that can be taken by the employee to prevent further occurrences.
- D. Suspension Without Pay: The City may suspend an employee from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the suspension is final and documented in the performance evaluation. A suspension without pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.
- E. Reduction in Pay or Paid Leave: The City may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of three forms: 1) a decrease in salary to a lower step within the salary range; 2) a decrease in salary paid to an employee for a fixed period of time; or 3) loss of accrued paid vacation or administrative leave, floating holiday, or compensatory time off. Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation. A reduction in pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.
- F. Demotion: The City may demote an employee from his or her position to a lower position for cause. Documents related to a demotion shall become part of the employee's personnel file when the demotion is final and documented in the performance evaluation. A demotion is subject to the discipline and discipline appeal procedures described below.
- G. Dismissal: The City may dismiss an employee from his or her position for cause. Documents related to the dismissal shall become a part of an employee's personnel file when the dismissal is final. A dismissed employee is entitled to the discipline and discipline appeal procedures described below.

9.36.4 ADMINISTRATION OF DISCIPLINARY ACTION BY SUPERVISOR

The following discipline procedures only apply to the City's for-cause employees. All employees other than for-cause employees, namely temporary, seasonal, extra-help, at -will, probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

1. "Skelly" Notice of Intended Disciplinary Action to Employee: A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:
 - The level of the intended discipline;
 - The specific charges that support the intended discipline;
 - A summary of the facts that show that the elements of each charge at issue in the intended discipline;
 - A copy of all materials upon which the intended discipline is based;
 - Notice of the employee's right to respond to the supervisor regarding the intended discipline within five days from the date of the notice, either by requesting a Skelly conference, or by providing a written response, or both;
 - Notice of the employee's right to have a representative of his or her choice at the Skelly conference; and
 - Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

2. Response by Employee and Skelly Conference: If the employee requests a Skelly conference, the supervisor or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances. The supervisor will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the Skelly notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the Skelly letter.

3. Final Notice of Discipline: After the Skelly conference and/or timely receipt of the employee's written response, the supervisor will: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the supervisor will provide the employee with a notice that contains the following:
 - The level of discipline, if any, to be imposed and the effective date of the discipline;
 - The specific charges upon which the discipline is based;
 - A summary of the facts that show that the elements of each charge at issue in the intended discipline;
 - A copy of all materials upon which the discipline is based; and
 - A reference to the employee's appeal right and deadline to appeal.

4. Delivery of the Final Notice of Discipline: The final notice of discipline will be sent by mail method that verifies delivery to the last known address of the employee, or delivered to the employee in person. If the notice is not deliverable because the employee has

moved without notifying the City or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

9.36.5 RIGHT OF APPEAL FROM DECISION OF SUPERVISOR

The following appeal procedures only apply to the City's for-cause employees. All employees other than for-cause employees, namely temporary, seasonal, extra-help, at-will, probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below. The following appeal procedures apply only to suspension without pay, demotion, reduction in pay or dismissal.

The appeal must be in writing and must state specifically all the grounds and facts upon which it is based. The Department Head superior to the supervisor, if any, or the City Manager or his designee shall review the action of the supervisor and any oral or written response submitted by the employee, and shall affirm, reverse, or modify the decision of the supervisor within fourteen (14) working days after the filing of the appeal.

- a. Request for Appeal Hearing: An employee may submit a written request for appeal to the City Manager within 15 days from: 1) receipt of the final notice of discipline; or 2) the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee. Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline.
- b. Appeal Hearing Officer: The appeal hearing officer shall be designated by the City Manager. The City shall not use the same Skelly officer and hearing officer.
- c. Date and Time of the Appeal Hearing: Once the appeal hearing officer has been designated, the hearing officer will set a date for an appeal hearing. The employee shall be notified in writing at least 21 days prior to the hearing of the scheduled date. For good cause, the administrative law judge may grant a continuance.
This notice shall be mailed by ordinary mail and also by certified mail, return receipt requested, to the employee's last address of record on file. The employee bears the burden of keeping a current address on file.
- d. Prehearing Notice of Witnesses and Evidence: No later than 10 days before the hearing date, each party will provide the other and the appeal hearing officer a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to call any witness or evidence that has not been listed, unless that party can show that the party could not have reasonably anticipated the need for the witness or exhibit.
- e. Subpoenas: Upon the request of either party, and upon his or her own motion, the hearing officer will issue subpoenas to compel attendance at the appeal hearing.

Each party is responsible for serving his/her/its own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.

- f. Continuances: The appeal hearing officer may continue a scheduled hearing only upon good cause shown.
- g. Record of the Appeal Hearing: The hearing shall be recorded, either electronically or by a court reporter, at the option of the City. If the City orders a transcript or makes a transcript of the recording, the City will notify the employee within three days of ordering or making the transcript, and will provide a copy of the transcript upon receipt of the costs of duplication.
- h. Employee Appearance: The employee must appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by any person he or she may select.
- i. Conduct of the Hearing:
 - 1. Sworn Testimony: All witnesses shall be sworn in prior to testifying. The hearing officer or court reporter shall request each witness to raise his or her hand and respond to the following: “Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?”
 - 2. An official record shall be made of the hearing by a certified court reporter. The cost of a transcript shall be borne by the party requesting a transcript. Such transcript shall be the official record of the proceedings. The cost of the administrative law judge and court reporter shall be borne equally by both sides. All other costs shall be the responsibility of the party incurring them.
 - 3. Evidence: Hearings need not be conducted according to technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner that the hearing officer decides is the most conducive to determining the truth. The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The appeal hearing officer shall determine the relevance, weight and credibility of testimony and evidence. The hearing officer shall also determine objections.
 - 4. Exclusion of Witnesses: During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing.
 - 5. Burden of Proof: The City has the burden of proof by the preponderance of the evidence.
 - 6. Authority of Hearing Officer: The appeal hearing officer shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.
 - 7. Professionalism: All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence,


ethics, morals, integrity or personal behavior of their adversaries or the appeal hearing officer.

- j. Presentation of the Case: The parties will address their remarks, evidence, and objections to the appeal hearing officer. The appeal hearing officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. The appeal hearing officer may limit redundant or irrelevant testimony, or directly question the witness. The hearing will proceed in the following order unless the appeal hearing officer directs otherwise:
 - 1. The City is permitted to make an opening statement;
 - 2. The employee is permitted to make an opening statement;
 - 3. The City will produce its evidence;
 - 4. The employee will produce its evidence;
 - 5. The City, followed by the employee, may present rebuttal evidence;
 - 6. Oral closing arguments of no more than 20 minutes may be permitted at the discretion of the appeal hearing officer. The City argues first, the employee argues second, and if the City reserved a portion of its time for rebuttal, the City may present a rebuttal.

- k. Written Briefs: Either party may request to submit a written brief and/or a draft decision. The appeal hearing officer will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.

- l. Appeal Hearing Officer's Recommended Decision: Within 60 days of the conclusion of the hearing, the appeal hearing officer shall make written findings and a recommended decision as to the discipline. The appeal hearing officer shall, at a minimum, find whether the City has shown that the charges in support of the disciplinary action have been substantiated. Such a finding shall be made as to each charge. If the hearing officer finds that none of the charges are supported by the evidence presented, the recommendation shall be that no disciplinary action be taken. If the hearing officer finds that any or all of the charges are supported, he/she shall either:
 - a) Recommend that the proposed disciplinary action be carried out;
 - b) Recommend that no disciplinary action be taken; or
 - c) Recommend that the proposed disciplinary action be modified.
 - 1. If the City Manager was not the appeal hearing officer or the Skelly officer, he or she shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The decision of the City Manager is final. There is no process for reconsideration.
 - 2. If the City Manager was the Skelly officer, the City Council shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The decision of the City Council is final. There is no process for reconsideration.

- m. **Proof of Service of the Written Findings and Decision:** The City will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. It shall be the responsibility of the employee to inform the City of his/her address. A copy of the decision shall also be provided to the City Manager or his or her designee.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 9.37 GRIEVANCE PROCEDURES		
Adoption Date:	1/10/2006	Adopted by:	City Council motion
Revised Date:	12/10/2018	Revised by:	City Council Resolution 2018-35
Authority:	City Council		

9.37.1 DEFINITION

A grievance is an alleged violation of a specific provision of these Policies that adversely affects the employee and that contains all of the information listed in the “Statement of the Grievance” below. The following procedure applies to all City employees, unless: the employee is covered by a grievance procedure in a memorandum of understanding; another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. The grievance procedure cannot be utilized to challenge the content of a performance evaluation.

A concern is not a grievance unless the affected employee is able to state each of the following: the date of the alleged violation; the specific provision(s) of these Policies that were allegedly violated; a description of all facts regarding how the alleged violation occurred; and a list of all persons who are witnesses or are involved. The grievant may use a City form to submit the Statement of the Grievance. A Statement of the Grievance must be signed by the employee filing the grievance to certify that it is filed in good faith.

9.37.2 PURPOSE

Grievance procedures for employees are provided herein:

- A. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by the regulations;
- B. To afford employees individually or through qualified employee organizations a systematic means of obtaining further considerations of problems after every other reasonable effort has failed to resolve them through discussions;
- C. To provide that grievances shall be settled as near as possible to the point of origin; and
- D. To provide that grievances shall be heard and settled as informally as possible.

9.37.3 TIMELINE

Failure of the City to comply with the time limits of the grievance procedures allows the grievant to appeal to the next level of review. Failure of the grievant to comply with the time limits of the grievance procedures constitutes settlement and resolution of the grievance on the basis of the last disposition. The parties may extend time limits by mutual written agreement in advance of a deadline.

9.37.4 GRIEVANCE PROCEDURE

Step I. Resolution with Supervisor: The employee must first work in good faith to resolve the grievance informally through discussion with his/her immediate supervisor no later than 14 days after the grievant first became aware of the facts or circumstances resulting in the filing of the grievance. Every effort should be made to find an acceptable solution by informal means at the most immediate level of supervision. Any agreement reached during the informal grievance process shall be subject to the approval of the department head. An informal grievance shall not be taken above the department head. If the employee is not in agreement with the decision reached through such discussion, he/she shall then have the right to file a formal grievance in writing within ten (10) calendar days after receiving the informal decision of his/her supervisor or superiors.

If the employee's immediate supervisor is the department head, and/or if the employee has received an informal decision from the department head, he/she may eliminate Step I and II of the formal grievance procedure and submit the grievance directly to the City Manager.

Step II Department Head: If the employee believes that the grievance has not been resolved through Step I, the employee may submit a written Statement of the Grievance to his/her department head with a copy to the City Manager. The employee must submit the Statement of the Grievance within [28] days after the grievant first became aware that a grievance has occurred. The department head shall consider, discuss the grievance with the grievant, and/or investigate as he/she deems appropriate, and shall, within [14] days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant with a copy to the City Manager. The City Manager is prohibited from influencing the decision of the department head on the grievance. If no answer has been given by the department head within ten (10) working days after receiving the grievance, the grievance shall be automatically transferred to the City Manager.

Step III City Manager: If the employee believes that the grievance has not been resolved through Step II, the employee may appeal the grievance decision of the department head to the City Manager. Such appeal must be filed within 10 days of the date of the department head's written decision. The City Manager shall consider, discuss the grievance with the grievant, and/or investigate as he/she deems appropriate, and shall, within 30 days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant. The decision of the City Manager shall be final.

9.37.5 CONDUCT OF GRIEVANCE PROCEDURE

All employees shall be free from reprisal for using the grievance procedure.