

CITY OF MARTINEZ
CIVIL SERVICE RULES AND REGULATIONS

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Civil Service Rules and Regulations

RULE 1. DEFINITION OF TERMS

Administrative Leave: A temporary paid leave imposed pursuant to these Rules.

Advancement: A salary increase within the limits of the salary range established for a classification.

Aggrieved employee: An employee who has filed a Disciplinary Appeal or an employee or applicant who alleges that he or she has a Grievance.

Allocation: The assignment of an individual position to an existing classification and salary range.

Appointment: The selection of, and acceptance by, a candidate to a position in the classified service.

Candidate: An applicant for employment who has been accepted for participation in an examination.

Certification: The submission of names of eligibles from an eligible list to the City Manager.

Civil Service Ordinance: Municipal code § 2.68.010 et seq., which create a civil service system for the City.

Classification: A category into which is placed a single position or group of positions sufficiently similar in duties, authorities, working conditions and responsibilities such that the same title, qualifications, recruiting standards and salary range can be equitably applied.

Classification Plan: Those classification titles and attendant written classification specifications for all regular positions in the City service, as approved by the City Council in adopting, amending or revising the salary and wage plan.

Classification Specification: A written statement of the general duties, responsibilities and qualification standards of positions included in a particular classification. The requisite parts of a classification specification typically include a title, a definition, a statement of distinguishing characteristics, usual duties and responsibilities and minimum qualifications. Classification specifications shall be generally descriptive and are not to be interpreted as restrictive or all-inclusive.

Classified Service: All positions, offices and employments designated as “classified” by Municipal Code § 2.68.020.

Commission: The City of Martinez Civil Service Commission as established according to Municipal Code Section 2.68.040.

Compensation: Any salary, fee, or allowance paid to an employee for performing the duties and exercising the responsibilities of a position.

Continuous Testing: Recruitments open for application on a continuing basis, in which testing is conducted incrementally, and the names of eligible candidates are merged onto an existing eligible list.

Day: Calendar day, except where the term “working day” is used.

Demotion: Reduction to a classification having lesser responsibilities and duties and a lower maximum salary. Demotion may be voluntary or disciplinary.

Department: An administrative unit of the City government, designated in the City budget as a “Department”.

Department Head: The head of a Department.

Discharge: Involuntary termination from City employment.

Disciplinary Appeal: An appeal by an employee of a discharge, demotion, reduction in pay or suspension as provided in Section 9.10.

Division: A major unit within a Department.

Eligible: A person whose name is placed on an eligible list.

Eligible list: A list of the names of persons who have qualified through suitable examination or otherwise for employment in a specific classification. The types of eligible lists are defined in Section 5.2.

Emergency Appointment: A person employed by the City for a temporary period of time in response to an “emergency” as defined in Section 3.6.

Employee: A person having exempt, emergency, temporary, interim, probationary or regular employment status with the City.

Examination: The test of, or the process of testing, candidates to determine their qualifications for a position.

Assembled Examination: A test conducted at specified times and places at which applicants are required to appear for competitive examination.

Unassembled Examination: A test consisting of an appraisal of training experience, work history, or any other means of evaluating other relative qualifications of applicants without the necessity for their personal appearance at a specified place for an examination, although they may be required to appear for an interview.

Oral Examination: Oral interview before a qualified board, panel or individual examiner as part of a formal examination and as may be required by the Commission.

Exempt Appointment, Classification or Service: Any position exempted from the classified service.

Full-Time Employee: The standard hours of work for a full-time employee is 2080 hours annually except as otherwise provided in a Memorandum of Understanding. Full-time employees may be probationary or regular.

Grievance: An alleged violation, misinterpretation or misapplication of, or any real or imagined dispute concerning, these Rules, the Civil Service Ordinance, a Memorandum of Understanding, or other applicable law (including, without limitation, the Americans with Disabilities Act), policy, procedure, rule or regulation with respect to an employee, group of employees or a recognized employee organization. An impasse in “meeting and conferring” with respect to a proposed Memorandum of Understanding is not a grievance.

Immediate Family: Spouse, children, father, mother, brothers, sisters, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents, or grandchildren of the employee.

Leave of Absence without Pay: Authorized, unpaid absence from City service as described in Section 13.1.

Memorandum of Understanding: A binding agreement on wages, hours, benefits and other conditions of employment for designated classifications that has been adopted by the City Council. Any inconsistency between any applicable Memorandum of Understanding and these Rules shall be resolved in favor of the Memorandum of Understanding.

Municipal Code: The Martinez Municipal Code.

Open Examination: An examination open to all candidates who meet the qualification standards as set forth in the examination announcement.

Part-Time Employee: An employee in the classified service whose normal work schedule consists of less than 40 hours weekly and who is compensated at the hourly rate equivalent of the salary range and salary step at which they are appointed. Part-time employees may be probationary or regular.

Part-Time Exempt Employee: An employee not in the classified service whose normal work schedule consists of less than 40 hours weekly and who is compensated at the hourly rate equivalent of the salary range and salary step at which they are appointed.

Performance Evaluation: An evaluation of the quality and quantity of work performed and other characteristics which shall be considered in rating and reporting the ability, performance, merit and efficiency of the employee.

Personnel Officer: The City Manager or his or her designee responsible for administering the City's civil service system pursuant to Municipal Code Section 2.68.120 and these Rules.

Probationary Period: An extension of the testing process during which an employee has no rights of appeal and is required to demonstrate his or her fitness for the position.

Probationary Employee: A full-time or part-time employee subject to a probationary period, which may include promotional appointments.

Promotion: A change of an employee from a position in one classification to a position in another classification having greater duties and responsibilities, higher minimum qualifications, and a higher rate of compensation.

Promotional Examination: An examination open only to regular employees who meet the requirements of the examination announcement.

Reclassification: The reassignment of an individual position to a more appropriate classification based upon a change in the duties performed and the authority and responsibilities exercised.

Recognized Employee Organization: Any employee organization that has been officially recognized by resolution of the City Council.

Recruitment Appeal: An appeal to the Personnel Officer and the Commission regarding an adverse result in the recruitment process as provided in Rule 4.

Reemployment: The return to City employment of a laid-off employee through reemployment from a reemployment list as defined in Section 5.2.

Regular Employee: A full-time or part-time employee in the classified service who has been selected from an eligible list and who has successfully completed a probationary period.

Rehire: The return to City employment of an employee who does not have reemployment or reinstatement rights at the time of returning to City employment.

Reinstatement: The return to City employment of an employee who voluntarily resigned in good standing from City employment through reinstatement from a reinstatement list as defined in Section 5.2.

Resignation: A voluntary separation of an employee from City service.

Rules: The Civil Service Rules and Regulations of the City of Martinez as contained herein.

Salary Range: A designated schedule of salaries with five steps within specified minimum and maximum amounts. Each classification shall be assigned to a salary range in the salary and wage plan.

Salary Step: A specific amount of salary as adopted within a salary range.

Salary and Wage Plan: A schedule of salary ranges, salary steps, and hourly rate equivalents.

Suspension: The temporary suspension of an employee from a position without pay for reasons allowed by these Rules.

Temporary Appointment: A temporary appointment to a position.

Termination: The separation of an employee from City service. Termination may be by death, discharge, lay-off, resignation, retirement, work completion, or release during probationary period.

Transfer: The movement of an employee in the classified service as defined in Section 6.4.

Vacancy: Any unfilled position in the classified service that is not filled by a probationary or regular employee.

Working Day: A day on which the administrative offices of the City are open for business.

Y-Rate: The “freezing” of an employee’s salary when it exceeds the maximum salary step authorized in the salary and wage plan for the classification of said employee.

RULE 2. GENERAL

2.1 City Manager/Personnel Officer

The City Manager shall administer the civil service system and serve as the Personnel Officer. The City Manager may, when not in conflict with these Rules, applicable law, and Memoranda of Understanding: (1) establish such other rules as are necessary for the operation of the civil service system; (2) appoint or remove all employees of all City Departments; and (3) delegate any of the powers and duties conferred upon him as Personnel Officer (including the designation of "Personnel Officer") to any other City employee, or recommend that such powers and duties be performed under contract.

2.2 Department Heads

Department Heads may create Department rules provided that such rules do not conflict with these Rules, applicable law or Memoranda of Understanding. Department rules shall be approved by the City Manager and a copy thereof shall be retained by the Personnel Officer.

2.3 Policy

It is the policy of the City that all employment decisions shall be made without regard to race, religion, creed, sex, color, age, disabilities, national origin or ancestry. The City shall make reasonable attempts to accommodate the disabilities of all employees, applicants and eligibles.

2.4 Rules - Application & Exceptions

a. Application: Except as provided herein, or in any applicable law or Memoranda of Understanding, these Rules shall apply to all employees in the classified service. The City Manager may, by written administrative policy, apply any provision or provisions of these Rules to any person or position exempted from these Rules.

b. Exceptions: These Rules shall not apply to the offices, positions and employments set forth in Municipal Code § 2.68.020. Employees not included in the classified service under § 2.68.020 shall serve at the pleasure of the City Manager.

c. Agreements & Scope of Bargaining: Whenever any provision of these Rules conflicts with the provisions of any applicable collective bargaining agreement, the provisions of such agreement shall prevail. Any rule or classification specification which falls within the scope of bargaining shall not be established or revised by the Commission until completion of the bargaining process between the City and the affected recognized employee organization.

d. Violations: Violation of these Rules or any Department rule, regulation or order by a regular employee shall be grounds for disciplinary action hereunder.

2.5 Amendment of Civil Service Rules

a. Adoption and Amendment: These Rules and any amendments hereto shall be effective upon adoption by the City Council. Amendments to these Rules shall be reviewed by the Commission prior to adoption by the City Council. Amendments may be suggested by any interested party.

b. Notice of Amendments: The Personnel Officer shall post notices in a conspicuous place in City Hall announcing the times, and a brief description, of any hearing before the Commission or City Council relating to an amendment or addition to the Civil Service Ordinance or these Rules. The Personnel Officer shall give written notice to each recognized employee organization affected by the adoption or amendment of any personnel rule proposed to be adopted by the City Council.

2.6 Service of Notice

Unless otherwise noted in these Rules, notice required to be given to any employee shall be served either personally or by certified mail, return receipt requested, addressed to the employee's last known address. Notice shall be deemed given upon the date of personal delivery or upon the date the notice is properly deposited in the United States mail. For purposes of Rule 10.5 (g) (1), notice deposited in the United States mail shall be deemed given when received.

2.7 Severability

Each phrase, sentence, paragraph, clause or section of these Rules shall be deemed severed if authoritatively determined to be illegal or unconstitutional, and such determination shall not affect the remaining phrases, sentences, paragraphs, clauses or sections.

2.8 Interpretation

- a. Gender:** The masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so indicates.
- b. Mandatory/Permissive:** "Shall" is mandatory and "may" is permissive.
- c. Miscellaneous:** The present tense shall include the future; the singular shall include the plural; and the plural shall indicate the singular. A "writing" shall include printing and typewriting.

RULE 3. CLASSIFICATION PLAN

3.1 Adoption and Amendment

The Commission may recommend to the City Council any changes or amendments to the classification plan or salary and wage plan. Such changes or amendments shall not be effective unless adopted by the City Council.

3.2 Preparation and Maintenance

Classification specifications and classifications shall be established and maintained by or under the direction of the Personnel Officer, subject to review by the Commission and approval of the City Council; provided, however, that notwithstanding any provision in these Rules, classification specifications and classifications which are subject to an existing Memorandum of Understanding may, but are not required to, be reviewed by the Commission. The Personnel Officer may recommend to the Commission the establishment of new classifications, or the combination, modification, or elimination of existing classifications. The Personnel Officer shall have the right to conduct studies of any position in the City service to determine if such position

is properly classified.

3.3 Classification Procedure

Whenever: (1) one or more new positions are under consideration for establishment; or (2) an existing position is under consideration for reclassification; or (3) whenever a new classification is created to which any position may be more appropriately assigned; or (4) due to the elimination or combination of any existing position or classification an amendment to the classification plan is required, one or a combination of the following procedures shall be observed:

- a.** The Personnel Officer shall forthwith be provided with a written report on the significant facts relating to such possible changes in writing.
- b.** The Personnel Officer, upon written request of any employee, recognized employee organization or after consultation with the Department Head concerned, may undertake an inquiry into the classification and position.
- c.** On the basis of such inquiry, the Personnel Officer shall, as he or she deems most appropriate: make no change in the allocation of the position; recommend to the Commission that the position be reclassified; or recommend to the Commission a new classification to which the position should be allocated. Whenever a position is reclassified, the existing position is to be deleted and a new position created in the classification to which the position is to be assigned.

3.4 Incumbents in Reclassified Positions

When a position has been reclassified to a classification with a higher salary range, the position shall be filled by appointment or promotion from an eligible list established for that classification. When, however, an incumbent occupies a position allocated to a classification which is reclassified to a classification at the same or higher salary range, the incumbent may be retained in the position after reclassification. Reclassification shall not be used for the purposes of avoiding restrictions concerning demotions and promotions. The incumbent may be retained in the position after reclassification without examination provided that the Department Head and the Personnel Officer determine that each of the following criteria are satisfied:

- a.** The reclassification results from an official recognition of a change in the duties and responsibilities which have already occurred.
- b.** The incumbent possesses the knowledge, skills and abilities necessary for the new classification.
- c.** The incumbent has demonstrated a satisfactory level of performance in the changed duties and responsibilities of the new classification.
- d.** The incumbent was a regular employee in the classification to which the position was formerly allocated.

- e. The addition of duties and responsibilities justifying the creation of a different classification was not the result of planned management action.

3.5 Temporary Appointments

When required for the efficient and economical operation of a Department, the City Manager may make a temporary appointment, subject to the approval of the Commission. Temporary employees are not in the classified service. Temporary appointments shall have an initial duration of not longer than six months, unless an extension (of no more than six months) is approved by the Commission. The Commission may approve successive extensions provided that each extension shall not exceed six months.

3.6 Emergency Appointments

If there is no appropriate position to meet the immediate requirements of an emergency condition which threatens life or property, an appropriate classification title and salary may be established by the City Manager. The Personnel Officer may thereupon immediately classify the position for the duration of the emergency. As soon as possible, such appointments shall be reported to the Commission. In no event shall emergency appointments exceed thirty (30) working days. An emergency appointment shall be excluded from the classified service and shall not be subject to these Rules.

3.7 Acting Appointments

- a. When an employee is formally assigned to serve in an acting capacity by the City Manager, the employee will receive acting pay for all hours worked and shall continue until the assignment is terminated. All formal acting pay assignments shall be in writing with a copy given to the employee.
- b. An employee may be appointed to serve in an acting capacity if, in the opinion of the City Manager, the employee is qualified to perform the duties of the higher classification and meets the minimum qualifications of the job description. If there are no employees meeting the minimum qualifications for the acting appointment, the City Manager may appoint an employee within the Department to the acting position.
- c. Acting appointments may be made only to fulfill the responsibilities of the position until such time as an appropriate selection procedure is held and a permanent appointment is made, or until such time as the incumbent has returned to duty or upon termination of a temporary project. Acting appointments may not be extended for a period greater than ninety (90) days without special approval of the City Manager.
- d. Upon formal assignment of acting status an employee will begin to earn a salary which is equal to the first salary step of the salary range assigned to the classification for which an acting status has been made. However, the employee shall receive at least five (5) percent above the employee's present salary. While working in an acting capacity, the employee will continue to accrue and have recorded general, special, or normal salary step increases in an employee's permanent position. However, such salary step increase will only be paid to maintain a minimum five (5) percent differential above the salary to which the employee is entitled in his or her permanent position.

e. In the event that the City Council desires to appoint an acting City Manager, the City Council shall have the authority and responsibilities of the City Manager for purposes of Rule 3.7.

3.8 General

The classification or reclassification of any position in the classified service shall not be negotiable or appealable to the Commission under these Rules.

3.9 Interpretation of Classification Specifications

The classification specifications are descriptive and explanatory and not restrictive. They are intended to indicate the kinds of positions allocated to various classifications. The use of a particular expression, or an illustration as to duties should not be interpreted to exclude others not mentioned that are of a similar kind or level of responsibility. The specification for each classification should be considered in its entirety and in relation to other classifications in the classification plan. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications desired, in relation to other positions, as affording together a picture of the kind of employment the classification is designed to embrace.

RULE 4. EMPLOYEE RECRUITMENT

4.1 Application Form

Applications shall be made on forms provided by the Personnel Officer. Such forms require information covering training, experience, references, and other pertinent information. All applications must be signed by the person applying.

4.2 Announcements

At least ten (10) days prior to the date of an examination, the Personnel Officer shall cause an official notice of all vacancies for which an examination is to be held to be published in at least one newspaper of general circulation and one newspaper which reaches a minority population in the City. The notice shall also be posted in a conspicuous place in City Hall and may further be posted prominently at locations throughout City facilities and may further be posted, distributed, advertised or published in such manner as deemed appropriate by the Personnel Officer. The notice shall specify the classification title and salary range of the position for which an examination is announced, including some typical duties to be performed, minimum and desirable qualifications, the date, time, place and manner of making applications, the closing date for receiving applications, the types of tests to be administered in the examination, and such other additional information which the Personnel Officer determines is appropriate.

4.3 Qualification of Applicants

Applicants shall meet the qualification standards for the classification by the date set forth in the announcement or job description for that classification. License requirements shall be met by the time of appointment.

4.4 Disqualification

The Personnel Officer may reject any application which indicates on its face that the applicant

does not possess the minimum qualification required for the position. The Personnel Officer shall make a note upon the application form of the cause for rejection. The Personnel Officer shall have the authority to disqualify applicants, candidates or eligibles for any of the following:

- a.** Failure to meet any of the requirements or qualifications established for the examination or set forth in the Civil Service Ordinance or the classification specification for the position for which application is made;
- b.** False statement of material fact or actual or attempted deception, fraud or misconduct in connection with the application or the examination.
- c.** Use or attempted use of political pressure or bribery to secure an examination or appointment.
- d.** Present inability, after reasonable accommodation, to perform the essential job functions of the position or present inability to perform the essential job functions, after reasonable accommodation, in a manner which would not endanger his or her or others health and safety.

4.5 Waiver of Minimum Qualifications During War-Time Emergency

At any time during a period that the United States is in a declared war, and for a six months' adjustment period following the conclusion of said war, if the City Council shall find and determine that there is a shortage of available persons possessing the minimum qualifications prescribed in the classification schedules, it may waive or diminish minimum qualifications prescribed therein for applicants.

4.6 Incomplete Applications

Incomplete applications may be returned to the applicant with the cause for incompleteness noted thereon, and resubmitted to the Personnel Officer. Acceptance in this case will be based on such applications being initially received on or before the previously announced final date for filing.

4.7 Notice of Rejection

The Personnel Officer shall give written notice to the applicant of the cause for rejection whenever an application is rejected. The cause for rejection shall also be noted on the application form.

4.8 Examination Process

Examinations shall be in any form which will fairly evaluate the qualifications of applicants with respect to the essential functions of the position without unnecessarily duplicating examinations given as a prerequisite to a diploma, license or certificate. The probationary period shall be considered part of the examination process. Examinations may be assembled or unassembled, may consist of written, performance or oral tests or any combination thereof, but shall consist of one or more of the following parts:

- a. Special Subject:** That portion of the examination which deals with the duties of

a position. This part may be an oral test, a written short answer test, a multiple choice test, a written free answer test, or a combination of all of these; all of which must test the ability of an individual to perform said duties.

b. Educational: This part may consist of penmanship, spelling, composition, civics, City information, or any or all of these, as well as other subjects to test the basic training which would logically form the groundwork for performing the duties of the position and advancement in the service.

c. Training and Experience: Training shall consist of a statement of schooling and studies. Experience shall consist of a statement of all past activities that would tend to fit candidates for the positions and may include a statement of the names of former employers, nature of work and references. A record based on references, investigation, character of past employment, may be included as a part of this subject.

d. Physical or Medical: A physical or medical test may be made a part of any examination at City expense, provided that such tests are required of all applicants for the position.

e. Oral Interview: Personality, attitude and appearance may be counted as a factor in an examination, or the applicant may be questioned on the duties of the position, training, and experience, nature of work performed, and other reasonable questions to determine his/her fitness for the position.

f. Performance: The performance test shall constitute that portion of the examination designed to test the ability of the candidate to perform the essential functions of the position as required in the classification specification and may include such practical demonstration tests as will show relevant skill and manual ability through actual performance.

g. Written: A test conducted at a specific time and place at which candidates are required to appear for written examination under the supervision of an examiner.

4.9 Conduct of Examinations

The Civil Service Commission shall determine the manner and methods by which examinations shall be given. The Personnel Officer shall advise the Commission in all such matters. The City Council may contract with any competent agency or individual for the responsibility for giving or scoring examinations, or it may instruct the Personnel Officer to conduct the same. The Personnel Officer shall arrange for the use of public buildings and equipment for the conduct of examinations and shall render such assistance as shall be required with respect thereto.

4.10 Rating Examinations and Qualifying Score

The minimum rating for which eligibility for a position may be achieved on an examination will be established by the Personnel Officer. A candidate's final rating in an examination shall be the score or total of scores attained on each part of the examination, as prescribed in the examination announcement, and in the case of a regular employee, the appropriate number of City service points added, if any. Failure in one part of an examination may be grounds for disqualifying a

candidate entirely or from taking subsequent parts of the examination.

4.11 Notification of Test Results

Each candidate taking an examination shall be given written notice of the candidate's test score, final rating, and if successful, his or her position on the eligible list. Candidates shall have the right to inspect their test papers and the key examination booklet, except in any case in which standardized examinations are used. An error in grading or rating, if called to the attention of the Personnel Officer in writing within ten (10) working days after notification of the results of the examination, shall be corrected and appropriate changes made to any eligible list. All other test information and documents, including but not limited to results of other candidates and interview board scoring sheets, shall not be made available to the public.

4.12 Veterans

Preference shall be given to veterans in examinations as hereinafter provided:

- a. Veteran Defined:** a "veteran" is any person who shall have been on active duty in any branch of the Armed Forces of the United States for a period of ninety (90) days or more, and who shall have been discharged or released therefrom under conditions other than dishonorable.
- b. Preference Granted:** Credit points shall be added to the earned total examination score of veterans only in entrance level examinations to the extent of five points on a total of one hundred points.
- c. Limitations:** The veterans must obtain a passing grade in all parts of the examination and have all minimum qualifications for the position before any preference credit points are allowed. The preference in examinations is limited and shall be granted only during the five (5) year period from the date of the veteran's discharge or separation from the Armed Forces.

4.13 Appeals and Protests to Personnel Officer

- a. Rejection of Application:** Within ten (10) working days of the mailing of the notice of disqualification based on rejection of the application, an applicant may file a recruitment appeal with the Personnel Officer. The recruitment appeal shall be in writing and contain information in sufficient detail to enable the Personnel Officer to reevaluate the applicant. Within ten (10) working days of receipt of the recruitment appeal, the Personnel Officer shall notify the applicant of the decision by mail.
- b. Protest of Written Test Items:** Within ten (10) working days of the examination date, a candidate may submit a written protest to any item in the examination not excluded under Section 4.11. Protests should cite authorities or references in support thereof, or reasons for challenging the keyed item in sufficient detail to enable the Personnel Officer to understand the objection and to complete any research which is necessary to evaluate the merits of the protest. Within ten (10) working days of receipt of the written protest, the Personnel Officer shall notify the applicant of the decision by mail.

4.14 Appeal Procedure

The recruitment appeal to the Commission shall be submitted in writing to the Commission within ten (10) working days from the date which the Personnel Officer's decision was mailed. Within ten (10) working days of the receipt of such appeal, the Commission shall commence such hearings and investigations as it deems necessary. If it finds the allegations of the appellant to be matters of fact, it may take the appropriate action as provided in these Rules and the Civil Service Ordinance. Appropriate action may include the declaration of the subject examination and all lists resulting therefrom to be null and void, the granting of an appropriate make-up examination, the disqualification of a candidate under the provisions of Section 4.4, or any appropriate combination of these or other authorized actions. The Commission's decision shall be final.

RULE 5. ELIGIBLE LISTS

5.1 Establishment of Eligible Lists

Upon completion of rating, the names of successful candidates shall be listed by the Personnel Officer as eligibles on an appropriate eligible list. The names on the eligible list shall be kept in the numerical order in which they were rated. Whenever identical ratings are received names shall be arranged alphabetically. The final rating shall be determined from the total scores received by each candidate on each test, and a relative value assigned to each test in the examination. The eligible list shall be kept on file by the Personnel Officer and a report indicating the selected applicant shall be furnished to the Commission following completion of the examination process. The hiring department will receive a copy of the eligible list. Requests from the public, including individual applicants and the unions, will be handled in accordance with the Public Records Act. In the event an appeal is filed by a person whose name appears on the eligible list within five (5) business days of mailed notice of rating, no appointment shall be made prior to the resolution of the appeal.

5.2 Types of Eligible Lists

There shall be five types of eligible lists:

- a. Reemployment Lists:** Reemployment lists shall consist of employees laid off from City employment. Such employees shall be considered for reemployment on the basis of length of service.
- b. Reinstatement Lists:** Reinstatement lists shall consist of employees who voluntarily resigned in good standing under Section 8.1. Names shall remain on the reinstatement list for a period of not more than one year from the date of resignation.
- c. Promotional Lists:** Promotional lists shall consist of employees who have qualified through promotional examination and from which promotions or advancements to classifications with higher salary ranges may be made. A regular employee who successfully passes all rated portions of a promotional examination shall be entitled to points for service with the City on the basis of one-half (1/2) point for each full calendar year the employee has held regular employee status with the City up to a maximum of ten (10) full calendar years of service, or a maximum of five (5) City service points. No

credit shall be given for fractions of calendar years.

d. Open Lists: Open lists shall consist of candidates who have qualified through open examination and from which appointments may be made.

e. Consolidated Lists: Consolidated lists shall consist of employees who have qualified through promotional and open examinations.

5.3 Duration of Eligible Lists

Eligible lists shall become effective upon the approval of the Personnel Officer. Eligible lists shall remain in effect for one year unless earlier terminated by the Commission or by the Personnel Officer pursuant to section 5.7(e). Eligible lists may be extended by action of the commission for an additional one year or portion thereof but in no event shall an eligible list remain in effect for more than two years.

5.4 Removal of Names from Eligible List

The Personnel Officer may remove any eligible from an eligible list for any of the following reasons:

- a.** The eligible is determined to be disqualified as provided in Section 4.4.
- b.** There is no response by the eligible within ten (10) days of notice of the Department interview, and the eligible cannot be reached at the last known address.
- c.** A report of a background investigation or reference check is unsatisfactory or indicates that employment of the eligible would not be in the best interests of the City.
- d.** The eligible requests in writing removal from the list.
- e.** The eligible declines three offers of employment or has been certified for appointment three times and has not been appointed.
- f.** The eligible accepts appointment to a regular position with the City from the list from which the eligible was appointed.
- g.** The eligible is dismissed from employment by the City for cause.
- h.** The eligible does not appear for a scheduled interview without good cause.
- i.** The eligible does not meet the reasonable physical requirements for the position and is not recommended for hire based upon a physician's statement.

The eligible affected shall be notified of the removal of his name by a notice mailed to his last known address. If any person who becomes ineligible under this section has been certified to the City Manager under Section 5.5, his or her certification shall be withdrawn and a new eligible name shall be certified to the City Manager.

5.5 Request to Fill Vacancies

Whenever a position in the classified service is to be filled, the City Manager shall notify the Personnel Officer and request that the eligible list be certified. The Personnel Officer shall advise the City Manager as to the availability of employees for reinstatement, reemployment, transfer or demotion, and of persons on eligible lists for the classification concerned.

5.6 Eligible List Priority

The Personnel Officer shall refer eligible lists to the City Manager in the following order: (a) reemployment list, if any; (b) reinstatement list, if any; (c) promotional list, if any; (d) open list, if any; (e) consolidated list, if any.

5.7 Use of Eligible Lists

a. All vacancies in the classified service shall be filled by reinstatement, reemployment, transfer, demotion, promotion, or appointment from eligible lists established and certified by the Personnel Officer. In the absence of persons eligible in such manner, temporary appointments may be made under the provisions of Section 6.2.

b. When making an initial appointment to positions covered by these Rules, the City Manager may appoint any eligible from the list of names referred. If the City Manager fails to appoint an eligible whose score is in the top five (5) scores, the City Manager shall provide the Personnel Officer with a written statement of the reasons for selecting the eligible chosen and the reasons for not selecting the eligibles on the list ranked above the eligible chosen.

c. When making a promotional appointment to positions covered by these Rules, the City Manager may appoint any eligible whose score is in the top five (5) scores.

d. Appointments under this Rule shall be subject to the eligible's meeting all applicable requirements for employment.

e. If five (5) or fewer eligibles are on an open list initially, or five (5) or fewer eligibles remain on the list after removal of names under Section 5.4, upon request of the City Manager, the Personnel Officer may cancel the open list and establish a new list. Any eligibles remaining on the list shall be notified by letter sent by regular mail to his/her last-known address. Such persons shall be invited to participate, should they so desire, in the testing process to establish the new open list.

f. During a period that the United States is at war, and for a six months adjustment period following the conclusion of said war, if the Council shall find and determine that there is a shortage in available persons possessing the qualifications required of applicants for positions in the classified service, it may authorize the Personnel Officer to withhold the filling of permanent vacancies through the normal civil service processes and may provide for the doing of the work in such Department by a hiring of persons on an hourly, day-by-day or weekly basis. As soon as normal conditions have been restored, and in no event later than six months after the expiration of the war, any permanent vacancies in any position in the classified service shall be filled in the manner prescribed

in the Civil Service Ordinance and these Rules. Such employee shall not be on “regular duty” as such term is defined in the Civil Service Ordinance and shall receive no credit for service so rendered on any application filed for a position in the classified service.

RULE 6. APPOINTMENTS

6.1 General Requirements for Appointment

a. Oath of Office: No person shall be granted an appointment who has not taken a loyalty oath as prescribed by state law.

b. Authorization for Employment: The Personnel Department is responsible for implementing the Immigration Reform and Control Act of 1986 and ensuring compliance. As a prior condition of City employment, candidates shall supply proof of legal residence entitling them to work in the United States. Candidates who fail to provide acceptable documentation will not be allowed to work. City employees whose employment authorization has expired shall be subject to termination from City employment unless they provide new acceptable documentation prior to the expiration date of the prior documentation.

c. Medical Examination: Following an offer of employment, and prior to appointment to a position in the classified or exempt Service, a person shall qualify in a medical examination, which shall be arranged by and conducted at the City’s expense. Such medical examination may be waived at the discretion of the Personnel Officer for those being selected for promotion. The results of any medical examination shall be maintained in the City’s confidential files.

6.2 Types of Appointments

The following are categories of appointments:

a. Full-Time Regular: Appointment from an eligible list to the classified service to fill a budgeted full-time position allocated in the salary and wage plan.

b. Part-Time Regular: Appointment from an eligible list to the classified service to fill a budgeted part-time allocation in the salary and wage plan.

c. Acting Appointments: Appointment to a temporarily vacated, newly created, or temporarily created full-time position of a higher salary and job responsibility level than that currently held by the employee being assigned to acting status, as described in greater detail in Section 3.7.

d. Temporary Appointment: Appointment to a temporary job-title (see Section 3.5). Temporary employees are not in the classified service.

e. Part-Time Exempt: Appointment to a part-time exempt position. Part-time exempt employees are not in the classified service.

f. Emergency Appointments: See Section 3.6.

g. Exempt Appointments: Appointments or election to positions exempt from the classified service, including elected and appointed officials.

6.3 Employment of Relatives

No member of the immediate family of any City employee or City official shall be placed in any situation or appointed to any position in which one member of the immediate family would be subject to direct supervision, evaluation, discipline or dismissal by any other member of the immediate family. The City may refuse employment to a member of the immediate family of a City employee or City Official in any case in which that individual's employment would be detrimental to safety, security, morale or involve a potential for conflict of interest. If co-employees of the City marry, or if an employee marries a City official, and their respective positions would fall within the prohibitions of this Section, the City shall attempt to make reasonable efforts to minimize problems of conflicts of interest, safety, security and moral. If reasonable accommodation will not minimize such problems, the individuals involved will be given thirty (30) days from the date of their marriage to decide which spouse will be transferred (consistent with these Rules) or terminated. If no decision is made by such time, the City shall make the decision regarding transfer or termination.

6.4 Transfer

a. Transfer Between Classifications: An employee may request a transfer to a position in the same Department or a different Department. Such request shall automatically terminate on July 1 of each year unless renewed by the employee. Such request for transfer shall be considered prior to filling a vacancy in that position. An employee may be transferred or reassigned by the appointing authority from one position to another position in the same classification; or, with the approval of the Personnel Officer, to a comparable classification for which the employee possesses the minimum qualifications at the same salary level. After notice to the Personnel Officer, an employee may be transferred by the City Manager from one position to another in a comparable classification.

For purposes of this Rule, a comparable classification is one with substantially the same salary range and involving the performance of similar duties and requiring substantially the same qualifications as the other classification.

The City Manager shall have full authority to determine the compatibility of classifications. If the transfer involves a change from the jurisdiction of one supervision official to another, both must consent thereto unless the City Manager orders the transfer for purposes of economy or efficiency. No person shall be transferred to a position for which he or she does not possess the minimum qualifications. Whenever possible, an employee being considered for transfer shall be notified within a reasonable period in advance of the effective date of such contemplated action and his/her wishes with respect to this action shall be taken into account to whatever extent possible, consistent with the interest of efficient operations of the Department concerned.

b. Lateral Transfer Between Departments: A regular employee may be

transferred between Departments or divisions with the consent of the employee and the approval of the City Manager and Department Heads involved.

c. Transfer Between Divisions Within a Department: A regular employee may be transferred between divisions within a Department with the approval of the City Manager and the Department Head.

d. Compliance With Intent of Rules: A transfer under this Section shall not be used to effectuate a promotion or demotion, each of which may be accomplished only as provided in these Rules.

e. Loss of Benefits: A transfer shall not result in the loss of vacation, sick leave, overtime or other accrued benefits.

6.5 Promotion

It is the policy of the City to encourage promotion within the City service. Promotional selection for vacancies shall be conducted in accordance with Rule 4.

a. Regular employees who meet the requirements of the classification for which an examination is to be held shall be considered eligible to compete in such examination.

b. A promoted employee shall be entitled to receive the first salary step in the salary range for the classification to which the employee has been promoted. In the case of a promotion in which the salary ranges overlap, the employee shall be placed at such salary step in the salary range of the higher classification to provide at least 5 percent more basic salary than the employee received in the lower classification; provided, however, that the application of this provision does not exceed the highest salary step in the authorized salary range for the higher classification.

c. Effective on the date of the promotion, a new anniversary date shall be established for purposes of eligibility for consideration for future salary step advances within the salary range of the higher classification. In the event the promotion occurs on the employees' anniversary date, such employee shall first receive any salary step advance to which the employee was otherwise entitled in the lower classification, and then the promotional salary adjustment provided above.

6.6 Demotion

a. Grounds: Upon approval of the City Manager, an employee may be demoted for any of the following reasons:

1. The ability to perform the required duties falls below acceptable standards;
2. For disciplinary reasons set forth in Section 9.2;
3. The need for the position which the employee fills no longer exists;
4. The employee requests a demotion;
5. The position is Reclassified; and
6. For any other reasonable grounds as approved by the City Manager.

No employee shall be demoted to a classification for which the employee does not possess the minimum qualifications. The Personnel Officer shall give written notice to an employee at least five (5) working days before the effective date of the demotion.

6.7 Reinstatement

Any regular employee who has resigned from the City service in good standing as defined in Section 8.1 may, upon his or her consent, be considered for reappointment to a vacant position in the same classification in the classified service within one (1) year of such termination. Such reappointment may be made without benefit of additional examination. Public Safety employees who have been out of City service for over six (6) months may be subject to appropriate background, physical and psychological examinations. In no way shall it be mandatory for the City Manager to reappoint a former employee should he or she desire not to do so. Appointment shall otherwise be made in the manner as for original employment. An employee reinstated shall be considered a new appointee and shall have no vested interest in or be entitled to any benefits accrued during any previous employment with the City with the exception of vested retirement benefits.

6.8 Physical Requirements of Employees

The City requires that all employees be physically capable of performing the essential functions of their position. Upon determination by the Personnel Officer for good cause, an employee may be subject to medical examination to determine whether the employee possesses such physical capability. The examination shall be conducted by a medical examiner selected by the Personnel Officer and shall be arranged and paid for by the City.

RULE 7. PROBATIONARY STATUS

7.1 Probationary Period

All original and promotional appointments shall be tentative and subject to a probationary period of six (6) months for full-time employees and 1040 hours of work for part-time employees with the following exceptions: (1) entry level police officers, defined as those who have completed the P.O.S.T. Academy but have not had previous employment as a police officer, shall be tentative and subject to a probationary period of eighteen (18) months; (2) lateral entry police officer appointments with the Basic Certificate issued by the Commission of Peace Officer Standards and Training shall be tentative and subject to a probationary period of twelve (12) months; (3) police trainee appointments shall be tentative and subject to completion of the P.O.S.T. Academy. Upon completion of the Academy the employee will be sworn in and considered and entry level police officer with an eighteen (18) month probationary period; (4) police clerk-dispatcher appointments shall be tentative and subject to a probationary period of twelve (12) months; (5) in the event that a clerical employee is promoted from one classification to a higher classification, the City may permit a clerical employee to serve a three (3) month probationary period only under extraordinary conditions; and (6) any other case in which a Memorandum of Understanding establishes a longer period of time. The City Manager may extend the probationary period for any employee for an additional three (3) months upon finding that the length of the initial probationary period in relation to training and other requirements of the classification is insufficient to evaluate adequately the probationary employee's fitness. In the event of an employee's illness or injury requiring absences totaling greater than 30 days from

work, and at the discretion of the City Manager, the number of days absent may be added to the length of the probationary period. The probationary period shall be regarded as an intrinsic part of the examination process and shall be utilized for closely observing the employee's work, for securing the effective adjustment of a new employee to his/her position, and for eliminating any probationary employee whose performance does not meet the standards of work. Leaves of absence or assignments out of the classification in a lower classification totaling more than 30 days for any reason, shall not be counted for completion of the probationary period.

7.2 Probationary Performance Reports

Employee performance reports for probationary employees shall be prepared at the end of the third and fifth month. These reports shall be submitted to the Personnel Officer on a form prescribed by the Personnel Officer and shall become part of the employee's personnel records. Each report shall be discussed with the employee, who shall acknowledge in writing that he or she has received a copy. If the employee disagrees with the contents of the report, the employee shall note that disagreement on the report next to his or her signature. If the employee refuses to sign the performance report, the report shall be annotated to that effect and placed in the employee's personnel file.

7.3 Failure to Successfully Complete Probation

a. Non-Promotional Probation: During the probationary period an employee may be released without cause by the Department Head without the right to appeal such release. Notification of release shall be in writing and shall be served upon the probationary employee with a copy to the Personnel Officer.

b. Promotional Probation: During the promotional probationary period an employee may be released without cause by the Department Head without the right to appeal such release. A promoted employee who successfully completes the designated probationary appointment period in a classification in the classified service to which the employee was promoted gains regular employee status in the new classification and loses regular employee status in the former classification. An employee released during the promotional probationary period shall be entitled to return to the position held prior to the promotion at the salary range and Step held prior to the promotion unless the employee has been discharged for cause.

7.4 Regular Appointment

In the final performance evaluation of the designated probationary period, the Department Head shall provide the Personnel Officer with his or her written recommendation with respect to the retention or release of a probationary employee. If the service of the probationary employee has been satisfactory to the City Manager, then the City Manager shall file with the Personnel Officer a statement in writing to such effect and stating that the retention of such employee in the service is desired. If the service of the probationary employee has been unsatisfactory to the City Manager, then the City Manager shall file with the Personnel Officer, giving a copy to the employee, a statement in writing to this effect.

RULE 8 TERMINATION OF EMPLOYMENT

8.1 Resignation

- a.** In order to be considered as having resigned in good standing, an employee shall submit a written notice of resignation to his or her Department Head at least ten (10) working days prior to the effective date of said resignation. Such written notice shall include the reason for leaving and the effective date of the resignation. The resignation shall be forwarded to the Personnel Officer with a statement by the City Manager or Department Head as to the resigned employee's action.
- b.** The Department Head or the Personnel Officer may authorize a resignation in good standing when, in his or her opinion, there are sufficient reasons to waive the requirements of this section.
- c.** An employee who resigns loses his or her regular status and employment rights effective on the date of resignation, except as otherwise provided by law, these Rules, or appropriate Memorandum of Understanding.
- d.** Failure to comply with this Section shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the Department Head immediately to the Personnel Officer.
- e.** With the approval of the City Manager, an employee who has resigned in good standing may be placed on a reinstatement list for one year following the date of resignation with respect to his or her former position, if vacant, or to a vacant position in the same or comparable classification. Prior to reinstatement the employee shall meet all applicable hiring requirements as set forth in Rule 6.
- f.** Upon the appointment of an employee from a reinstatement list, the employee shall be placed on the salary step obtained prior to resignation in the appropriate salary range for the classification. The employee's anniversary date shall be adjusted to credit City service since the most recent salary step advancement prior to resignation. The employee shall not be credited for a period of separation from City employment.
- g.** Upon the rehire of a former employee who did not resign in good standing into the same class as the employee occupied prior to separation, such employee shall receive the same salary step in the salary range for the classification as was received prior to separation. If rehired into a related lower classification, credit shall be given for prior service in determining the salary step for employment in the lower classification.
- h.** If rehired in a higher classification than the employee previously occupied, the rules regarding pay upon promotion shall apply. The anniversary date for a person rehired into a position in the classified service shall be established based upon the date of such rehire.

8.2 Disciplinary Action

An employee may be terminated by disciplinary action as provided in Rule 9.

8.3 Release

A probationary employee may be released as provided in Rule 7.

8.4 Retirement

All regular employees in the City service who shall become eligible to and do retire under the provisions of any present or subsequent retirement policy and plan shall be deemed, for the purposes of these Rules, to have been separated from the City service in good standing.

8.5 Physical or Mental Incapacity

An employee who becomes physically or mentally incapacitated from performing the essential duties of the employee's job may be terminated, transferred or demoted provided that the illness or injury did not arise out of or in the course of employment with the City. For good cause, the City may require an employee to submit to an examination by a medical doctor at City cost to evaluate the capacity of the employee to perform the essential duties of the employee's job. The employee shall be entitled to full access to all medical reports and documentation resulting from the examination. The employee may submit medical or other evidence to the examining medical doctor and to the City, and may submit to an examination by the employee's personal medical doctor. The employee shall pay for any such examinations. If, after considering the medical reports, documentation and evidence, the City Manager determines that the employee is physically or mentally incapacitated from performing the employee's essential job duties, the City Manager may terminate, transfer or demote the employee. Prior to such action, the employee shall be advised of alternative options, including retirement for disability. The decision of the City manager shall become effective upon the date of written notice served on the employee. The employee may appeal the decision of the City Manager under Rule 10. It is the intent of this Section that the City attempt, to the extent reasonable, to accommodate the employee and allow the employee who is likely to return to employment in the future to use accrued leaves.

8.6 Lay-off Procedure

- a. Reason for Lay-off:** The City Manager may eliminate a position and lay-off an employee in the classified service whenever there is a lack of work, lack of funds, material change in or reorganization of duties, or good business reason for doing so. The decision of the City Manager to eliminate a position and lay-off an employee shall not be subject to any right of appeal or hearing under these Rules.

- b. Order of Lay-off:** Employees within the classification involved shall be laid-off in the following order of appointments: part-time probationary, full-time probationary, part-time regular and full-time regular. The order of layoff of part-time regular and full-time regular employees shall be based on the length of service of the employee. Length of service shall include the length of time in the present or higher classification. In the event of identical periods of service within the same classification, the employee with the longest total continuous City service shall be considered senior. Additionally, total length of continuous City service shall be used to determine who retains a position with the City at the lowest ranking classification, after all bumping rights have been executed. In any case in which the total length of service is equal between two (2) or more affected

employees, the employee with the higher rated current performance evaluation shall be retained.

c. Notice of Lay-off: Regular employees to be laid off shall be notified in writing by the Department Head at least thirty (30) days prior to the date of the layoff. The notice shall contain the reasons for the layoff. Regular employees shall have their names placed on the appropriate reemployment list in accordance with Section 5.2.

d. Transfer or Demotion in Lieu of Lay-off: In lieu of layoff, an employee may elect to transfer or be demoted to (1) a vacant position in a classification in which the employee previously held regular status or (2) a position in a classification in which the employee previously held regular status, provided that the employee to be laid-off has greater seniority than the least senior employee in the lower classification. In such a case, the less senior employee in the lower classification shall be laid-off.

e. Reinstatement after Lay-off: An employee laid off because of lack of work or lack of funds is eligible for reemployment for a period of twenty-four (24) months and shall be reemployed in preference to new applicants. In addition, such persons shall have the right to take promotional examinations during the period of twenty-four (24) months. Employees who take voluntary demotions in lieu of layoff shall have the same rights as persons laid off and shall retain eligibility to be considered for reemployment in the classification from which they were laid off. It is the intent of this Section that employees laid off shall be ranked on a reemployment list in reverse order of layoff and be hired back in such order. Employees who wish voluntary demotion in lieu of layoff to classifications not previously held, may be reclassified to vacant positions for which they qualify. The determination of eligibility for reclassification shall be made by the Personnel Officer. Any employee who is laid off in error shall be reemployed immediately upon discovery of such error and restored with full back salary benefits and rights. Upon written request, an employee laid off, or who retires in lieu of layoff, shall be notified of available positions for which the employee is eligible at his/her last known address. The employee shall have ten (10) calendar days from the date of postmark to accept or reject the position.

f. Restrictions: A layoff under this Section shall not be used to effectuate a promotion, demotion or advancement, each of which may be accomplished only as provided in these Rules.

g. Election of Retirement: An employee laid off for lack of work or lack of funds and who elects service retirement from the Public Employees Retirement System (PERS) shall be placed on an appropriate list. The City shall notify PERS of the fact that retirement was due to layoff for lack of work or funds. If the employee is offered and accepts in writing, an appropriate vacancy the City shall maintain the vacancy until the Board of Administration has properly processed the employee's request for reemployment. The City may elect to fill the position with a temporary employee while PERS is processing the request for reemployment.

h. Restoration of Names to Eligible List: The names of probationary employees who are laid off or demoted for lack of work or lack of funds shall be restored to the same eligible list from which the original appointment was made and with the same rank on the eligible list as when the original appointment was made. If the eligible list from which appointment was made has expired, the probationary employee will be placed at the top of the existing list.

i. Miscellaneous: Employees whose positions have been reclassified to a different classification having lower maximum salary shall have their names placed on the reemployment list in order of their seniority in the class from which their position was reclassified to. An employee on a reemployment list may decline two (2) offers of reemployment in his/her former classification. After the second refusal, the employee's name shall be placed in an inactive status unless the employee notifies the City of his/her availability for work. No additional offers need be made except upon good cause the City may permit additional offers.

8.7 Unused Vacation or Administrative Leave

Unused vacation or administrative leave and compensatory time balances as of the last working day shall be paid and included in the employee's final pay check.

RULE 9. DISCIPLINARY ACTION

9.1 Disciplinary Action - General

Every regular employee shall be subject to disciplinary action for cause as provided in this Section. All other employees of the City shall be subject to disciplinary action, and may be terminated with or without cause, at the discretion of the City Manager. The City shall strive to impose disciplinary action consistent with the principle of progressive discipline. The remaining provisions of this Section shall not be applicable to employees who are not regular employees. This Section shall not be applicable to any employee serving in a probationary status.

9.2 Cause for Disciplinary Action

Cause for disciplinary action shall include but not be limited to:

- a.** Fraud in securing employment;
- b.** Incompetency, inefficiency or inexcusable neglect of duty, including but not limited to inept, substandard or untimely performance of assigned work;
- c.** Violation of safety rules;
- d.** Excessive or habitual tardiness;
- e.** Unauthorized absence;
- f.** Excessive absences or abuse of sick leave;
- g.** Being under the influence of alcohol or any illegal drug during working hours;
- h.** Use, possession, sale, transfer, or solicitation of an illegal drug while on duty;
- i.** Insubordination, willful disobedience, refusal, and/or failure to perform assigned work;
- j.** Violation of any Department rule or any City, County, State or Federal law, rule, regulation, or ordinance;
- k.** Conviction of any felony (including conviction by plea of nolo contendere) or any misdemeanor involving moral turpitude;
- l.** Offensive, discourteous or abusive treatment of the public or a fellow employee;
- m.** Abuse, misuse, misappropriation or theft of City property or funds;
- n.** Dishonesty or falsification of City documents or records;
- o.** Improper political activity as defined by these Rules or by law;
- p.** Failure to meet financial obligations to the extent that this leads to wage garnishment to enforce more than one indebtedness;
- q.** Conflict of interest or acceptance of gifts or gratuities, services or favors offered due to City employment;
- r.** Any act or conduct either during or outside duty hours which is incompatible or inconsistent with City employment or which is conduct unbecoming City employment;

- s. Refusal to take or subscribe to the oath or affirmation required by law in connection with employment;
- t. Failure to maintain required licenses or certifications.

9.3 Types of Disciplinary Action

The following types of disciplinary action may be imposed:

- a. **Discharge.**
- b. **Demotion:** The employee shall be placed at the same appropriate salary step determined in accordance with Section 6.6.
- c. **Reduction in pay:** Withdrawal of salary step advancements granted for merit, efficiency and length of service. Reduction in pay shall not be below the minimum for the employee's position's salary range. Reduction in pay shall become effective on the date of the disciplinary action. Reduction may be made on a temporary basis or may continue until the employee's next regular performance evaluation. Employees who are paid on salary basis shall not be subject to the disciplinary action of a reduction in pay.
- d. **Suspension:** Suspension for up to 30 calendar days in any fiscal year may be imposed without pay for the good of the service or for disciplinary purposes. A suspended employee does not forfeit health and welfare benefits or retirement benefits. For suspensions with pay (administrative leave), see Section 13.9. Employees who are paid on a salary basis shall not be subject to the disciplinary action of suspension.
- e. **Written reprimand:** Written notification to the employee that there is cause for dissatisfaction with the employee's performance or conduct and that further disciplinary measures may be imposed if said cause is not corrected within a reasonable time. Written reprimands shall be made a part of the employee's personnel file and shall be considered as relevant evidence in any hearing resulting from subsequent disciplinary action for a period of five (5) years. An employee may attach a written rebuttal statement to the written reprimand. After five (5) years the written reprimand shall be removed from the personnel file if the problem is corrected. The City Manager's decision to uphold or impose a written reprimand may not be appealed to the Commission.
- f. **Oral reprimand:** An informal procedure used by a supervisor to caution an employee. An oral reprimand may be issued orally and confirmed in writing. Warning notices shall not be placed in the employee's personnel file, but shall be retained within the employee's departmental file and purged by the Department after one (1) year if the situation corrects itself, and shall be considered as relevant evidence in any hearing resulting from subsequent disciplinary action. An oral reprimand may not be appealed.

9.4 Authority to Impose Disciplinary Action

The City Manager shall have the authority to impose disciplinary action on any regular employee in accordance with Section 9.1. A Department Head shall also have the authority to impose disciplinary action on any regular employee within the Department. A Department Head's determination to discharge, demote, reduce pay or suspend shall be ratified by the City Manager.

A Department Head may delegate to a supervisor the authority to issue written and oral reprimands. The Personnel Office shall be notified of any contemplated disciplinary action.

9.5 Administrative Leave

The City Manager may place any employee on administrative leave in any situation in which disciplinary matters are pending or in which the best interests of the City dictate that the employee be immediately removed from the job site. The employee shall be notified, in writing, of the imposition of administrative leave as soon as reasonable possible. The Personnel Office shall also be notified of the administrative leave as soon as reasonable possible.

9.6 Right to Representation

At any step in the disciplinary process or in any appeal under these Rules, employees shall have the right to represent themselves or the right to be represented by counsel or by a representative of the appropriate recognized employee organization.

9.7 Predisciplinary Procedure

When the proposed discipline is discharge, demotion, reduction in pay, or suspension for more than 24 hours, the employee shall be provided with written notice containing the following prior to the imposition of discipline:

- a.** A statement of the proposed disciplinary action to be taken against the employee and the proposed effective date;
- b.** A statement of the facts upon which the disciplinary action is based;
- c.** A statement indicating the cause(s) for disciplinary action as set forth in Section 9.2;
- d.** A statement advising the employee of the right to respond, either orally or in writing, to the authority initially imposing the disciplinary action at the informal conference;
- e.** A statement advising the employee of the right to be represented at the informal conference; and
- f.** A copy of, or access to, the materials upon which the disciplinary action is based.

The authority imposing discipline shall consider the employee's responses at an informal conference. Within ten (10) working days following the informal conference, the authority imposing discipline shall affirm, rescind, modify or otherwise resolve the disciplinary matter. If the authority imposing discipline determines that disciplinary action is appropriate, a final notice of disciplinary action shall be issued in accordance with Section 9.8.

9.8 Notice of Disciplinary Action

After completion of any applicable predisciplinary procedures set forth in this rule, the authority imposing discipline shall issue a written notice of disciplinary action which shall include the following:

- a. Notice of the disciplinary action to be imposed upon the employee;
- b. Notice of the effective date of the disciplinary action;
- c. Notice of the reasons for the disciplinary action, including causes for disciplinary action as set forth in Section 9.2;
- d. Notice of the right and time limit, if any, to appeal the disciplinary action in accordance with Section 9.10.

9.9 Effective Date of Discipline

The effective date of the disciplinary action shall be determined by the authority imposing the discipline in accordance with Section 9.8. An appeal by the employee under Section 9.10 shall not stay imposition of the disciplinary action.

9.10 Appeal of Disciplinary Action - City Manager

Within ten (10) working days of receipt of a notice of disciplinary action as provided in Section 9.8, an employee may appeal a discharge, demotion, reduction in pay, suspension or written reprimand to the City Manager. An employee receiving an oral reprimand shall not be entitled to appeal. The appeal shall be in writing and state the grounds for the appeal. The employee or City Manager may request that a meeting be held between the employee and City Manager to discuss the disciplinary action. The City Manager shall affirm, rescind, modify or otherwise resolve the disciplinary matter within ten (10) working days of receipt of the appeal. Appeals from the City Manager's decision shall be governed by Section 10.5, provided, however, that the City Manager's decision regarding a written reprimand shall be final.

RULE 10. GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURES

10.1 Proceeding under Memorandum of Understanding

When a grievance under these Rules also constitutes a grievance under an applicable Memorandum of Understanding, the employee may elect to proceed under these Rules or the Memorandum of Understanding. The election shall be made at the time of the filing of the grievance with the Department Head.

10.2 Procedure

It is the intent of these Rules to settle grievances informally and at the nearest practical organizational level as promptly and fairly as possible. Whenever feasible, grievances will be handled during the regularly scheduled working day hours of the parties involved. An employee shall present the grievance orally to the immediate supervisor within ten (10) working days after the aggrieved employee knew, or reasonably should have known, of the circumstances which

form the basis for the grievance. Failure to do so will render the grievance null and void. The immediate supervisor shall hold discussions and attempt to resolve the matter informally within ten (10) working days after the presentation of the grievance and if the matter is not mutually resolved, shall notify the employee of his or her right to appeal.

10.3 Step I - Department Head

If a mutually satisfactory resolution of the grievance is not achieved, and the aggrieved employee wishes to continue to pursue his or her remedies, the aggrieved employee shall present the grievance in writing on the appropriate form to the Department Head within ten (10) working days after the oral decision by the immediate supervisor. ***Failure to do so shall be deemed conclusive proof that the aggrieved employee is satisfied with the decision of the aggrieved employee's supervisor rendered pursuant to section 10.2.*** The written information shall include:

- a. A description of the specific grounds of the grievance, including names, dates, and places necessary for a complete understanding of the grievance;
- b. A listing of the provisions of these Rules which are alleged to have been violated, misinterpreted or misapplied;
- c. An explanation of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable; and
- d. A description of the specific action requested of the City to remedy the grievance.

The Department Head shall conduct an appropriate investigation and shall communicate his or her decision to the aggrieved employee in writing within ten (10) working days after receiving the written grievance. If the Department Head does not respond within the time limits, the aggrieved employee may proceed pursuant to Step II. Within the above time limits either party may request a personal conference. Notwithstanding anything in these Rules to the contrary, in the event of a demotion, suspension or discharge, the aggrieved employee may initiate the appeal at Step II.

10.4 Step II - City Manager

If the aggrieved employee is not satisfied with the decision at Step I and wishes to continue to pursue his or her remedies, the aggrieved employee shall appeal in writing on the appropriate form to the City Manager within ten (10) working days of the receipt of the decision at Step I. ***Failure to do so shall be deemed conclusive proof that the aggrieved employee is satisfied with the decision of the aggrieved employee's Department Head rendered pursuant to section 10.3.***

The written appeal shall include a copy of the written grievance and the Department Head's written decision from Step I. Appeals initiated at Step II as permitted by these Rules shall not require, as part of the written appeal, the written decision of the Department Head. If the City Manager finds that the facts of the grievance are in dispute, he or she shall appoint a fact finding committee consisting of two persons, one of whom shall be selected by the aggrieved employee.

The fact finding committee shall investigate the facts pertaining to the grievance and file a written report with the City Manager within ten (10) working days of appointment. The report

shall become part of the record and a copy shall be provided to the aggrieved employee. Within ten (10) working days of receiving the statement of grievance or within ten (10) working days of receiving the fact finding committee's report, the City Manager or his or her designated representative, shall reply in writing to the employee setting forth a decision. If the City Manager does not respond within the time limits provided, the aggrieved employee may appeal pursuant to Step III. Within the above time limits, either party may request a personal conference.

10.5 Step III - Civil Service Commission

a. Filing of Appeal: Disciplinary appeals and appeals from Step II shall begin at Step III. If an aggrieved employee is not satisfied with the decision of the City Manager and wishes to continue to pursue his or her remedies, the aggrieved employee may appeal the decision on the appropriate form to the Civil Service Commission within ten (10) working days of the receipt of the decision of the City Manager. *Failure to do so shall be deemed conclusive proof that the aggrieved employee is satisfied with the decision of the City Manager rendered pursuant to section 10.4.*

b. Arbitration: As an alternative procedure, the aggrieved employee may enter into an arbitration agreement with the City within ten (10) working days of the receipt of the City Manager's decision under Step II which shall provide that the arbitration decision will have the effect of a judgment. Except as may be otherwise provided herein, provisions of Title 9, commencing with Section 1280 of the Code of Civil Procedure dealing with arbitration will apply. The form of the arbitration agreement shall be approved by the City Attorney, and the procedures specified therein shall take precedence over these Rules. Unless otherwise specified in the arbitration agreement, the decision of the arbitrator shall be final. The arbitrator shall be selected from among a list of names not to exceed ten (10) names provided by the American Arbitration Association, or from a similar body mutually agreed to between the parties. After a toss of the coin to decide which party shall move first, the representative of the City and the employee (or the employee's representative) shall alternatively strike one name from the list until one name remains and such person shall act as the arbitrator. The next to the last name stricken shall act as the alternate arbitrator to serve in the event the first arbitrator is not available. This procedure shall be followed until there is no available arbitrator. The cost of retaining the arbitrator and the incidental expense of the hearing shall be borne equally by the parties.

c. Written Appeal: The written appeal to the Commission or to the arbitrator shall include a copy of the written appeal and the City Manager's decision from Step II. The written appeal to the Commission or arbitrator shall be filed with, and shall be considered filed as of the date of receipt by, the Personnel Officer. Failure to file a written appeal within the time period specified herein constitutes a waiver of appeal.

d. Setting a Hearing Date Before the Civil Service Commission: If the parties elect not to enter into an arbitration agreement, within seven (7) working days after receipt of the written appeal, the Personnel Officer shall inform each member of the Commission, the City Manager and such other persons named or affected by the filing of

the written appeal. The Personnel Officer shall set a date for the hearing on the appeal of not less than ten (10) days and not more than thirty (30) days from the date of the filing of the written appeal. The Personnel Officer shall notify in writing all interested parties of the date, time, and place of the hearing at such places as the Commission shall prescribe.

e. Investigation: Upon the filing of an appeal, the Commission may commence an independent investigation. The results of such investigation shall be made a part of the record of the proceedings and the aggrieved employee shall be afforded a reasonable period in which to respond, or present evidence in opposition to, the finds of this independent investigation.

f. Appearance and Testimony by Aggrieved Employee: The aggrieved employee shall appear personally before the Commission at the time and place of the hearing, unless physically unable to do so. Failure of the aggrieved employee to appear and testify at the hearing shall be grounds for dismissal of the appeal by the Commission and the decision of the City Manager shall be final. In the event more than one employee is directly involved with an issue, they may, at any step in the grievance procedure, name one of their number to carry the grievance through the procedure as a class action and be represented by the recognized employee organization which has been recognized by the City for that bargaining unit to which their classification(s) is/are assigned. In a class action grievance, that employee directly concerned shall be personally present at all stages except as provided above.

g. Rules for Conduct of Hearing:

1. Public Hearing. All Commission disciplinary appeal hearings shall be conducted in closed session unless (1) the Commission votes to hold an open session; *or* (2) a closed session is not authorized to be held under the Ralph M. Brown Act (Government Code Section 54950 *et seq.*) or (3) the aggrieved employee requests an open hearing *If a Commission hearing has been set to (i) hear specific complaints or charges brought against an employee by another person or employee and (ii) discipline or take other action against the employee based on said specific complaints or charges*, the aggrieved employee shall be given written notice of the right to request an open hearing at least 24 hours in advance of the hearing. No grievance hearings shall be held in closed session unless allowed to be held in closed session under the Brown Act. If a closed session is allowed under the Brown Act, no person other than the aggrieved employee, the City Manager and their respective representatives, and the Commissioners shall be present unless specifically authorized by the Commission. During the examination of any witness in open or closed session, all other witnesses (except for the aggrieved employee) who have not yet testified may be excluded from the hearing.

2. Report of Closed Session Action. Action taken by the Commission to dismiss or affect the employment status of any employee in closed session, the

vote or abstention of every Commissioner present in the closed session, and the title of the position affected by the action, shall be publicly reported orally or in writing at the meeting in which the closed session is held.

3. Burden of Proof. In disciplinary appeals, the City Manager bears the burden of proof. In grievance appeals, the aggrieved employee bears the burden of proof. The quantum of proof required shall be the “preponderance of evidence” test utilized in ordinary civil actions.

4. Subpoena of Witnesses. The Commission shall have the power to compel the attendance of a witness or production of documents by subpoenas to be issued in the name of the City, and attested by the City Clerk. It shall be the duty of the Chief of Police to cause all such subpoenas to be served. Refusal of a person to attend or produce the documents shall subject the person to prosecution in the same manner set forth by law for failure to appear before the City Council.

5. Pre-Hearing Documents. The Commission may request that the parties present to the Commission, in advance of the hearing, relevant documents which are expected to be produced at the hearing.

6. Opening Statement. Each party shall be afforded an opportunity to make an opening statement prior to the presentation of evidence. Such statements shall be limited to a presentation of those facts that the party expects to be proved by the evidence. Arguments shall not be permitted in the opening statement. The party with the burden of proof shall make the first presentation.

7. Rules of Evidence. The hearing shall not be conducted according to the technical rules of evidence governing judicial proceedings. Oral evidence shall be taken only on oath or affirmation. Each member of the Commission shall have the power to administer oaths to witnesses. Each party shall have the right to cross examine witnesses. Rebuttal matter which is not repetitive may be allowed at the discretion of the Commission. The presiding officer of the Commission shall rule on any objections made to the admissibility of evidence or otherwise relating to the conduct of the hearing. Any relevant evidence may be admitted. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privileges and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant and repetitious evidence shall be excluded. The Commission shall follow the procedures of Government Code Section 6250 et seq. and any other pertinent provisions of law with respect to the discovery of confidential records, files and memoranda.

8. Closing Argument. Each party shall be afforded an opportunity to make a closing argument after the presentation of evidence. The closing argument shall be based on evidence produced at the hearing. The party with the burden of proof

shall make the first closing argument presentation. Both parties shall be allowed brief rebuttal argument.

9. Written Arguments. At the conclusion of the hearing, the Commission may request that the parties submit written arguments by a date set by the Commission. The hearing shall not be deemed closed until submission of the written arguments.

10. Court Reporter. At the Commissions' request, a certified court reporter may be retained to record the hearing. If requested by the Commission, each party shall share equally the cost of the services of such court reporter. If a court reporter is not requested by the Commission, the employee may retain the services of a court reporter at his or her own expense. If the hearing is not recorded by a court reporter, it shall be recorded by audio tape.

11. Continuances and Waiver of Time Limits. Any time limit herein provided may be waived upon consent of both parties. In addition, the Commission may grant a continuance of any hearing upon such terms and conditions as it may deem proper. Any request for a continuance made less than forty-eight (48) hours prior to the time set for the hearing will be denied unless good cause is shown.

h. Findings and Recommendations: The Commission shall, within fifteen (15) days after the conclusion of the hearing, certify its findings and recommendations in writing which shall be submitted to the aggrieved employee and to the City Manager. Any member of the Commission may submit a minority or supplemental finding and recommendation. The action of the Commission shall be final. The Commission shall be confined to the interpretation of the express provisions of these Rules. The Commission shall not have the authority to add to, subtract from, alter, amend or modify any of these Rules, nor shall the Commission impose any limitations or obligations not specifically provided for in these Rules. The Commission shall be without the authority to make any decision which requires the City to do an act prohibited by law. In grievance appeals, the Commission shall not change existing salary rates, salary and wage plans or employee benefits. In disciplinary appeals, the Commission may uphold, modify or revoke the disciplinary action.

RULE 11. SICK LEAVE

11.1 Statement of City Policy

a. Sick leave shall not be considered as a privilege which an employee may use at his or her discretion, but shall be allowed only in cases of necessity and actual sickness or disability, medical or dental treatment, or as authorized under these Rules, employee agreements or Memoranda of Understanding. The employee requesting sick leave or someone on the employee's behalf shall notify the employee's immediate supervisor, Department Head or the Personnel Officer prior to or within four (4) hours after the time set for reporting to work. Sick leave with pay shall not be allowed unless the employee has complied with these Rules.

b. When sick leave is for more than two (2) working days, the Department Head or Personnel Officer may require a written statement from the attending physician or dentist or from a City-approved physician or dentist, or a personal affidavit, stating the cause of absence.

11.2 Eligibility

a. Regular Employees: Regular employees shall be eligible for sick leave as provided in Section 11.3.

b. Temporary Employees: Temporary employees shall not be eligible for sick leave.

c. Probationary Employees: Probationary employees shall accrue sick leave during their period of probation in the same manner as regular employees, but shall not be eligible to utilize sick leave during the first six (6) months of their employment.

d. Part-Time Employees: Part-time and part-time exempt employees shall be entitled to sick leave measured by the ratio between the hours worked and hours in a normal work week (40 hours). For example, an employee who works twenty (20) hours in any work week shall be entitled to one-half of the sick leave allowance accrued in accordance with these Rules.

11.3 Accrual and Accumulation

Sick leave shall be accrued at the rate of eight (8) hours for each calendar month that an employee has worked regularly scheduled hours or as specified in the respective Memorandum of Understanding. Employees shall accrue full sick leave while on paid leave, including sick leave and jury leave. Accrued sick leave may be accumulated without limit. Employees who are absent without pay for any reason for more than ten (10) working days in a calendar month shall not earn sick leave benefits for that month.

11.4 Permissible Usage of Sick Leave

Employees eligible for sick leave may use paid sick leave following the completion of six (6) months of employment with the City for the following purposes:

a. To treat or convalesce from bona fide illness, disease or injury.

b. To receive medical or dental treatment or preventative care for themselves or their children.

c. To attend to arrangements and travel requirements at time of death in the immediate family of the employee (maximum of three days).

d. To provide for emergency care and attention to members of the immediate family until suitable arrangements can be made. Approval of such use shall be in an amount of not less than one (1) hour.

The provisions of Section 4850 of the California Labor Code are incorporated herein by reference.

11.5 Non-Permissible Usage of Sick Leave

No employee shall be entitled to use sick leave with pay while absent from duty under any of the following conditions:

- a.** Disability arising from sickness or injury purposely self-inflicted or caused by the employee's willful misconduct;
- b.** Disability arising from sickness or injury sustained while on leave of absence without pay;
- c.** Disability arising from sickness or injury related to compensated employment other than that with the City;
- d.** Disability arising from sickness or injury while receiving compensation from the City for an industrial accident pursuant to Section 11.8;
- e.** For absence caused by intoxication or substance abuse.

11.6 Expiration of Sick Leave Benefits

In the event of an employee's continued illness after expiration of the employee's sick leave, such absence may be charged to accrued vacation time and computed on the basis on one day of sick leave equaling one working day of vacation leave. Alternatively, the City Manager may grant a permanent employee leave of absence without pay due to illness or injury which is non-job related for a period of twelve (12) months and may extend such leave of absence for an additional six (6) months. After the twelve (12) or eighteen (18) months have expired, and the employee still has not returned to his/her regular position, the position may be filled by another employee. Upon expiration of either the twelve (12) or eighteen (18) months, it will be the City Manager's option to terminate the employee if the employee is unable to return to work at that time. If terminated, the employee shall be placed on the City's reemployment list, providing that the employee is still able to satisfactorily meet the physical requirements of his/her classification. The same provisions regarding benefits and accruals as outlined in Section 13.1 shall apply.

11.7 Paid Industrial Accident Leave

- a.** An employee suffering an industrial injury shall report the injury to the employee's immediate supervisor or Department Head as soon as possible. An employee who fails to provide proper notification of an industrial injury waives the right to paid industrial accident ("PIA") leave.
- b.** In order to be eligible for PIA leave, the employee's claim for State Workers' Compensation shall be accepted and approved by the City with the City paying the difference between the amount necessary to make up the difference between the employee's monthly rate and the amount payable to the employee as temporary disability

payments from the Workers' Compensation Insurance carrier.

c. An employee who is unable to return to work due to an industrial injury and who meets the eligibility requirements in Section 11.8(a) and (b), above, shall be granted PIA leave. PIA leave shall begin on the first day of absence due to industrial injury, and shall cease upon the employee's ability to return to work, or sixty (60) days, whichever is sooner. If at the end of one year the employee is unable to return to work, the employee's service with the City may be considered terminated in accordance with Section 8.3.

d. During PIA leave in excess of one pay period, the employee shall not be charged vacation or sick leave. In addition, the employee shall not be eligible for a step increase while on PIA leave and the employee's anniversary date shall be adjusted so that no service time will accrue for step increase eligibility during the leave.

11.8 Effect of Termination on Sick Leave Accumulation

Employees leaving City service shall forfeit all accumulated sick leave.

RULE 12. VACATION LEAVE

12.1 Eligibility

a. Regular Employees: Full-time regular employees shall be eligible for vacation leave as provided in Section 12.2.

b. Temporary Employees: Temporary employees shall not be eligible for vacation leave.

c. Probationary Employees: Probationary employees shall accrue vacation leave during the employee's period of probation in the same manner as regular employees.

d. Part-Time Employees: Part-time and part-time exempt employees shall be entitled to vacation leave measured by the ratio between the hours worked and hours in a normal work week (40). For example, an employee who works twenty (20) hours in any work week shall be entitled to one-half of the vacation leave allowance accrued in accordance with these Rules.

12.2 Vacation Accrual

All full-time regular employees shall accrue vacation leave at the rate specified in a current Memorandum of Understanding or employee agreement. Employees shall accrue full vacation leave while on paid leave of absence, including vacation leave, sick leave and jury leave. Vacation leave is not earned by an employee on leave of absence without pay. Employees may accrue a maximum unused vacation balance equivalent to twenty-four times the monthly accrual (two years' earnings). No additional vacation earnings will be accrued unless the balance is below the maximum level. An employee who has accrued the maximum and is unable to take a vacation due to the workload in the employee's department shall be allowed to accumulate additional vacation leave upon notification to the City Manager. Employees who are absent without pay for any reason for more than ten (10) working days during a calendar month shall

not earn vacation benefits for that month.

12.3 Use of Vacation

a. Vacation leave accrues from the date of hire; provided, however, that no vacation leave may be taken by an employee during the first six (6) months of employment. At the completion of six (6) full months of service, an employee is eligible to use vacation benefits accrued under Section 12.2.

b. The Department Head and the employee shall schedule the times at which vacation leave is to be taken which shall take into consideration the desires of the employee and the operational needs of the department.

12.4 Holidays During Vacation Leave

In the event that a City holiday falls during an employee's vacation leave, that day shall not be charged against the employee's accrued vacation leave. This section shall not apply when an employee receives holiday pay in lieu of time off for recognized holiday observances.

12.5 Sick Leave During Vacation Leave

Upon approval of the Department Head an employee may change vacation leave to sick leave upon submission of a doctor's certificate that the employee is ill and unable to work.

12.6 Payment of Accrued Vacation Leave Upon Termination

Employees leaving the City service with accrued vacation leave shall be paid for all such leave accrued prior to the date of termination at their current rate of pay, including any additional pay allowances.

RULE 13 OTHER LEAVES OF ABSENCE

13.1 Leave of Absence Without Pay

A leave of absence without pay is a privilege which may be granted by the City Manager for a term not to exceed six months to an employee in good standing who wishes to leave the City service for a limited period of time without pay. No leave of absence without pay shall be granted except upon written request of the employee. Whenever granted, such leave shall be in writing and signed by the City Manager, and a copy filed with the Personnel Officer. Upon expiration of a regularly approved leave of absence without pay, the employee shall be reinstated in the position held at the time leave was granted. An employee shall be entitled to payment for any earned vacation and accumulated overtime at the beginning of an approved leave of absence without pay. However, during the period of leave of absence without pay the employee shall not accumulate seniority, sick leave accruals or any other benefits. The employment and pay anniversary date of an employee on a leave of absence without pay for thirty (30) days or longer shall be extended by the period of the leave.

13.2 Unauthorized Leave of Absence

The failure of an employee to return to duty upon the termination of an authorized leave of absence shall be deemed an unauthorized leave of absence. In addition, failure of the employee to follow specified procedures and receive proper authorization for use of sick leave or vacation

leave may be deemed an unauthorized leave of absence. An unauthorized leave of absence is grounds for disciplinary action, including termination. An unauthorized leave of absence shall be treated as time not worked. The City shall deduct from the employee's pay an amount equal to the time absent from City service.

13.3 Bereavement Leave

- a.** An employee shall notify his or her immediate supervisor, Department Head, or the Personnel Officer in advance of, or within four hours after, the time set for reporting to work, with respect to an absence due to a death. Failure to provide such notification shall result in ineligibility for benefits under this Section.

- b.** In the event of a death in the immediate family of an employee, the employee shall, upon request, be granted such time off with pay as is necessary to make arrangements for the funeral and attend same, not to exceed three (3) regularly scheduled working days. An additional two (2) days may be granted for out-of-state funerals. These provisions shall not apply if the death occurs during the employee's paid vacation, or while the employee is on any leave of absence, lay-off, or sick leave. An employee may request that the Department Head allow use of sick leave as an extension of bereavement leave for the immediate family.

- c.** The City Manager may allow an employee time off with pay up to one working day to attend the funeral of a person other than a member of the employee's immediate family, chargeable to sick leave, compensatory time, or vacation leave. Additional time may be charged to compensatory time or vacation leave.

13.4 Military Leave

Military leave shall be granted in accordance with the provisions of state and federal law. All employees entitled to military leave shall give the Department Head an opportunity within the limits of military regulations to determine when such leave shall be taken. Whenever possible, the employee involved shall notify the employee's Department Head of such leave request ten (10) working days in advance of the beginning date of such leave.

13.5 Parental Leave

- a.** A pregnant employee shall be entitled to a maternity leave of absence without pay in accordance with applicable provisions of Federal and State law. Upon recommendation of the Department Head, the City Manager may approve an extension of maternity leave of absence without pay. Any extension so granted when combined with the original leave shall not total more than twelve (12) consecutive calendar months.

- b.** Requests for "family care leave" as defined in Government Code Section 12945.2(b) (3) will be processed in accordance with the "Family Rights Act of 1991" (Government Code Section 12945.2).

- c.** An employee may elect to use accumulated vacation or compensatory time off under the provisions of this Rule.

13.6 Voting Time

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

13.7 Jury Duty

Regular or probationary employees required to report for jury duty shall be granted leave for such purpose, upon presentation of jury notice to the Personnel Officer. Said employee shall receive full pay for the time served on a jury, provided that the employee remits to the City all jury fees as soon as received by the employee for such duties. Payment for mileage and subsistence allowance shall be retained by the employee.

13.8 Leave for Appearance Required by Subpoena

a. Regular and probationary employees who are subpoenaed to appear as witnesses on behalf of any governmental agency shall be granted leave of absence with pay from their assigned duties until released, provided that the employee remits to the City all fees as soon as received by the employee for such duties. Payment for mileage and subsistence allowance shall not be considered as a fee and shall be retained by the employee.

b. Regular or probationary employees subpoenaed to appear in court for the purpose of litigation of a private or personal civil nature shall do so at their own expense but may use accumulated vacation or compensatory time off, if available.

13.9 Administrative Leave

The City Manager may place any employee on administrative leave and may prohibit such employee from entering upon City premises in any case in which, in his or her judgment, such action would be in the best interests of the City service. Application of this Section may include, but is not limited to, situations in which disciplinary matters are pending.

RULE 14 SALARY AND WAGE PLAN ADMINISTRATION

14.1 Adoption and Preparation

A salary and wage plan shall be adopted by resolution of the Council. The City Manager shall prepare a salary and wage plan to which each classification shall be assigned a specific salary range giving due consideration to the following:

a. The duties and responsibilities of the individual classification relative to those of related classifications in the City service.

b. Existing levels of compensation for generally comparable work in public and private employment in the relevant labor market area.

c. The availability of qualified personnel for the individual classification.

The plan shall be modified as necessary to reflect Council approved general or special salary adjustments or any other actions impacting salary.

14.2 Salary Administration

The placement and movement of classified service employees in the appropriate salary range shall be governed by the provisions set forth below. No such provision shall be construed to permit the assignment of any employee a salary which is less than the minimum or more than the maximum salary step applicable to the classification to which the employee's position is allocated.

- a.** Employees occupying a position in the classified service shall be paid a salary within the salary range established for that position under the salary and wage plan. Upon original appointment, the employee shall be assigned the first salary step in the salary range applicable to the classification of appointment; provided, however, that the City Manager may appoint at a higher salary step in that salary range if it is determined that it is not feasible to recruit personnel at that level, or that the appointee possesses exceptional qualifications. If the City should hire at a step higher than the first step of the salary range, the City shall review all incumbents of that classification presently assigned to a step below the hiring step to determine whether those employees or incumbents should likewise be raised to the hiring step. The City shall advance all present incumbents to the higher step if qualifications are comparable unless just cause can be shown as to why this should not occur.
- b.** Upon promotional appointment or upward reclassification, the employee shall be assigned that salary step in the new salary range which produces the equivalent of at least one full step's increase over the employee's former salary rate. The City Manager may permit incremental upward salary adjustments as appropriate. In cases of promotion where the salary range overlaps, the employee will be placed at such step in the salary range of the higher classification so as to provide at least five percent (5%) more than the basic salary; provided, however that the application of this provision does not exceed the highest salary step in the salary range for the higher classification. Effective on the date of promotion, a new anniversary date shall be established for consideration for further salary step advances.
- c.** Upon voluntary demotion, demotion for non-disciplinary reasons or downward reclassification, the employee shall be assigned that salary step in the new range which most closely corresponds to, but does not exceed, the employee's former salary step. The employee's anniversary date shall not change. The City Manager may permit incremental or deferred salary reductions in any case in which circumstances warrant.
- d.** In the case of any disciplinary demotion, the employee shall be assigned to a salary step which is one step less than the salary step at which the employee was in the classification from which demoted. A new anniversary date shall be established as of the effective date of demotion.
- e.** Where salary range for a given class is revised upward, the incumbents affected shall have their existing salary adjusted to the same relative step in the new salary range. When a salary range is adjusted downward, the affected employee may retain the same

dollar amount of salary within the lower salary range. If the present salary step exceeds the maximum salary step in the lower salary range, the employee may continue to receive the same dollar amount and said amount shall be designated a "Y-rate". Any such Y-rate shall be indicated by a capital "Y" following the salary each time it appears on personnel records or transactions. Y-rated employees shall not receive additional salary increases until their rate of pay meets the maximum of the lower salary range, at which point the "Y" rate shall be canceled. Anniversary dates shall not be changed for upward or downward adjustments to the salary range.

f. Officers and employees reemployed after lay-off shall receive a rate within the salary range established for the classification and agreed upon by the City Manager and the employee concerned. Transfers shall not affect an employee's salary rate or anniversary date.

g. Any employee may be advanced by one step upon recommendation by the Department Head and approval of the City Manager for consistently outstanding performance. An employee who feels he/she has consistently performed at an outstanding level may request consideration for an outstanding merit step increase. The granting of an outstanding performance merit increase shall change the employee's anniversary date for step increases to the date of the advancement.

h. In the event that a salary range change becomes effective on the date an employee is advanced to a higher classification, the employee shall first receive any corresponding step adjustment to which entitled in the lower classification, and then the next higher step promotional adjustment as provided herein.

i. If a position is reclassified to a classification having the same maximum salary, the salary and the anniversary date of the incumbent shall not change. If a position is reclassified and a lower salary range is assigned the classification, the salary of the incumbent shall not change. If such salary is greater than the maximum salary of the lower classification, said salary shall be designated a Y-rate as provided herein.

14.3 Advancement Within Salary Range

Advancement to higher salary steps within the employee's salary range shall not be automatic, but shall depend upon increased service value of an employee to the City as exemplified by recommendations of his or her supervising official, length of service, performance evaluations, special training undertaken, or other pertinent factors. Evidence of such activity may be filed by the employee with the Personnel Officer. No salary step increase shall be made until an employee has completed his or her probationary period. Eligibility for such step increases shall be as follows:

a. Second Step: An employee may be considered for advancement upon satisfactory completion of six (6) months of the employee's probationary period for the employee's current classification.

b. Third, Fourth and Fifth Steps: An employee may be considered for advancement upon satisfactory completion of twelve (12) months of service in each lower step.

c. The Department Head shall submit a performance evaluation to the Personnel Officer prior to the anniversary date or the date on which the employee will become eligible for such increase. This report shall indicate at least satisfactory work performance. All recommendations for denial of a step increase must be accompanied by a statement of specific reasons which shall be placed in the employee's personnel record. If an employee is denied a step increase, a re-evaluation shall be conducted in three (3) months. The employee may request the re-evaluation to occur sooner. If improvement in performance is noted, the step increase may be granted.

d. Final approval of all merit salary increases provided for in this Section shall rest with the City Manager. It shall be the joint responsibility of the Personnel Officer and the Department Head to ensure that the required performance evaluation is submitted in a timely and complete fashion. If an employee fails to receive an increase, the employee shall be notified in writing.

e. The City Manager may adjust the salary step of an employee to any salary step in the employee's existing salary range to correct inequities in salary or reward outstanding achievement and performance.

f. The advancement eligibility periods contained in this Section are subject to extensions as provided in Section 14.4 in regard to pay anniversary dates.

14.4 Anniversary Dates

a. The employment anniversary date shall be the first day of the pay period if employment occurs during the first fifteen (15) days of the period; otherwise, the employment anniversary date shall be the first day of the next pay period. Irrespective of subsequent personnel transactions which affect an employee's pay status, the employment anniversary date shall remain unchanged and be controlling for purposes of establishing total time in service and for establishing eligibility for such service related benefits as vacation leave, except as otherwise provided in these Rules.

b. Except as otherwise provided in these Rules, pay anniversary dates shall be modified to reflect changes in appointment status such as promotion, demotion, reclassification, or extension of probationary period. Modifications to such dates shall coincide with the effective date of the change in appointment status. The pay anniversary date shall be the first day of the pay period if the change occurs during the first fifteen (15) days of the period; otherwise, the pay anniversary date is the first day of the next pay period.

c. In the event that a salary range change becomes effective on an employee's anniversary date, the employee shall first receive any within-range step adjustment to which entitled and then receive the corresponding salary range adjustment.

RULE 15. RECORDS, REPORTS & NOTICES

15.1 Personnel Files

- a.** Every City employee shall have the right to inspect his or her personnel file, in accordance with Labor Code Section 1198.5. Letters of reference, confidential pre-employment information and records relating to the investigation of a possible criminal offense are excluded from inspection under this Section.
- b.** Personnel files subject to inspection above shall be made available within a reasonable period of time after an employee's request. Upon written request, the employee may obtain copies of the materials subject to inspection.
- c.** Information of a negative nature developed after employment shall not be filed in an employee's personnel file unless the employee is provided with a copy thereof and given the opportunity to respond in writing. Any written response shall be retained with the negative information in the employee's personnel file.
- d.** All official personnel records shall be retained in a central location in the City and supervised by the Personnel Department. Routine access to personnel files are restricted to the employees of the Personnel Department or an employee's supervisor or Department Head. Pursuant to California Civil Code Section 56 et seq., injury reports and medical records shall be maintained in separate files.
- e.** Except for an order of a court of competent jurisdiction, or for the request of the City Manager, Personnel Officer or City Attorney or their designated representatives, the written consent of the employee is required to release information from that employee's files; provided, however, that the employee's job title, dates of employment, salary range, and Department assignment shall be available without the consent of the employee.
- f.** Access to the personnel files of public safety officers shall be in accordance with existing law.

15.2 Personnel Transaction

Transactions, including but not limited to transfer, promotion, change of salary rate, resignation, suspension or vacancy, and any other temporary or permanent change in status of employment shall be reported to the Personnel Officer in such a manner as may be prescribed from time to time by the Personnel Officer. Such records shall be retained in the employee's personnel file with a copy provided to the Department and employee.

15.3 Notification by Employee

Employees shall notify the Department Head and Personnel Officer within 30 days of any change of address, telephone, marital status, group life insurance beneficiary, number of dependents, military status or education.

15.4 Records Open to the Public

The records and information prepared and maintained by the Personnel Department shall be governed by the rules, policies and procedures established by the City in respect to their

availability as public information. The Personnel Officer, with the approval of the City Manager, however, shall have the authority to designate certain records or types of records as confidential and not open for public inspection as long as the records are exempt from disclosure requirements and other applicable provisions of the Public Records Acts (Government Code Sec. 6250 et seq.).

15.5 Destruction of Records

All records relating to personnel including personnel rosters, payroll records, correspondence, applications, examination and reports may be destroyed pursuant to the laws of the State of California.

15.6 Official Roster

The Personnel Officer shall maintain a complete official roster of employees, showing each employee's name, address, classification title, salary, department to which assigned, sick leave, vacation, changes in salary, employment status and such other information as may be considered pertinent. The form and manner of such information shall be determined by the Personnel Officer.

15.7 Performance Evaluations

- a.** Each regular employee's performance shall be reviewed and evaluated at least annually or on a more frequent basis if the employee's overall performance is less than satisfactory.
- b.** The performance evaluation shall be prepared in written form and discussed with the employee.
- c.** The employee shall sign the performance evaluation to acknowledge its contents. The employee shall receive a copy of the performance evaluation and a copy shall be placed in the employee's personnel file.
- d.** If the employee disagrees with the contents of the report *evaluation*, a written response may be submitted to the Department Head stating any objections in the initial performance evaluation. Such written response shall be filed with the Department Head within ten (10) working days of the receipt of the performance evaluation by the employee, *otherwise, the employee will be deemed to have no comments with respect to the performance evaluation.*
- e.** Any such written response shall be considered by the Department Head. The Department Head may meet with the affected employee and may modify the evaluation.
- f.** If the Department Head does not modify the performance evaluation, a copy of the employee's written response shall be placed in the employee's personnel file, unless the employee appeals the decision of the Department Head, in which case the appeal shall be treated as a grievance. *The Department Head shall notify the employee whether the Department Head modified the performance evaluation in response to the employee's comments. If the Department Head modified the performance evaluation, s/he shall*

deliver a copy of the modified performance evaluation to the affected employee. If the employee is not satisfied with the modification, the Department Head may nonetheless file the modified evaluation in the employee's personnel file (replacing the previously filed evaluation) or further modify the evaluation and file that evaluation in the employee's personnel file (replacing the previously filed evaluation). Whichever evaluation is finally filed in the employee's personnel file, the employee shall be entitled to respond to it and, if s/he is not satisfied with the evaluation, have his/her responses filed in his/her personnel file. Within ten (10) days of the employee being notified by the Department Head that the final performance evaluation has been filed in the employee's personnel file, the employee shall have the right to grieve the evaluation pursuant to Rule 10, above, starting at Step II. Notwithstanding the above, in the event that the City Manager conducts and prepares the performance evaluation of an employee (where for example, an employee does not have a supervisory employee or Department Head vested with the responsibility of conducting the evaluation), then the employee shall have the right to comment upon the evaluation and if the City Manager declines to modify the evaluation to the satisfaction of the employee, the employee may grieve the evaluation directly to the Commission. Both the final performance evaluation and the employee's comments thereon shall be placed in the employee's personnel file. Within ten (10) days of the employee's being notified by the City Manager that the final performance evaluation has been filed in the employee's personnel file, the employee shall have the right to grieve the evaluation pursuant to Rule 10, starting at Step III.

RULE 16. CIVIL SERVICE COMMISSION

16.1 Civil Service Commission

The duties of the Commission shall include the following:

- a.** Hear and make final determinations as required under these Rules, the Civil Service Ordinance or any Memorandum of Understanding.
- b.** Review and approve classification specifications for employees in the classified service.
- c.** Make recommendations to the City Council on adoptions and revisions to the classification plan.
- d.** Consider and recommend to the City Council any adoption of and amendments to these Rules pursuant to Municipal Code Section 2.68.050.
- e.** Advise the City Manager and City Council on matters related to recruitment and selection processes for employees in the classified service and on any other matters related to personnel administration. In serving in such capacity, the Commission may initiate inquiries and request investigations to be conducted in accordance with procedures outlined in these Rules.

f. Any other functions or duties specified under these Rules.

16.2 Meetings

Meetings shall be held on the call of the Personnel Officer, the Chairperson, or any of four (4) members of the Commission. All regular and special meetings of the Commission shall be held at City Hall.

16.3 Quorum

a. Three (3) members of the Commission shall constitute a quorum for the transaction of routine business only. Four (4) members of the Commission shall constitute a quorum for the transaction of all business other than routine business.

b. If due to absence from the City, or the illness or disability of a majority of the Commission, any employee laid-off, demoted or discharged would be deprived of the right of a hearing by the Commission, the City Manager shall defer action until the Commission is able to convene, except in an emergency, in which case the City Manager may suspend the employee until the Commission is able to convene.

16.4 Rules of Order

“Robert’s Rules of Order Revised” shall be the final authority on all questions of procedure and parliamentary law, not otherwise provided for by these Rules.

16.5 Election of Commission Chairperson

At the first regular meeting in May of each year, the Commission shall elect one of its members as a Chairperson, to serve for one year, and upon the resignation or other disability of the Chairperson, his or her successor shall be elected to fill the unexpired term.

16.6 Commission Secretary

The Commission may designate one of its members to serve at its pleasure as Commission Secretary or request the City Manager to designate a qualified City employee to serve as Commission Secretary. The City Manager shall, upon request of the Commission, provide such clerical assistance and facilities as may be necessary to assist in the proper functioning of the Commission.

16.7 City Manager - Right to be Present

The City Manager shall be entitled to meet with the Commission at each of its regular and special meetings, to advise the Commission on all matters and to be heard on all matters coming before the Commission.

16.8 Commission Minority or Supplemental Report

Any member of the Commission may submit a minority or supplemental report which shall be filed as a permanent record by the Personnel Officer.

16.9 Employee Ineligible for Overtime Compensation

City employees who attend Commission meetings, appeals or hearings for the purpose of making presentations or providing testimony shall be ineligible for overtime compensation for such attendance. This Section does not affect City employees who serve in the capacity of staff to the Commission in the course of their normal employment and who are otherwise eligible for overtime compensation.

RULE 17. MISCELLANEOUS

17.1 Incompatible Activity

No employee shall engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with or inimical to the employee's duties as a City officer or employee. The City Manager may determine those activities which, for employees under their jurisdiction, will be considered inconsistent, incompatible or in conflict with their duties as City employees, including any employment, activity or enterprise, which:

- a.** Involves the use for private gain or advantage of City time, facilities, equipment, supplies, or the badge, uniform, prestige or influence of one's City office or employment.
- b.** Involves the soliciting or the acceptance by the employee of any money gift, gratuity, or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such an act, would be required or expected to render in the regular course or hours of his or her City employment, or as part of his or her duties as a City officer or employee.
- c.** Involves the performance of an act other than in their capacity as a City employee, which act may later be subject to direct or indirect control, inspection, review, audit or

enforcement by any other employee or official of the City.

d. Involves such time demands as would render performance of the employee's duties to the City less efficient.

17.2 Authorization

Any employee wishing to engage in an occupation or outside activity for compensation and having any reason to question whether this activity might come under the policy enumerated in Section 17.1 shall so inform the City Manager, providing information as to the time required and the nature of such activity and such other information as may be required. The City Manager at his/her own initiative, or at the request of the employee, shall make such determinations as specified in Section 17.1 and either authorize or prohibit outside employment, activity or enterprise for compensation for his/her employee. Notice of such determination shall be in writing to the employee involved, with a copy forwarded to the Personnel Officer. If authorization is granted, it shall be valid only for the work and period prescribed therein. Such determination of the appointing authority may constitute a grievance as set forth in these Rules.

17.3 Gifts and Gratuities

No officer or employee of the City shall solicit or accept any gift, reward, service or gratuity of any kind by reason of his or her employment with the City.

17.4 Political Activities of Public Employees

Political activity of employees shall conform to pertinent provisions of State law and local provisions adopted pursuant to State law.

17.5 Use of City Equipment Prohibited

No City owned, leased or rented equipment, autos, trucks, instruments, tool supplies, machines, or any other item which is the property of the City shall be used by any City employee while engaged in any outside employment or activity for compensation or otherwise, except upon prior authorization of the City Manager. No City employee shall allow any person to rent, borrow or use any of the items mentioned except upon prior authorization of the City Manager.

17.6 Hours of Work

All offices of the City, except those for which special regulations are required, shall be kept open for business on all days of the year except Saturdays, Sundays and holidays, from 8:00 a.m. until 12:00 p.m. and from 1:00 p.m. until 5:00 p.m. Employees for whom necessity requires a different schedule than that generally applied, shall work according to regulations prepared by the City Manager and approved by the Council.